

Independent Schools
and
School Choice
Legislation
in the United States

Association Of Waldorf Schools Of North America (AWSNA)

AWSNA is an association of independent Waldorf Schools and Waldorf teacher education institutes in North America representing over 250 organizations. Its mission is to promote the growth and development of Waldorf education, support and strengthen member schools, and inform the public about the benefits of Waldorf education. AWSNA initiates and maintains relationships with groups seeking the revitalization of education for all children. It is a member of the National Association of Independent Schools (NAIS) and the Council for American Private Education (CAPE).

Waldorf education arose from a social movement promoting cultural renewal and world peace by fostering the principles of individual freedom, democracy, and social responsibility. Its founders Emil Molt and Rudolf Steiner intended Waldorf education to be a major force in the worldwide development of independent education that is accessible to families of all financial and cultural backgrounds. For more information about AWSNA visit www.whywaldorfworks.org.

Institute For Social Renewal (ISR)

The Institute for Social Renewal seeks to foster a healthy society founded on three distinct, interdependent areas of social life: a political life that protects human rights and the environment; an economy based on social responsibility; and an educational and cultural life centered in human freedom.

To accomplish this, the ISR works principally in the areas of education renewal and economics education from the perspective of Rudolf Steiner's social ideas. ISR conducts research and teaches individuals and institutions about innovative ways to (1) finance a diverse and accountable educational system, (2) establish ethical and socially responsible business initiatives and associations, and (3) administer and govern not-for-profit organizations effectively.

For more information about The Institute for Social Renewal visit www.socialrenewal.com.

Comments On The Perspectives In This Document

We welcome thoughtful comments on the ideas presented in this document. These can be directed to Patrice Maynard, Leader for Outreach and Development, Association of Waldorf Schools of North America: pmaynard@awsna.org or 518-672-7878.

Additional Copies

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*Independent Schools
and
School Choice Legislation
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*The Association of Waldorf Schools of North America
The Institute for Social Renewal*

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BACKGROUND

PURPOSES OF THIS DOCUMENT

The debate about educational or school choice in the United States is quickly moving from whether or not educational choice should be a significant part of the education landscape to what types of school choices parents will have. This shift is taking place even while there is tremendous opposition to any type of school choice legislation by powerful lobby groups, including teachers unions whose members primarily serve government schools.

School choice legislation could inaugurate a new era of educational freedom and parental choice in education in harmony with the ideals of politically free and independent schools. Alternatively, such legislation could be an instrument to create an oppressive uniform national educational system controlled by the state and federal governments through the implementation of national educational goals, national curriculum standards, and nationally norm-referenced standardized testing. Unfortunately, the latter is an all too real possibility that would apply not only to government schools but to independent schools as well.

The purposes of this document are to:

- Provide supporters of Waldorf and other independent schools with basic information on recently enacted educational choice legislation in the United States and help them to consider what such legislation may mean for the future of independent education;
- Stimulate vital dialogue within the Waldorf school movement and, just as importantly, between members of the Waldorf school movement and other independent schools about school choice;
- Provide facts and resource information for independent school supporters who want to become politically active in the school choice movement.

DISCLAIMER

The perspectives and information presented here should not be construed as supporting or derived from any liberal or conservative political platform or corporate agenda. The guiding principle underlying this study and analysis is that a free and democratic society requires a diverse educational system in which all parents regardless of financial background have the freedom to choose the type of schooling they think is most suitable for their children.

Neither does this document represent an official AWSNA or ISR position statement or endorsement of any specific legislation by either organization. Rather, the facts and perspectives are offered by AWSNA and ISR as initial thoughts in an open dialogue among school choice supporters.

ACKNOWLEDGEMENTS

This document draws upon the research and information made publicly available by a number of organizations involved in the promotion of school choice, including the Alliance for School Choice, the Heritage Foundation, Institute for Justice, Mackinac Center for Public Policy, and the Milton and Rose Friedman Foundation. Information on these and other organizations can be found in the Resource Section of this document.

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Executive Summary

SOCIAL MISSION OF WALDORF EDUCATION AND INDEPENDENT SCHOOL CHOICE

The Waldorf School movement was part of a post-World War I social movement advocating for educational and cultural freedom, limited government based on democratic equality, and a socially responsible economy. The first Waldorf School was founded by Emil Molt, an industrialist, and Rudolf Steiner, an educator and social reformer. It was intended as a step toward developing a widespread movement for independent education free from government control and accessible to families of all financial backgrounds. The goal of the current school choice movement – to provide parents the financial means to choose the schooling they think is most suitable for their children – is in alignment with the highest social ideals of Waldorf education.

