School Choice Legislation: Impact Assessment and Fiscal Notes

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Legislators considering large scale school choice proposals want information on more than likely schooling outcomes. They look to their fiscal bureaus and economic studies to provide that information. The fiscal notes that must accompany all proposals with revenue or expenditure implications are especially important. Often, fiscal notes must be produced on short notice. The article assesses the fiscal notes that have accompanied the major U.S. charter law and tuition voucher proposals, and to highlight key issues and research needs it assesses fiscal and economic impacts of the proposed Texas (2011–HB 33) tuition voucher program. We assess fiscal notes in terms of research basis for predictions, predicted level of participation (# of choosers), and predicted basis for fiscal impacts, including time trend of effects. Finally, we propose how the fiscal notes might be improved; not just what legislative analysts should do, but also what could be done to make doing a better job easier.

KEYWORDS   fiscal impact, vouchers, tax credits, charter school

INTRODUCTION AND OVERVIEW

Countless organizations develop and debate various forms of school choice legislation (Merrifield, 2008a), including but not limited to public school choice, tuition vouchers, chartered public schools (CPS), and tuition tax credits. Although substantial research has been conducted on the actual

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fiscal impacts of choice programs, a key element of the legislative process—projection of school choice fiscal impacts—has yet to garner the systematic attention of choice expansion activists, or the proponents of systemic reform or alternate routes to escape from unproductive schooling environments (Aud, 2007). Busy legislators willing to consider school choice expansion may rely heavily on the information contained in the fiscal notes that legislative budget bureaus attach to all legislative bills with fiscal effects. Need for a fiscal note often arises on short notice with little analysis or precedent for legislation analysts to rely on. Studies asserting academic consequences for school choice proposals must rely on the same slim body of evidence (Merrifield, 2008b); much of it still largely unprocessed, especially regarding the crucial question of how many students will opt out of their assigned neighborhood public school.

Because the choice strategies that go beyond district-run schools (Merrifield, 2008a) have the greatest potential to yield the systemic reform seen as urgent by some, but stridently opposed by others, we focus our assessment of fiscal note practice and potential for improvement on proposals that authorize chartered public schools (CPS), and on tuition voucher proposals. To further narrow our scope to a manageable level, we focus on the proposals likely to have the largest education and fiscal impacts; the charter law and voucher proposals likely to produce the largest exodus from traditional neighborhood public schools (TPS). So, we limit our attention to large[1] tuition voucher proposals, and a few of the state charter laws receiving a grade of at least "B" from the procharter school Center for Education Reform. Charter laws with higher grades are the laws most likely to foster the formation of large numbers of CPS.

Specifically, then, the purpose of this article is to assess fiscal note practice for major charter- and voucher-based school choice expansions, and to initiate improvements in the capabilities to quickly provide legislators with high quality information about choice expansion impacts. The next section describes the school choice proposals germane to our purpose, and the fiscal notes attached to them. We note such issues as the predicted TPS exodus—for CPS, also the predicted private school exodus—the basis for those predictions, and the estimated fiscal impact. We also take account of which important factors were typically widely recognized in fiscal notes, and which, like setting prices ("price control"), are not widely recognized as significant restrictions. We conclude that section with a comparison of impact assessment in practice through the fiscal notes to impact estimation embedded in the academic literature. The third section describes an EXCEL template—its capabilities and limitations—for assessing TPS exodus and fiscal effects of a school choice expansion. The fourth section describes the results of applying the EXCEL template to the Texas Scholarship Grant Proposal (TSGP); HB 33 rejected by the 2011 Texas legislature. The fifth section precedes the summary and concluding remarks with a description of

the road ahead; how to use what we know and things we need to do to improve our capabilities to quickly generate timely choice program impact assessments to legislators.

WHY FISCAL NOTES IMPACT POLICY

Political Scientist John Kingdon (1995) posits that potential public policies become realistic options for legislators, and the public, only when a set of circumstances that collectively can be described as the opening of a policy window occur. Fiscal notes are a crucial and understudied factor in the plausibility of legislation becoming law. The informal phrase "print-out politics" accurately describes the way in which fiscal notes influence the opening or closing of Kingdon's policy windows. "Print-out politics" refers to a legislator prioritizing the local fiscal impact of legislation in his or decision making above other factors.

Though "print-out politics" occurs during policy debates across subjects, it is particularly prevalent in education debates because of the nature of education finance. Most U.S. states allocate funding for local education based on a system of tax-base equalization, and/or minimum foundation formula. Either way, it is generally a zero-sum game where the legislature puts a finite amount of money into the education system. Accordingly, any shifting of education funds or pupils is likely to have a ripple effect across districts. In a study of the Milwaukee Parental Choice Program, for example, Economist Robert Costrell (2011) notes that the savings generated by the school choice program are unevenly distributed between Milwaukee, and non-Milwaukee, taxpayers. Efforts to equalize the savings have routinely failed because it would require an aid shift from over 400 Wisconsin school districts to Milwaukee. This situation is noted in fiscal notes created by the state's Legislative Fiscal Bureau, and unsurprisingly efforts to expand and/or contract the voucher program are framed by those efforts' local fiscal impacts.

In addition, school choice polices in the United States are often targeted towards urban communities or failing schools. Accordingly, legislators representing areas within states that will not be directly affected by a new school choice program logically may pass judgment on the program based off its specific impact on their constituents, which is often solely fiscal. Of course, legislators making voting decisions for fiscal reasons are dependent on available information. This information is usually produced by state agencies, and as will be demonstrated, often lacks elements that can vastly improve the premise on which voting decisions can be made.

Plainly, fiscal notes matter because they are a critical part of the decision premise from which legislators make actual voting decisions (Simone, 1956). Improving legislative fiscal notes will improve the public policy process. A comparative analysis of school choice fiscal note practices, presented

here, provides valuable information on exactly how these practices can be improved.

