OPPOSE THE EDUCATIONAL OPPORTUNITIES ACT H.R. 1381/S. 297

Tuition Tax Credits Spend Taxpayer Money on Private Schools

This bill provides a dollar-for-dollar tax credit for individuals and corporations that donate to "Scholarship Granting Organizations" (SGOs) that provide vouchers for low-income students to attend private schools. Even more extreme than most state tax credit programs,[1] this bill places no cap on overall contributions, meaning there is no limit on the amount of money the federal government will forgo and transfer to private schools.

This Bill Constitutes a Backdoor Voucher Scheme

Although proponents maintain that tax credit schemes do not involve public money, there is no meaningful difference between tax credits and direct government reimbursements of private and religious schools – tuition tax credits are backdoor vouchers. Tax credits constitute public funding: when the government grants a tax benefit, it forgoes income. This is particularly obvious under this bill, which, unlike most existing state tax credit programs,[2] provides taxpayers a dollar-for-dollar tax credit. A dollar-for-dollar credit operates less like a tax incentive and more like a direct transfer of taxpayer funds away from the public education fund and into private hands.

This Bill Does Not Improve Opportunities for Students from Low Income Families

Generally the families most likely to use a backdoor voucher are the ones who could already afford to send their kids to private schools, while the poorest students are left behind. A 2003 study of Arizona's tax credit program found that even though the stated intent of the program was to provide greater choice for low-income students, in actuality, it contributed to increased economic stratification in the school system. The study revealed that "the state's wealthiest students [were] likely receiving the most of the tuition tax credit money."[3]

Moreover, this bill does not require students to be previously enrolled in public schools in order to receive the vouchers. Therefore, there is nothing to stop students who already attend private schools from receiving taxpayer-funded vouchers. The Georgia tuition tax program suffered the same flaw and, as a result, "the available evidence strongly suggests that relatively few low income students are receiving tax-funded scholarships to attend private schools."[4] Without specific language limiting eligibility to students who have attended public schools, this bill would simply allow private school students to continue their education, while being funded with taxpayer money.

This Bill Will Not Improve Academic Achievement

There is no evidence that backdoor voucher programs improve education. Indeed, under most tax credit programs, private schools can forego state testing requirements and schools are not required to report information about their voucher students. For example, in Pennsylvania, private schools that enroll students under a state tax-credit voucher program are not required to provide information on student achievement, testing, or voucher recipient demographics, and state agencies are not allowed to request information on student achievement.[5] Although this bill does require participating schools to submit student test results to the SGOs, it fails to require private schools to use the same tests as public schools. It is impossible to gauge students' academic achievement when private school voucher students and public school students are not measured against the same standard.

Even in well-studied voucher programs, proof of academic achievement is lacking. According to multiple studies of school voucher programs in the District of Columbia,[6] Milwaukee,[7] and Cleveland,[8] students offered vouchers do not perform better in reading and math than students in public schools. A report of the 2012-2013 school year found that students in Milwaukee using vouchers to attend private and religious schools performed no better on standardized tests than their counterparts in public schools.[9] And, the U.S. Department of Education found that

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[1] Of the other state tax credit programs, only Arizona's individual tax credit program and Louisiana's tax rebate program do not place caps on overall contributions.
[2] Of thirteen states with a tax credit program, only South Carolina, Alabama, Florida, Georgia, and Arizona also allow a dollar-for-dollar credit.
[3] Kevin G. Welner, *Education Tax Credits: No Net Benefit to Arizona's Impoverished Students*, EDUCATION POLICY STUDIES LABORATORY, Feb. 2003, *available at* http://edpolicylab.org.
[4] *See A Failed Experiment: Georgia's Tax Credit Scholarships for Private Schools*, SOUTHERN EDUCATION FOUNDATION., June 2011, at 61, http://www.southerneducation.org/content/pdf/A_Failed_Experiment_Georgias_Tax_Credit.pdf.
[5] Stephen Herzenberg, *No Accountability: Pennsylvania's Track Record Using Tax Credits to Pay for Private and Religious School Tuition*, KEYSTONE RESEARCH CENTER. (Apr. 7, 2011), *available at* http://keystoneresearch.org/EITC-accountability.
[6] U.S. Dep't of Ed., *Evaluation of the D.C. Scholarship Program: Final Report* (June 2010) (The 2009 study showed a marginal gain for some students in reading (but notably, not for the program's targeted group, students from schools in need of improvement), the 2010 Final Report said "[t]here is no conclusive evidence that the [program] affected student achievement" and earlier findings of modest gains "could be due to chance" and were no longer statistically significant.).
[7] JOHN F. WITTE, ET AL., MPCP LONGITUDINAL EDUCATIONAL GROWTH STUDY: FIFTH YEAR REPORT, Feb. 2012.
[8] Plucker, et al., EVALUATION OF THE CLEVELAND SCHOLARSHIP AND TUTORING PROGRAM, SUMMARY REPORT 1998-2004 (Feb. 2006); EVALUATION OF THE CLEVELAND SCHOLARSHIP AND TUTORING PROGRAM, EXECUTIVE REPORT 1998-2002 (Feb. 2006).
[9] Erin Richards and Kevin Crowe, *Voucher Students Post Gain in Math, Reading; Still Lag Public Schools,* MILWAUKEE J.SENTINEL, Apr. 8, 2014, *available at* http://www.jsonline.com/news/education/voucher-students-post-gain-in-math-reading-still-lag-public-schools-b99243092z1-254382141.html.

after five years the D.C. voucher program produced no statistically significant improvements overall in educational achievement.