EDUCATION VOUCHER AND TAX CREDIT PROGRAMS

School choice legislation that includes independent schools currently has two main forms: education vouchers and education tax credits. Voucher programs provide government funds to school parents to help pay for school tuition at an independent (including religious) and/or government school. Currently, there are two basic types of education tax credits: personal and donation. Personal tax credits programs give school parents a tax reduction for certain education expenses. Alternately, donation tax credits allow individuals (whether or not they are school parents) and/or corporations to receive a tax credit when they make contributions to scholarship granting organizations. Overall there are 19 school choice programs enacted at the city, state, and federal level in the United States: 11 voucher programs and eight tax credit programs as of December 2006. One fundamental difference between voucher programs and donation tax credit programs is that vouchers involve government money whereas non-refundable individual and corporate contributions eligible for tax credits typically do not.

There are over 400 school choice and school reform organizations on a local and national level exploring school choice in some manner. Three of the most prominent national organizations working on behalf of school choice are: the Alliance for School Choice in Washington, DC, the Milton and Rose Friedman Foundation in Indianapolis, IN, and the Institute for Justice in Arlington, VA. These and other organizations provide strategic assistance and a wealth of information for advocacy groups working on a state or regional level. (Many of these organizations are listed in the Resource Section of this document.)

BLAINE AMENDMENTS AND COURT CHALLENGES

The Colonial era and the early years of the American republic saw considerable diversity in education and methods of public and private funding of education. Whenever colonial governments provided for government funding of education, private, including religious schools, were commonly included. Up until the 1850s, there were only a few instances where states prohibited government funds from being used for private schools. These included Ohio, Massachusetts, Michigan, and Wisconsin. However between 1868 and 1900, 14 states amended their constitutions to prohibit public funds going to religious schools and another seven prohibited the use of public funds for

any type of school other than “public” schools. Most of these are referred to as Blaine amendments, named after Speaker of the House James G. Blaine, who proposed an amendment to the federal constitution in 1875 to prohibit public funds being used for religious schools. This did not pass at the federal level but many states adopted such amendments in order to prevent public money going to Catholics schools.

At this time there are 37 states with restrictions prohibiting the use of public funds for religious or all types of private schools. In addition, 29 states have “compelled support” provisions, which prohibit the forcing of citizens to support a church without their consent. Only three states have neither Blaine amendments nor compelled support provisions in their constitutions: Louisiana, Maine, and North Carolina. Consequently, it is certain that virtually all school choice legislation enacted in the United States will be challenged in court by school choice opponents.

However, a recent Supreme Court decision, *Zelman v. Simmons-Harris*, has given school choice advocates reason for being optimistic regarding these court challenges. The Court ruled that the Cleveland voucher program did not violate the U.S. Constitution Establishment Clause. It is now generally accepted that carefully crafted voucher and tax credit programs will not violate the federal constitution. Even so, at the state level lawsuits may be more challenging and the results more varied. In this regard, tax credit programs have a distinct advantage over voucher programs in that contributions to scholarship organizations or to schools that are eligible for tax credits have not been considered to be government or public funds by the courts thus far, whereas vouchers programs clearly rely on government funding.

SCHOOL CHOICE AND MANDATORY REGULATIONS

A major area of concern for independent schools in considering any school choice legislation is the regulations that are attached to the funding. These can take on many different forms as the “at a glance” section reveals. These include financial reporting, teacher qualifications, admission policies, and student testing. A major concern for many independent schools is the question of mandatory student testing.

The “at a glance” charts section reveals that various school choice programs have already required scholarship students to take standardized tests. This includes both voucher programs and tax credit programs. Voucher programs in Milwaukee, Washington, DC, and Maine require students to take norm-referenced tests (although in Maine tests are required only if a school reaches a certain percentage of voucher students). And even though education tax credits do not involve government money, two corporate tax credit programs in Florida and Arizona require scholarship students to take standardized tests.

What is perhaps an even more disturbing trend for independent schools is that major national school choice advocacy organizations are now to some degree justifying and promoting the idea that independent schools should be required by the government to administer standardized tests to facilitate long-term impact studies and informing parents. Evidence of this trend can be found in the American Legislative Council’s (ALEC’s) model voucher and tax credit legislation and in some school choice promotional literature.

CHARTER SCHOOLS

Charter school choice legislation does not provide any support for independent school parents. Even so, such legislation is beginning to have a significant negative

impact on many private schools. This is particularly true in states where there is major funding for charter schools but little or no school choice legislation that supports independent school parents.

The consequence of this situation is that independent schools are put in a position of greater competitive disadvantage. A recent Michigan study shows that 20 percent of charter school students were previously students at independent and other private schools. This negatively impacts enrollment and finances of independent schools, and even has led to school closures.

If this situation continues, private school supporters may need to withdraw their support for charter school legislation unless more is done by charter school advocates to encourage full school choice that includes all types of private schools.