FISCAL NOTE PRACTICES GERMANE TO SCHOOL CHOICE EXPANSION

The Alliance for School Choice lists in its Virtual School Choice Yearbook 19 school voucher and tax-credit programs currently in operation in the United States.[2] The Center for Education Reform, another national nonprofit that advocates for school choice program, states that 40 states have charter school laws.[3] The sheer number of choice laws makes an exhaustive analysis of the fiscal notes that preceded their enactment impractical for the purposes of this article. Instead, a content analysis on a series of fiscal notes for diverse school choice legislation will be conducted in order to:

1. Obtain meaningful information through a dissimilar case study approach, and
2. Demonstrate the need for a wider exhaustive study on school choice fiscal notes.

Table 1 lists the notes analyzed in this article. The notes were chosen for their size, scope, controversial nature, geographic diversity of the states

TABLE 1 Choice Legislation and Fiscal Note Authors

State	Year	Bill	Program Type	Did the Legislation Pass?	Author
Wisconsin	2011	Senate Bill 22	Charter	No	Wisconsin Office of State Employment Relations/Wisconsin Department of Public Instruction
Indiana	2011	House Bill 1003	Voucher	Yes	Indiana Office of Fiscal and Management Analysis
Texas	2011	House Bill 33	Voucher	No	Texas Legislative Budget Board
Nebraska	2010	Legislative Bill 1028	Charter	No	Nebraska Legislative Fiscal Office
California	2000	Proposition 38	Voucher	No	California Legislative Analyst's Office
Missouri	1998	Senate Bill 781	Charter	Yes	Missouri Committee on Legislative Research
Wisconsin	1995	State Budget Bill	Voucher	Yes	Wisconsin Legislative Fiscal Bureau
Colorado	1993	Senate Bill 183	Charter	Yes	Colorado Legislative Council
California	1992	Senate Bill 1448	Charter	Yes	California Senate Floor Analysis

in which they were proposed, diversity in program type (for example charter vs. voucher note), and the years in which they were proposed.

California 1992 Senate Bill 1448

SB 1448 eventually created the United States' second basis for CPS. SB 1448 allowed most California school districts to authorize up to 10 CPS, and large school districts to authorize up to 22. SB 1448 capped the total number of CPS at 100. The law included a provision to allow entire districts to convert to CPS if 50% or more of district teachers signed a petition advocating for the conversion. The bill also included several provisions for closing down CPS for reasons including violations of the charter contract, failure to meet education goals, fiscal malfeasance, and state and federal law violations.

Notably, the California Senate Floor Analysis of SB 1448 did not estimate the program's total enrollment or cost. Instead, the focus was on potential cost drivers of the enacted legislation. The analysis asserts that per-pupil funding of CPS would be "equal to the current fiscal year base revenue limit for the school district to which the charter petition was presented." Thus, CPS created from a TPS would impact total state spending and "could have a redistribution effect within a district" because individual schools have varying per-pupil costs. Hence, a TPS with a per-pupil cost lower than the district's average revenue limit that converts to a CPS would then receive more money as a CPS than would be coming out of the entire education allotment for the district. The floor analysis warned that additional state costs could come from:

> private schools' obtaining a charter, and CPS attracting students from private schools. The resulting state costs could be at least several millions of dollars annually if only one private school obtained a charter or if only several hundred students returned to public schools.

The only specific number given was the local cost for school boards hearing charter proposals; that amount was estimated to be $500 per hearing. No estimate on the expected frequency of hearings was noted.

The California Senate Floor Analysis of SB 1448 contained a thorough description of the bill, a discussion of potential local and state costs and potential redistributive effects, as well as a list of lobbying interests in favor and in opposition of the bill. In that regard the document is a not a fiscal note per-se, but rather a bill analysis of which fiscal impact issues were a part.

Colorado 1993 Senate Bill 183

Colorado 1993 SB 183 was eventually signed into law, creating the state's CPS program. The bill allowed school districts to enter into 5-year contracts

with CPS, subject to review by the State Board of Education. The bill did not limit the number of CPS, but did create among other things a requirement that a small amount of revenue otherwise earmarked for school operations in districts that choose to authorize CPS be withheld to fund the implementation of the CPS program. In other words, program revenue rather than general-purpose revenue was allocated to fund program oversight. This prevented a state fiscal hit for overseeing CPS.

The analysis of SB 183 was done by the Colorado Legislative Council, and is officially called a "fiscal note." It has three sections of fiscal analysis after the bill description: (a) the impact of the bill on "State Expenditures," (b) the impact of the bill on school districts, and (c) the impact of the bill on the state's teacher pension fund. The first section does make enrollment estimates of 500 pupils in year one, and 1,000 pupils in year two. The average state per-pupil expenditure is used along with the enrollment estimates to determine the amount of program revenue that the Department of Education would receive to administer the program. The total estimated amount of revenue the Department of Education would receive for this purpose was small, $9,405 in year one, and $18,810 in year two. Because SB 183 proposes CPS funding through local school districts, there is no other state funding impact.

The SB 183 fiscal note uses the same enrollment estimates to assess school district impact. The note concludes that $1,852,785 and $3,705,570 in years one and two, respectively, would move from local school districts to CPS. The note does not specify how the charter law would affect the state's retirement fund. The note indicates that CPS employees can still pay into the retirement fund for up to 3 years, and that CPS and district are not required to contribute on behalf of CPS teachers. The note does not estimate the implied district cost-savings.

According to the Colorado League of Charter schools, actual CPS enrollment in Colorado was 187 in 1994, significantly less than the estimate by the Colorado Legislative Council. However enrollment reached 2,365 in 1995, significantly more that the estimates used in the fiscal notes.[4] No rationale was presented for the official enrollment estimates in the fiscal note, so the inaccuracy is not surprising.