This Bill Would Drain Funding from Public Schools Without Reducing Education Costs

This bill would not decrease education costs. Rather, tax money that would ordinarily be collected and spent on public schools would instead pay for vouchers, thus limiting the capacity of public schools. In Milwaukee, for example, a statewide voucher funding scheme has forced the city to raise property taxes several times in order to ensure adequate funding for the city's schools.[10] In Alabama, the state had to "put aside $40 million in its budget to absorb the anticipated loss from the tax credits."[11]

Generally, the students who leave public schools to attend private voucher schools will likely be spread throughout the school district. Even assuming individual schools will lose only a small number of students, the school district would not be able to cut overall operating costs, yet it would lose the state funding for those pupils and the funding that the state would forgo to fund private schools. Thus, tax credits force public schools to serve relatively the same number of students overall, but just with fewer resources.

This Bill Lacks Accountability to Taxpayers

Tax credit programs are especially susceptible to accountability problems.[12] SGOs constitute an extra layer of bureaucracy – one which can shield donor and recipient information from state authorities. For example, the Society of Professional Journalists recently awarded Georgia's tax credit program a "Black Hole Award"[13] for the program's failure to require students to meet certain income eligibility requirements and for its failure to require SGOs to provide reports on donor information and on how the scholarship money is actually allocated. This bill faces similar problems. Aside from the requirement that the SGOs have to "take appropriate steps to verify the annual household income and family size of eligible students to which it provides grants," there are no specifications on how the SGOs must report the amount of contributions received, the number and average value of scholarships distributed, or the number of students participating.

Private schools are also totally unaccountable to the taxpayer. Even when accepting tuition funded through a tax credit, they do not have to adhere to any standards for curriculum, testing, teacher qualifications, or school quality.

Students Who Accept Vouchers Lose Important Rights and Protections

Proponents claim that civil rights laws apply under this bill, but they fail to explain that many of the private schools that are eligible to take vouchers are exempt from key provisions in civil rights laws. These schools do not face the same public accountability standards that all public schools must meet, including those in Title IX, IDEA, and ESEA. And, they can reject students based on economic status, academic achievement, disability, religion, sexual orientation, and even gender. Private religious schools can also use religious criteria in hiring. They can refuse to hire a teacher because he or she is an adherent to the wrong religion, or can fire an unwed mother or a teacher going through a divorce, if either violates the religious teachings of the school.

Furthermore, SGOs can also deny students tuition based on gender, religion, and other factors. For example, SGOs can, and often do, limit their scholarships only to students of a particular religion. Taxpayer money should not be used to fund discrimination.

Backdoor Vouchers Harm Religious Liberty

One of the most dearly held principles of religious liberty is that government should not compel any citizen to furnish funds in support of a religion with which he or she disagrees, or even a religion with which he or she *does agree*. Voucher programs, however, violate that central tenet: they use taxpayer money to fund religious education. Indeed, in the Indiana voucher program, approximately 98% of the schools accepting voucher students were private religious schools in the 2012-2013 school year.[14] Florida's Tax Credit Scholarship program pays for about 60,000 students to attend private schools, of which more than 80 percent are religious schools.[15] Parents may choose such an education for their children, but no taxpayer should be required to pay for another's religious education.

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[10] Alan J. Borsuk, *MPS Property Tax Levy Expected to Rise 14.9%,* MILWAUKEE J. SENTINEL, July 4, 2008, *available at* http://www.jsonline.com/news/education/29423264.html.
[11] Elaine S. Povich, *Tax Dollars for Private School Tuition Gain in States*, PEW CHARITABLE TRUSTS (Aug. 6, 2013) http://www.pewstates.org/projects/stateline/headlines/tax-dollars-for-private-school-tuition-gain-in-states-85899495243 (citing the Alabama Legislative Fiscal Office).
[12] Tax expenditure programs generally lack basic accountability problems because they are often "accounted for inaccurately in the budget . . . lack transparency . . .[and] often result in unnecessary complication and duplication." C. Eugene Steuerle, *Summers on Social Tax Expenditures: Where He's Wrong…or at Least Incomplete*, TAX NOTES (Dec.18, 2000), *available at* www.taxpolicycenter.org/publications/template.cfm?PubID=7927.
[13] Society of Professional Journalists, *2012 SPJ Black Hole Awards*, http://www.spj.org/blackhole-2012.asp.
[14] IND. DEPT. OF ED., CHOICE SCHOLARSHIP PROGRAM ANNUAL REPORT, Jan. 27, 2014, http://www.doe.in.gov/sites/default/files/choice/choice-scholarship-program-annual-report-012714.pdf.
[15] *Private Gain, Public Drain*, MIAMI HERALD, Mar. 10, 2014, http://www.miamiherald.com/2014/03/10/3986627/private-gain-public-drain.html.