

Credit Worthy

EDUCATION: School choice advances under the banner of tax credits

By Anthony Mator

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REFORMERS in some states have moved from pushing vouchers to emphasizing educational tax credits, which seem more palatable to both liberals (because no money is taken from public-school coffers) and conservatives (because private schools are less vulnerable to state regulation than if they become dependent on voucher payments).

Pennsylvania rejected voucher legislation but welcomed a tuition tax credit in 2001, much to the joy of Pittsburgh-area residents Kenneth and Renee Konias. Two years ago, Mr. Konias left his job as a maintenance engineer after he ruptured two discs in his neck, and medical bills left him and his wife unable to come up with all of the \$6,000 in tuition their 10th-grader Ken needed at Serra Catholic. Their son was able to attend, though, thanks to a \$1,250 scholarship made possible through Pennsylvania's Educational Improvement Tax Credit (EITC) program.

EITC provides companies with a tax credit equaling up to 90 percent of contributions to nonprofit scholarship funding organizations (SFOs). The annual result: Over 15,000 low-income students receiving scholarships through over 100 SFOs, and a satisfied Mrs. Konias, who said of her son, "I always wanted to provide better schooling for him than in the public school. I know when I went to school, they didn't care if their students did their homework or anything."

Parental dissatisfaction is the driving force nationwide behind tuition tax credits, yet progress at the federal level has been slow. Every year since 2002 President George Bush's budget plans have included a federal tax credit of up to \$2,500 for private-school tuition paid by low-income families with children in failing public schools, but Congress has said no. Meanwhile, six states – Pennsylvania, Iowa, Arizona, Minnesota, Illinois, and Florida – are trying out the concept.

Programs differ widely from state to state. Arizona and Florida both offer dollar-for-dollar credits for money sent for scholarships, but Arizona offers them only to individuals and they are limited to \$500, while Florida gives tax credits to corporations only and they cannot exceed 75 percent of a corporation's tax bill. Two months ago, Arizona expanded its program by making corporations eligible.

In Minnesota, families making less than \$33,500 a year can take advantage of a 75 percent credit, while families making between \$33,000 and \$37,500 get less. Illinois has a 25 percent credit on qualified educational expenses over \$250, with a maximum of \$500 per family. Iowa recently increased its credit from 10 percent to 25 percent of the first \$1,000 spent.

Taxpayers generally seem pleased. "I think that many are surprised at how successful (EITC) has been," says Pennsylvania state Rep. Sam Rohrer, the Republican who authored the bill creating credits in his state. He opposes vouchers and their inherent threat of government control, and says that a credit "eliminates the government fingerprints on the money [and] eliminates the normal accusation that tax dollars are being given to religious entities. It's private money. It's money that's never gone to the state."

In the courts, tuition tax credits have met with consistent success. Last year, a federal district court upheld Arizona's scholarship program as constitutional, despite the ACLU's claim that it violates the Establishment Clause in benefiting more religious than secular schools. In the decision, U.S. District Court Judge Earl H. Carroll characterized the tax credit as a "neutral, secular" program and said "multiple layers of private choice ensure that the State itself does not aid recipients with regard to their religion."

Gary McCaleb, senior counsel for the Alliance Defense Fund, which defended Arizona's program says that as long as a program does not discriminate between schools with regard to

religious affiliation, and as long as private choice rather than public decree drives the flow of money, the courts will uphold it.

The Pennsylvania branch of the ACLU has hesitated to call tax credits unconstitutional. Larry Frankel, the branch's legislative director, says the Arizona defeat has influenced his strategy: "While we continue to think this is not a sound approach to real educational reform, we have decided against challenging the program in the courts."

But People For the American Way is challenging the accountability to tax-credit programs and bolstering its positions by alleging fraud among Florida's scholarship funding organizations. One SFO, the Silver Archer Foundation, purportedly collected donations without incorporation or registration in Florida, which the law requires. Tampa-based Islamic Academy of Florida lost funding after its founder was said to be the North American leader of Islamic Jihad, a Palestinian terrorist group.

RESPONDING to such concerns, four SFO's formed the FLA-SFO, an umbrella organization with strict guidelines. FLA-SFO members now administer 98 percent of the state's corporate tax-credit scholarships.