Wisconsin 1995 State Budget Bill

The 1995–1997 Wisconsin budget provided for a large increase in the size and scope of the Milwaukee private school voucher program, officially called the Milwaukee Parental Choice Program (MPCP). Enacted in 1990, the program was limited in its first 5 years to nonsectarian schools and enrollment was capped at 1.5% of Milwaukee Public School enrollment (about 1,450 students). The bill proposed expanding the program to religious schools in the City of Milwaukee, eliminating the enrollment cap over the course of 3 years, indexing per-pupil payments to inflation, and removing a requirement that

a certain percentage of students in participating schools be tuition paying pupils.

Because the proposed expansion was in a budget bill, the fiscal analysis is in the form of an issue paper authored by the state's Legislative Fiscal Bureau (issue paper number 784). It includes an analysis of current law, a summary of the proposed changes to the program, an analysis of fiscal impact, a list of 33 discussion points giving context to the proposal, and a list of possible alternatives to the proposed legislative change.

The information paper estimates that the program expansion would cost $2,300,000 in year one, and $11,500,000 in year two. The numbers are estimated using the proposed per-pupil payment $3,209, and a projection that 2,700 pupils will use the program. The enrollment estimate was based on a privately conducted survey of private schools and the economic demographics of public school pupils. The Legislative Fiscal Bureau notes that state costs for the program will be 100% offset by funding the expansion of school choice through a reduction of state aid to public schools. The paper also concludes that the Milwaukee Public School district will experience a state aid loss of $9 million and a cost savings of $6.8 from reduced overall instructional costs because of the departed pupils.

The existing 5-year track record of the program allowed a level of specificity in the Wisconsin fiscal analysis unheard of in fiscal notes for proposed, new programs. This allowed assumptions to be made using verifiable factors such as per-pupil cost and available schools seats. A court injunction delayed the inclusion of religious schools in the program, preventing any conclusion as to whether the pre-existence of the program led to more-informed enrollment and cost estimates. However, similar to the Colorado note, the Wisconsin note used specific estimates based on projected enrollment, and also considered the fiscal impact to both state and local governments.

Missouri 1998 Senate Bill 781

Missouri 1998 SB 781 contained numerous provisions designed to identify and improve the lowest-performing schools in the state's two large urban districts, Kansa City and St. Louis. SB 781 included a proposal to allow school boards in the two cities, as well as public 2- and 4-year colleges located in or bordering the two cities, to authorize CPS. The bill details requirements of CPS in the areas of staffing, organizational structure, and admissions. Like Colorado, the Missouri bill funds CPS through the districts in which the students attending the schools reside.

The Missouri note is called a "fiscal note" and was prepared by the Missouri Committee on Legislative Research. Unlike the previously described notes, it contains a section listing 11 assumptions used to gauge the potential fiscal impact. However, the assumptions all deal with other portions of the

bill. The note concludes that the state general fund will be reduced by about $6,000,000 in year one, and about $168,000,000 in years two and three because of this legislation. However, the portion of theses state costs attributed to the CPS program is listed as "unknown" in each of these years. The total cost of the legislation to local school districts is also itemized, however, the estimated total cost of the charter program is again listed as "unknown" in each of the 3 years. No estimates for the number of CPS or the expected number of enrolled CPS students were attempted in the fiscal note. In the year after the charter law was passed, no CPS were yet in operation, however 12 opened in Kansas City in year two (1999–2000).

California 2000 Proposition 38

Proposition 38 is unique in this analysis because it was a piece of direct democratic legislation that failed to pass a statewide referendum in 2000. The initiative proposed a universal tuition voucher that funded any California pupil enrolled in a qualifying private school. Qualifying private schools would have been required to meet all private school regulations and administer the state standardized test. The voucher would have been worth, according to the California Legislative Analyst's Office (LAO), "the greater of $4,000 per pupil; or one-half of national average spending per pupil in public schools (as defined by the proposition); or one-half of California's spending per public school pupil (as defined by the proposition)." The LAO estimated that would result in a per-pupil payment of $4,000 in year one, and something higher in future years.

Prior to its official fiscal estimates, the LAO noted that the total fiscal impact would hinge substantially on the number of pupils that choose to participate in the program, the response of school districts to increased competition, and the response of the legislature to the passage of this proposition. Like the other described notes, the LAO analysis examines both state and local impacts, working under the following assumptions:

- The scholarship is worth $4,000 in year one.
- Many of the users of the vouchers would have been one of the 650,000 students already attending private schools.
- The state will save $3,000 for every child that leaves a public school to attend a private school under the program. This is because the average per-pupil public school cost in California was $7,000.

The LAO presents an analysis of long-term impact on state finances under the above assumptions. They list a range of possible costs and savings depending on how many pupils use the program that would have otherwise attended private schools. The range presented is from $2 billion in annual

state costs if only 5% of TPS and CPS students switch to private schools, to $3.4 billion in annual savings if 25% of California TPS and CPS pupils switch to private schools.

The potential long-term impact on local governments is less specific. The LAO simply notes that it "would depend primarily on the extent to which the loss of state funding resulting from fewer pupils is matched by offsetting cost reductions." As mentioned, the proposition did not pass so it is impossible to measure the accuracy of the LAO's assumptions and estimates.

Nebraska Legislative Bill 2010 1028

Nebraska LB 1028 would have enabled the Nebraska State Board of Education to authorize CPS operated by groups of Nebraska residents or nonprofit organizations. The bill required that potential CPSs serve at least five students in grades K–8, and be located at least 7 miles away from existing elementary schools. CPS would be initially authorized for a period of 3 years, and receive per-pupil payments equal to the resident district's average cost per pupil.

The Nebraska Legislative Fiscal Office fiscal note estimated a Nebraska general fund year one cost of $105,959, and year two cost of $109,709. That cost was not for the operation of CPS, but for employment of a Management Consultant to work with schools at the Nebraska Board of Education. The fiscal note forecast expenses for the Nebraska state retirement fund for new school employees, but did not give any specific estimates. The fiscal impact on local school districts, which were to have per-pupil funds reduced to pay for charter school pupils, was also noted, but not specified. The note did say: "If instructional expenses for a public school district are not able to be decreased when fewer students are taught, then average per pupil expenses for the public school district will increase." The fiscal note for LB 1028 also did not give any specific enrollment estimates, stating: "The number of charter schools that would be created is unknown and unpredictable." LB 1028 did not pass Nebraska's unicameral legislature and Nebraska remains one of nine states without a charter school law.

Wisconsin 2011 Senate Bill 22

SB 22 specified a nine member statewide CPS authorizing board. Prior to 2011, only school districts and a few specific independent Milwaukee and Racine entities could authorize a CPS. A CPS authorized by this new entity would receive $7,775 per pupil. Total funding for the program was to come from an equal percentage state aid reduction to each of Wisconsin's 424 school districts. In other words, every district in the state would receive less state aid because of the program, as charter school enrollment increases, state aid to every district would decrease.

There are two SB 22 fiscal notes. The Wisconsin Office of State Employment Relations' note made no actual estimates, noting only that there would an "indeterminate" state and local fiscal impact. The note also suggested the bill may increase costs to the state's retirement fund, but made no actual cost prediction. The second note, from the State Department of Public Instruction (DPI), made more specific estimates, stating clearly that the bill would increase state costs beyond what might be absorbed in the agency's budget. DPI also noted that school districts would experience a mandatory reduction in revenue. Interestingly, because the bill also reversed an earlier provision to fund new charter pupils via general purpose revenue rather than through state aid reductions to school districts, DPI estimated the bill would save the state general fund $21 to $23 million during its first 2 years of enactment. However, DPI also noted the savings would only occur because of a $21 to $23 million increase in property taxes used to offset school district aid reductions. Because Wisconsin SB22 did not pass the legislature, Wisconsin still lacks a statewide CPS authorizer.

Indiana House Bill 2011 1003

Indiana HB 1003 created a statewide school scholarship tax credit program and a school voucher program. The voucher program is means tested and provides up to $4,500 for low- and middle-income students (those from families with incomes up to 150% of the federal free and reduced priced lunch eligibility) to attend participating schools. Program enrollment is limited until 2013, and participating schools must meet a variety of regulatory requirements.

The fiscal note for HB 1003 was drafted by the Indiana Office of Fiscal and Management Analysis (OFMA). The agency took a unique approach to estimating potential impact. They selected 1,000 pupils from households with incomes at or below 250% of federal free/reduced lunch eligibility. They determined that 714 of the students in this cohort would be eligible for the voucher program. OFMA concludes these 714 students would cost the state $2.9 million dollars, but ultimately result in a net savings to the state of $1.0 million due to reduced TPS expenditures.

The approach of OFMA is unique in that it looks at the fiscal impact of the voucher program separate from the fiscal impact of the tax credit program despite the fact that they are both included in the same bill. It is also unique for not making any overall enrollment estimates. Instead, OFMA assesses the impact based on an arbitrary cohort of students at or near program eligibility. Finally, the OFMA analysis does include a section for local impact, but does not make any specific estimates, instead noting that there could be administrative costs. The Indiana voucher program was signed into law in 2011, so the accuracy of the note can be tested in the near future.

Texas 2011 House Bill 33

Texas 2011 HB 33 would have created a statewide school voucher program for Texas children worth the lesser of a private school's tuition or 60% of the state's average per-pupil maintenance and operation expenditure. The original fiscal note for HB 33, drafted by the Texas Legislative Budget Board (LBB), estimated a net cost for the program to the Texas General Revenue Fund of $195,530,669 over 2 years. However a critical review of the original note by Joseph Bast (2011) identified numerous errors. This presumably led to a subsequent LBB memo released on June 20 that analyzed a substitute bill to the original HB 33. The memo estimated the net cost of the program to be only $4.8 million for the administrative expense of running the program out of the Texas Comptroller's office.

The program would have limited participants to students who previously attended public schools, guaranteeing a savings for every pupil that used the lower cost voucher program. The LBB estimated the students using the voucher program would save the state $56 million in year one, and $113 million in year two. However, the saving would be distributed back into the public school system leaving the program to have a neutral fiscal impact aside from administrative costs.

Fiscal estimates were generated using the projected voucher amount, $5,281, and the estimated number of students that would use the program. The LBB assumed 0.5% of eligible students (22,545) would use a voucher in year one, and 1% of eligible students (45,753) would use a voucher in year two. Though the basis of those estimates is not clear, they reflect the initial take-up rates of restricted voucher programs elsewhere (Witte, 2001). The Texas note also assumes the program will eventually grow to serve 6% of the eligible population; this number too is supported by growth patterns in existing voucher programs (Bast, 2011).

The LBB was less specific on how the voucher program would impact local governments. As mentioned, public school districts would receive a portion of the savings from the program, however, the actual net impact on a district would be dependent on how many pupils left to use the voucher program. The note merely states that local districts "may experience difficulties in realizing sufficient cost reductions due to the reduced enrollment and could suffer some financial hardship as their net entitlements were reduced."

A START TO IMPACT ASSESSMENT OF SCHOOL CHOICE EXPANSION

As mentioned, the specific fiscal notes examined were chosen for their substantive importance related to the size, scope, and controversial nature of

the proposed school choice program, geographic and program diversity, and the years in which they were proposed. The notes did have several common attributes, meaningful commonalties, and meaningful differences (see Table 2). A brief review of these commonalities and differences gives context to a proposed framework for evaluating and creating fiscal notes for school choice programs.

Meaningful Commonalities

USE OF JARGON

Not surprising given that fiscal notes are created by state agencies for consumption by legislators and legislative staff, the examined fiscal notes all contained language that people unfamiliar with the legislative process are unlikely to understand. While probably a reflection of their audience, this lack of accessible language limits the ability of the public to use primary sources to evaluate the fiscal impact of proposed programs. California's Proposition 38 public information packet showed that a simple, easy to understand fiscal analysis summary is possible.[5]

Lack of Specificity and Arbitrary Assumptions

Although every note examined included a fiscal impact statement, only the Texas note provided a simple straightforward estimate of how many students were expected to use a program, and how much the program was likely to cost taxpayers. Generally, where specific numbers were given they were produced in an unexplained arbitrary manner. The only notes that came close to giving a straightforward enrollment and cost estimate was The Wisconsin Legislative Fiscal Bureau note on the Milwaukee voucher program expansion and the 2011 Texas voucher proposal.