People For the American Way also argues that tuition tax credits are not benefiting lower-class citizens and are instead a windfall for middle-class students who would have attended private school even without financial help, while the programs' benefits are too meager to enable poor families to afford tuition.

Some states do use income tests to restrict scholarships. Arizona's go to families whose income do not exceed 185 percent of the income limit for free or reduced-price lunches. Florida limits its program to families who qualify for the lunches; a family with one child cannot have more than \$17,705 in income. In Minnesota, families making less than \$37,500 qualify for credits. Pennsylvania's criteria include both income level and number of children. Iowa, however, recently removed an income-eligibility restriction from its program.

Another liberal knock on tax credits is that they drain state funds – but some conservative groups say the credits increase available revenue. A Common-wealth Foundation study showed that Philadelphia saved \$136,000 during the 2001-02 school year as a result of 35 scholarships awarded through the SFO Futuro Educational (Futures in Education). The study concluded that money lost to government through the tax credits was less than the money saved when students left public schools.

Experts dispute how much money public schools save when fewer students enroll. But the bigger question is how government can best serve parents who want a quality education for their children.

Fighting on better ground

Tax credits offer more hope than vouchers for true education reform

By Timothy Lamer

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The 1993 movie *Gettysburg* has a poignant scene in which confederate Gen. James Longstreet has to give the order for Pickett's charge. He had opposed making the charge. Convinced that such an assault would end in disaster, he had argued instead for maneuvering around the Union army and forcing the Federals to attack on ground of the Confederates' choosing. But his commander, Robert

E. Lee, was bent on attacking, and Longstreet could barely speak as he gave the order to George Pickett.

It was difficult not to have a similar feeling, and for a similar reason, as Florida Republicans this month staged another long, losing battle for publicly funded school vouchers. The Florida Supreme Court in January had voided one of the state's school-choice programs – Opportunity Scholarships that allowed students in failing schools to leave and attend better private schools – and Republicans were trying to approve a ballot measure that would amend the state's constitution to allow such vouchers.

Florida's justices had rejected the voucher program because it supposedly violated the requirement that the government provide a “uniform” public-school system. Gov. Jeb Bush and Senate Republicans argued that the “uniform” provision should not protect schools that are uniformly bad, but they fell one vote short of putting the issue directly before Florida voters.

Their charge was a valiant one, but the political capital they spent may be lost for good. “Next year, it will be a different governor,” Republican Sen. Dan Webster told the *Palm Beach Post*, “and I think the energy behind vouchers, no matter who is elected, will be diminished.”

The sad thing is that there was other ground on which to fight such a battle, namely expanding tax credits. Several education-reform advocates have been arguing for years that conservatives should avoid charging the voucher hill and instead concentrate their fight on the better tax-credit ground. They argue that tax-credit approaches to school choice don't face the legal and political hurdles that vouchers always face, and that tax credits are more in line with a philosophy of limited government.

The problem with voucher programs is that they are, at bottom, government spending programs. Money goes to the state, which then doles it back to parents in the form of vouchers. (These parents may receive back much more or much less than they paid in taxes.) The strength of these programs is that parents then have the ability to take their children out of bad schools and shop around for better ones. The weakness is not only that this may lead private schools into regulation and dependency on the state, but that liberals have found political and legal ways, as in Florida, to successfully fight these programs.

Tax-credit programs, however, remain bulletproof. They have survived all legal challenges, and they fare better than vouchers in polls. They also put taxpayers in the driver's seat alongside parents. A Christian taxpayer, for instance, won't be forced to subsidize the Islamic education of a poor Muslim student, something that could happen with Florida's Opportunity Scholarships or any other voucher. The tax-payer himself can decide which schools to support. “Tax credits are more consistent [than vouchers] with competition and freedom because they give taxpayers a choice for the Cato Institute.

Education-policy scholar Adam B. Schaeffer and others say reformers should unite behind “Universal Tuition Tax Credits.” With UTTCs, parents who send their children to private schools would receive a dollar-for-dollar tax credit to cover tuition, as would anyone who contributes to a scholarship fund for students from poor families. “UTTCs tap a huge reservoir of private funds for school choice, cover a broad constituency, and thereby avoid much of the education establishment's arsenal,” writes Mr. Schaeffer. They would work he says, in any state with an income tax.

But so far, the school-choice movement remains splintered on the best approach, with some reformers continuing to mount valiant charges against a fortified enemy that is dug in.