The lack of specificity makes evaluating the accuracy of fiscal notes impossible in most situations. For example, the note on California's Prop 38 referendum presented a range of potential effects that was so broad it could not have been proven wrong or right. Similarly, the use of a theoretical cohort of students for the Indiana program allowed for assumptions to be made, but gave no meaningful predictor of what total program costs might be expected. More problematic, the Colorado charter school fiscal note that estimated 500 students in year one and 1,000 in year two of participation presented no explanation as to why those numbers were chosen.

USE OF HEDGING

The California and Indiana examples of presenting a range of possible effects amounts to hedging; presenting every possible scenario ensures the agency

TABLE 2 Characteristics of School Choice Legislation and Fiscal Notes

State	Year	Stand Alone	Enacted	Expansion	Voucher	Charter	Enrollment Est.	Specific Fiscal Est.	Specific State Est.	Specific Local Est.
Wisconsin	2011	X		X		X		X	X	X
Texas	2011	X			X		X	X	X	
Indiana	2011		X		X			X	X	
Nebraska	2010	X				X			X	
California	2000	X			X	X	X	X	X	
Missouri	1998		X			X		X	X	
Wisconsin	1995		X	X	X		X	X	X	
Colorado	1993	X	X			X	X	X	X	X
California	1992	X	X			X		X	X	X

producing the note will not be found wrong. However it also gives legislators little hard information from which to draw conclusions. Such an approach may have been understandable for early notes where little information on the nature of school choice programs existed, but now there is enough information on the behavior of choice programs to make more specific estimates going forward.

INSULAR NATURE

With the exception of the fiscal note on the Milwaukee voucher expansion, state agencies did not cite outside sources when estimating choice program enrollment. Given that charter and choice programs have existed since the early 1990s, not utilizing the experience of programs in other states is inexplicable. It is especially destructive given that choice programs are often products of policy replication, thereby giving reason to believe that analysts should study the impacts of the copied policies (Wong & Langevin, 2007). And likewise, there appears to be no attempt to exploit the findings of the academic literature on the sensitivity of private school enrollment decisions to tuition cost; something we do later in the article.

Meaningful Differences

THE USE (OR NONUSE) OF ENROLLMENT ESTIMATES

The most intuitive method for determining the future cost of a choice program begins with an estimate of the number of students expected to enroll in the program. However, only half of the fiscal notes in Table 2 contain hard estimates of the number of pupils that will enroll in the program. Although the Colorado charter school bill enrollment numbers were arbitrary, even an arbitrary number is more useful than no estimate (California and Missouri charter bills), or cohort estimates (Indiana) that do not project total program usage. There is no way to create a useful fiscal note for a choice program without estimating the number of pupils likely to use it.

CONSIDERATION OF SAVINGS

One of the key attributes of choice programs is their ability to save taxpayer money by educating students at less taxpayer cost than TPS (Costrell, 2011). The Texas voucher, Indiana voucher, California voucher, and Milwaukee voucher expansion fiscal notes all considered the savings to the public in their estimates of total fiscal impact. However, none of the charter bill fiscal notes did. Presumably the charter notes did not because all of the notes examined were for laws that funded charter schools out of TPS allocations. However, the actual per-pupil allocation that public districts give to charter

schools is often less than district averages, meaning a consideration of savings at the local level could have been incorporated. To not do so is to leave out an important part of the fiscal justification for school choice programs.

IMPACT ON DIFFERENT LEVELS OF GOVERNMENTS

Though all the fiscal notes were produced by state agencies, two of them (Colorado's CPS bill and Milwaukee's voucher expansion) did give specific estimates of the fiscal impact on local school districts. Such information is crucial given that the state legislators voting on these bills represent local constituencies that care about the potential fiscal impact of state legislation on local coffers. For example, the MPCP has long been known to produce savings for school districts outside of Milwaukee and costs for the City of Milwaukee.[6] The uneven distribution of costs savings is often the rationale given by Milwaukee's state legislative delegation for their opposition to the voucher program (Costrell, 2011; Dougherty, 2004). Fiscal notes that do not contain information on the impact of choice laws on state and local finances are leaving out a key piece of information that may influence legislative decision making (Kingdon, 1995).

COMPARING NOTES OF ENACTED AND REJECTED LEGISLATION

Our review of nine school choice fiscal notes also provided some evidence that differences exist between the notes for passed and rejected legislation. Three of the four notes for the rejected pieces of legislation, for example, contained no specific local fiscal estimates. The one that did, the note for Wisconsin's failed SB22 charter expansion, described a significant negative local fiscal impact. Although not definitive or causal, it does suggest that the local fiscal impact of school choice program, either by being described negatively or vaguely, can hurt a bill's change of passage. Milwaukee's experience with the school choice funding flaw provides further reason to suspect this phenomenon. Milwaukee's school voucher program has been shown to save state taxpayers money on whole, but cause slightly higher property taxes in the City of Milwaukee.

In addition to generally not offering local fiscal estimates, only one of the failed bills' fiscal notes contained specific enrollment estimates. The one that did was California's voucher referendum. Notably, no statewide voucher referendum has ever passed; suggesting the approach to passing the legislation was the reason behind its failure. The fiscal notes for three of the five successful pieces of school choice legislation, in contrast, did include specific enrollment estimates. Again, the sample size is too small to show causality or to reach a definitive conclusion, but it does suggest

legislators are more likely to support school choice legislation if given an idea of exactly how many students are expected to use the program.

Future inquires into fiscal notes should take into account the structural characteristics of notes for failed and successful pieces of school choice, legislation. The presence of local cost estimates and enrollment estimates in particular should be included in any attempted quantitative model for predicting the passage of school choice legislation.

CONCLUSION

A review of the commonalities and differences in selected fiscal notes yields information relevant to developing best practices for drafting these notes. On balance, the information contained in the notes cannot be considered terribly useful to the policy making process. In fact, fiscal notes may introduce vagueness with the potential to paralyze the policy process.

Most important, few notes actually make detailed projections on potential enrollment and potential state and local costs of choice programs. Those that do make detailed projections do not incorporate existing research on the behavior of choice programs, instead relying on arbitrary assumption. The notes are often filled with vague jargon of limited utility to average citizens. The 2000 California referendum on Prop 38 showed that producing digestible information on school choice bills is possible.

The preliminary conclusion from the review of these strategically selected diverse fiscal notes is that all school choice program fiscal notes should have three common attributes:

1. School choice enrollment estimates based on the behavior of similar programs elsewhere.
2. A consideration of program costs and savings at the state and local level.
3. A summary cover sheet that is jargon-free and targeted for citizen consumption.

REVIEW OF THE ACADEMIC LITERATURE

Most of the empirical studies of CPS and private school choice focused on the identification of academic effects. Chiswick and Koutroumanes (C&K: 1996), Lankford and Wyckoff (1992), Keeler and Kriesel (1994), Erekson (1982), Megna and Lee (1990), and West and Palsson (1988) contain models of private schooling demand. We will rely on the C&K (1996), K&K (1994), and L&W (1992) estimates—the three most recent—of the relationship between tuition level and the probability of attending private school for part of the impact assessment algorithm described in the next section. Because the

C&K (1996) coefficient aligns most closely with the real-world experience in Edgewood (Merrifield & Gray, 2009) and in Milwaukee (Clowes, 2008) we rely more heavily on it. Furthermore, the exact meaning of the Lankford and Wyckoff (1992) coefficient is unclear. To compare the L&W coefficient for monthly tuition to C&K's annual tuition, we have to guess how many months per year private tuition is paid; not necessarily 12; perhaps nine or ten. If 12, after adjustment for inflation, the L&W coefficient is 7.5 times as large as the C&K coefficient. The Keeler and Kriesel (K&K, 1994), is 14 times as large as the C&K coefficient. However, we caution that much more research is in order to update and refine the basis for enrollment shift estimates. The larger coefficients of K&K and L&W may reflect data nuances,[7] or they may reflect differences between private market conditions, and the attenuating circumstances of the temporary Edgewood voucher program and the low-income targeted Milwaukee tuition voucher program.

There have been several major simulation studies of school choice (Ferreyra & Liang, 2012; Ferreyra, 2007; Nechyba, 2003; Epple & Romano, 1998; Fernandez & Rogerson, 1998), but they either focused on choice among TPS, or projected the behavior of abstract household types, and stopped short of forecasting real-world, school choice program-induced enrollment changes.

A START TO IMPACT ASSESSMENT OF SCHOOL CHOICE EXPANSION

The best way to illustrate the challenges, current capabilities, and barriers to high quality fiscal notes on short notice is with an example; an assessment of enrollment, fiscal, and graduation rate effects of a proposed significant school choice expansion. Because HB 33 (not enacted) of the 2011 Texas Legislature is familiar, recent, and will resurface in the next legislative session, we employ it for our attempt at a significant initial improvement in fiscal note practice.

HB 33 designated 60% of the state's average per pupil maintenance and operations (M&O) expenditure as the maximum voucher amount that parents could then supplement with private funds, if necessary, to enroll a child in a school with a tuition level above the maximum voucher amount. The combination of Texas' complicated school funding formula and recent settlements of school funding equity litigation made the average M&O expenditure the state's average marginal cost per pupil. The average statewide per pupil M&O is $8,572 in 2009–2010; growing at an average nominal rate of 4.35% over the preceding 4 years. Because 2012–2013 is the first school year that a school choice expansion could have taken effect, we used that growth rate to project the 2012–2013 M&O rate, $9,741, and thus a maximum voucher of $5,844 for 2012–2013. We limited our projections to the first three

school years of the new policy. So, we also projected a 2013–2014 maximum voucher of $6,099, and a 2014–2015 maximum voucher of $6,364.

The next issue to address is the effect of the universal vouchers of up to $5,844–$6,364 on the probability of attending a private school. Based on the academic literature review, and the results of the two largest U.S. tuition voucher programs, we use the following bases to estimate the increased probability of attending a private school: (a) the econometric model of Chiswick and Koutroumanes (C&K: 1996); (b) the Edgewood universal voucher experience, 1998–2008, in the San Antonio, Texas metropolitan area (Merrifield & Gray, 2009, 2013; Merrifield, Adzima, Nesbit, & Gunasekara, 2011); and (c) the major 1998 expansion of the Milwaukee Parental Choice Program (MPCP—vouchers for low income families; Clowes, 2008). C&K (1996) determined that a $1 change in the cost of private schooling increased the probability of attending a private school by 0.0021%. Nineteen ninety data were the basis of that regression coefficient, so we made an inflation adjustment so that for the 2012–2013 school year, a $1 change in the current cost of private schooling would raise the probability of attending a private school by 0.00114%. Based on the short notice with which such programs are likely to become law,[8] and noninstantaneous awareness of school choice expansion, we assumed a full phase-in of the C&K coefficient-based projection to occur in 2 years. The first year share of the full effect was set at the average for Edgewood and Milwaukee; around 80%.

From the Edgewood and Milwaukee data, we computed an enrollment counterfactual, and divided by actual enrollment, to get the increased probability of private school attendance. The Edgewood counterfactual comes from extrapolating the prevoucher trend, which we thought was better than assuming 100% of the voucher users would have otherwise attended Edgewood public schools. There was considerable evidence (Merrifield & Gray, 2009; Merrifield et al., 2011) of in-migration to become voucher eligible. The Milwaukee expansion in 1998 came 8 years after the initiation of the MPCP program, so we thought the 1998 situation would be poorly represented by a pre-MPCP (pre-1990) trend. We lacked data capable of delineating Milwaukee's voucher-related in-migration, and between the larger (than Edgewood) Milwaukee area, and MPCP's limitation to low-income families, we also thought there would be little, if any voucher-related in-migration. So, the Milwaukee counterfactual basis was the assumption that 100% of the voucher users would have otherwise attended Milwaukee public schools.

The number of TPS exits depends on the net decrease in cost to new private school users, which is the voucher amount minus the tuition increase (above the voucher amount) resulting from the increased demand for private school slots. Because private school capacity typically responds quickly to increased demand, and to produce conservative ("at least") estimates, we assumed a modest permanent 10% average price increase. Because a 10%

price increase will not push the tuition level above the voucher amount, the 10% tuition hike hat will not impact demand from the 60% of voucher users that attend parochial elementary schools.[9] Because prevoucher, private school users were not eligible for an HB 33 voucher, the price increase will impact demand from current private school users. So, we applied the assumed price increase to nonvoucher private school users to estimate their exodus from private schools, and thus a net increase in the probability of private school use. In the impacts discussion, we use sensitivity analysis to explore the implications of substituting speculation for specific knowledge about the effect of increased demand on private school tuition.

We multiplied projected K–12 enrollment, public plus private, by the increased probability of private school use to estimate the net enrollment shifts, which then formed the basis of our estimate of gross fiscal savings. The enrollment shift times the average difference between state marginal fiscal cost per child enrolled in Texas Public Schools is the estimated gross fiscal savings. We characterize it as a gross savings because the Edgewood assessment (Merrifield & Gray, 2009) indicated that voucher program increased graduation rates, probably through competitive effects and through the improved matching of learning needs and educator skills and interests. Higher graduation rates have a short-run fiscal cost.

The high school graduation rate of the almost 100% low income Hispanic Edgewood public high schools rose from 59% to 80% (the current statewide average), which was much faster than the average rise for Edgewood's benchmark set of public school districts. From that comparison, Merrifield and Gray (2009) estimated that 17 percentage points of the 59 to 80 increase was due to Edgewood-related effects. But an HB 33 voucher cannot increase the average statewide graduation rate by 17 percentage points, especially in a 3-year time horizon. The starting point is 80%. A 97% rate is not plausible. So, pending better data from which to predict a graduation rate improvement, we hypothesized an increase from the current, fairly stable 80% to 90%. An overly optimistic projection of graduation rate effects reduces the net fiscal savings estimate. Again, because of the speculative nature of the graduation rate effects' estimate, we employ sensitivity analysis to discover the significance of that gap in our knowledge.

We use the difference between the current, stable 80% graduation rate and the projected 90% rate to "survive" the grade level cohorts at different rates and attribute the difference in the number of students for each grade level to the HB 33 voucher. Even though the drop-out rate will not be steady over the four high school years, for simplicity, we assume it will be. So, for example, with an 80% graduation rate, the "Class of Year X" shrinks by 5.43% each of 4 years ($0.9457^4 = 0.80$), and with a 90% graduation rate it shrinks by 2.60% each of 4 years ($0.9740^4 = 0.90$). The HB voucher would only impact the seniors in the class of 2013. It would impact juniors and seniors in the class of 2014, and sophomores to seniors in the class of

2015. Improved student retention in the earlier years of the classes of 2016, 2017, and 2018 also impacts the fiscal savings estimates for 2012–2013 to 2014–2015.

The primary remaining shortcoming of our impact assessment algorithm is our inability to specify a relationship between the probability of private school use and copayment policy. Other less consequential opportunities for refinement also beckon, especially just a general improvement in the generalization of the functions to make them readily available for a wide variety of school choice policies. Projection rates used to estimate current and near future values of key data can be based on more than trend extrapolation and grade level cohort "survival" rates can be computed to vary by grade level. The algorithm can also be expanded to include additional categories of impact; for example, immigration, and investment in new schooling facilities.

FISCAL IMPACTS OF THE 2011 TSGP—TEXAS HB 2011

The increased probabilities of private school use are in Table 3, alongside the number of net TPS exits. Changing the projected average private tuition increase from 10% to 20% changes the C&K numbers in Table 3 approximately 5.5%. Because the Edgewood- and Milwaukee-based estimates are based on actual net effects, they are not impacted by the price change parameter projection.

Given the diversity in the three bases for the estimates, the C&K (1996) econometric study of 1990 private school data, the Edgewood voucher program, and the Milwaukee MPCP yield surprisingly similar impact estimates. The Edgewood-based impact estimates are somewhat smaller than the MPCP-based estimates even though only Milwaukee's low-income families are voucher eligible, and Edgewood families were free to copay, while Milwaukee private schools could accept vouchers only as full payment; a price control provision that prevents the MPCP from increasing the affordability of private schools with tuition above the voucher level.[10] Those impact-decreasing factors must be more than offset by MPCP's

TABLE 3 Voucher Impact–Critical Factors

	Increased Probability Private			Net TPS Exit		
	2012–2013	2013–2014	2014–2015	2012–2013	2013–2014	2014–2015
C&K (1996)	6.4%	6.7%	7.0%	267,709	359,780	382,322
Edgewood (1999–2001)	4.5%	5.6%	4.0%	248,496	306,521	221,411
Milwaukee (1998–2000)	5.8%	7.6%	9.2%	308,824	413,932	508,821

permanence—Edgewood was a privately-funded, temporary program—and by the slow rate of discovery of the Edgewood program that was available only to the residents of a small district west of downtown San Antonio, Texas. The 2014–2015 drop off in the Edgewood-based impact estimate was not the result of reduced voucher use in year three of the Edgewood program. Instead, the year three drop in the probability of private school use in Edgewood was the result of significant immigration into the district; coincident with noteworthy improvements in Edgewood TPS academic outcomes. Like graduation rate improvements, attracting immigrants would reduce fiscal savings, yet it would likely still be seen as another positive outcome of school choice expansion.

The projected graduation rate effects—roughly mimicking the Edgewood effect of getting halfway to 100%—are substantial (see Table 4). The numbers for the three different years differ because the retention gains compound. The 36,767 additional students (not additional graduates that year) in 2012–2013 are additional seniors in the class of 2013, additional juniors in the class of 2014, additional sophomores in the class of 2015, and additional freshman in the class of 2016. The compounding, for example, is more seniors in the class of 2014, in part because of reduced losses in the number of juniors in 2012–2013.

Adjusting the projected average statewide graduation rate only to 88%, instead of the 90% reflected in Table 4, changes the numbers in Table 4 nearly 20%. The 90 to 88 change in the graduation rate changes the state government's fiscal savings (columns 4–6 of Table 5) by 3% to 4%. As in Table 3, changing the projected average private tuition increase from 10% to 20% changes the first three C&K numbers in Table 5 approximately 5.5%, and the graduation rate-adjusted C&K numbers by nearly 7%.

TABLE 4 Graduation Rate Effects

	2012–2013	2013–2014	2014–2015
Total Additional Students	36,767	57,071	86,176
Share of Graduating Class	10.8%	16.4%	24.2%

TABLE 5 Fiscal Savings to the State

	Gross State Savings			Graduation Rate-Adj State Savings		
	2012–2013	2013–2014	2014–2015	2012–2013	2013–2014	2014–2015
C&K (1996)	1043.1	1462.8	1622.1	899.8	1230.8	1256.5
Edgewood (1999–2001)	968.2	1246.3	939.4824.9	1014.2	573.8	
Milwaukee (1998–2000)	1203.2	1683.0	2158.8	1060.0	1450.9	1793.2

TABLE 6 Average Fiscal Impact on School Districts (Grad Rate Adjusted)

	(Millions of $$) Reduced Funding			Change in Per Pupil Funding		
	2012–2013	2013–2014	2014–2015	2012–2013	2013–2014	2014–2015
C&K (1996)	2249.5	3076.9	3141.9	+$93	+$132	+$146
Edgewood (1999–2001)	2028.0	2496.5	1390.0	+$85	+$110	+$80
Milwaukee (1998–2000)	2615.7	3588.3	4438.5	+$107	+$152	+$197

The projected district-level funding losses are shown in Table 6. Because the voucher amount is less than the per pupil funding level, per pupil funding would rise (also in Table 6). However, marginal savings may differ significantly from the average per pupil expenditure; an important issue that has received very little attention. They estimated the average marginal cost at 85% of average cost, but the variance around the average is likely to be large; varying from zero when reduced TPS enrollment reductions are spread too widely to cut personnel to much greater than the per pupil average when enrollment reductions avoid costly new construction.

THE ROAD AHEAD

Given the potential quantum leap in fiscal note practice represented by our analysis of Texas' HB 33, the next step is to provide current capabilities in a user-friendly format from which legislative analysts can quickly derive insightful results, and update it as capabilities improve. Two areas cry out for serious attention: (a) Credibly varying the voucher and CPS assessment outcomes depending upon whether families can copay the tuition, which eliminates debilitating price control; and (b) A supply-side model of school capacity. The latter is likely to be especially significant for the early stages of school choice policy response, and for policies that do not allow copayment (currently all charter laws), where supply, not demand, will be the dominant limiting factor that determines how many children leave TPS. For charter law assessment, we also need to model the impact on private schools. A model for TPS marginal-average cost saving differences would be enormously useful.

SUMMARY AND CONCLUDING REMARKS

An insightful fiscal note can greatly influence the adoption of school choice programs. Without them, key policy decisions are just a function of sheer speculation. Current fiscal note practice does little more than highlight

issues to consider, and not all of them. That is unacceptable for a policy debate that all agree will have huge consequences. Our effort shows the way to some significant immediate improvement in the usefulness of fiscal notes for school choice programs, and it identifies key improvement opportunities.

NOTES

1. Large = universal, or not overly binding beyond targeting children from "low-income" families. So, for example, we examine the Milwaukee Parental Choice Program (MPCP tuition vouchers for low-income families), but not the 1989 fiscal note to create the original, restriction-laden program (see Clowes, 2008 for a detailed history). We examine the fiscal note for the major MPCP 1995 expansion—delayed until 1998 by a court challenge—and the recently enacted major loosening of MPCP restrictions.

2. See http://www.allianceforschoolchoice.org/yearbook.

3. See http://charterschoolresearch.com; add Washington, DC, plus Washington state's just enacted charter law, for a total, nationwide, of 42 charter laws.

4. Colorado charter enrollment numbers for prior year are from a November 10, 2011 e-mail from Jennifer Turnbull of the Colorado League of Charter Schools.

5. See http://vote2000.sos.ca.gov/VoterGuide/pdf/38.pdf.

6. The local costs for the Milwaukee voucher program stem from a funding flaw that requires Milwaukee taxpayers to pay a portion of the costs of the choice program through the Milwaukee Public School (MPS) levy but does not allow the district to count voucher pupils for state-aid purposes. Wisconsin has an equalization aid formula that distributes education aid based on dividing a district's total property wealth by the number of public school pupils. Not including publicly funded voucher pupils in this formula makes Milwaukee appear wealthier than it is, thereby decreasing state aid by an amount that is offset by an increase in the local property tax levy (Costrell, 2011).

7. For example, L&W (1992) data for private schools is limited to Catholic Schools.

8. The end of a legislative session, when most laws achieve final passage, is typically just a couple of weeks or months from the beginning of the next school year.

9. That was the parochial elementary school share of private school enrollment in the most recent available data.

10. In practice, the inability to top vouchers off in Milwaukee has driven per-pupil costs down towards the maximum per-pupil voucher worth rather than keep schools out of the program. The overwhelming majority of private schools in Milwaukee participate in the voucher program.

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