OPINION POLLS

Recent opinion polls surveying school choice advocacy organizations, voters, and administrators indicate that education tax credits are viewed more favorably than are vouchers. For example, most organizations polled consider education tax credits more popular, more likely to get passed, and less likely to be legally challenged than voucher programs. In 10 states the percentage of voters polled who would support education tax credits was higher than the percentage of voters who would support voucher legislation. Also, approximately 99.5 percent of school administrators polled supported scholarship tax credit legislation as opposed to 80 percent who favored voucher scholarships.

SOCIAL IDEALS AND RECENT TRENDS

The school choice movement, in particular efforts to pass education tax credit legislation, in the United States is creating the possibility for the realization within the near future of the highest social ideals of independent Waldorf education. These ideals include freedom of choice for parents, operational freedom for independent schools, affordability for families of all financial backgrounds, and an equitable and efficient means of financing all types of education without using government funding.

At the same time there is the possibility that school choice legislation could place undue regulatory burdens on independent schools that would undermine their freedom to create unique and diverse learning environments. This burden could result in a politically and economically controlled uniform educational system that would be an anathema to a democratic society. What is at stake is not just independent education as we know it but our whole heritage of freedom and democracy.

With so much at stake, it is incumbent upon the supporters of independent education to become informed and active in the school choice movement. In this spirit, this document calls attention to the need to address the following:

- The threat of imposition of high stakes testing and other regulatory burdens on independent schools;
- Insufficient recognition of the independent school perspective in the school choice advocacy movement;
- The mounting challenge of charter school legislation for private schools.

Regarding the second point, it appears that school choice advocacy organizations are now promoting ideas and practices that are not in the best interests of independent Waldorf schools. One such idea is that a legislative advance in any type of school choice will advance all types of school choice. Specifically, some school choice advo-

cacy organizations maintain that the passage of charter school legislation will in the long run help the cause of school choice legislation that incorporates private schools. Experience and research is beginning to show that this is not always the case and that charter schools can be an immediate threat to independent schools by putting them at an even greater financial and competitive disadvantage. Furthermore, charter school legislation can be used to undermine efforts to enact full parental choice in education and expand government control of education. Equitable and healthy competition among all schools – government controlled and independent – is possible only if parents have financial access to all types of schools in their vicinity.

For Waldorf schools there is a further challenge emerging within the school choice movement. As mentioned above, the leading advocacy organizations are in some ways opening the door for the government to require norm-referenced standardized testing of independent school students. In essence their actions indicate they do not sufficiently appreciate the principle of educational freedom that Waldorf schools require. These leading advocacy organizations also appear to favor government-funded vouchers over education tax credits, whereas the social ideals of Waldorf education are more in harmony with non-government funding of education by means of education tax credits.

The independent school movement can no longer rely primarily on a vigilant defensive posture to protect its freedoms. It will need to take a significant proactive role in educating the public, political leaders, and school choice advocacy organizations about the importance of educational freedom and diversity in a free and democratic society. As one step in countering the trend toward norm-referenced standardized testing, the Research Institute for Waldorf Education, the Association of Cooperative Advancement of Science and Education, and the Institute for Social Renewal are currently seeking funding to conduct research on the negative effects of high stakes testing on children and the development of rigorous alternative assessment methods that are supportive of the educating and learning.

The Social Mission of Waldorf Education: Independent Education Accessible to All

THE FOUNDERS' MISSION AND VISION

EMIL MOLT: INDUSTRIALIST, FINANCIER

As a major shareholder and managing director of the Waldorf Astoria Cigarette Factory in 1919, Emil Molt asked Rudolf Steiner to help him establish an independent school for the factory workers' children. Together they founded the original Waldorf School in Stuttgart, Germany. For about 20 years the tuition of approximately 200 factory worker children was covered by the business and Molt personally. During this time, up to 800 other students attended school and paid tuition according to their family's ability to pay.

RUDOLF STEINER: EDUCATOR, SOCIOLOGIST, SPIRITUAL SCIENTIST

Rudolf Steiner was a leading European sociologist following World War I, whose book *Towards Social Renewal*, published in 1917, was considered "the most original contribution in a generation" to sociological literature by a *New York Times* reviewer. The ideas therein were a response to the question: What can we do to create a lasting peace in the world? He described society in terms of three vitally important independent sectors or spheres of human activity: a spiritual-cultural life based on individual freedom, a political life based on democracy and equality, and an economic life based on social and environmental responsibility. This arrangement is often called the threefold social organism or the threefold nature of social life.

Steiner maintained that a thriving independent educational system that was accessible to families of all financial backgrounds was essential to develop those cultural and community values needed to permeate the political and economic sectors. According to Steiner, the ability of government schools to foster the development of these values in each new generation of students has run its course. To ensure the development of these values, education must be independent and free from the dictates of corporations and political interest groups that want to perpetuate their own social agenda.

Terminology and Perspectives

PUBLIC EDUCATION

All schooling approaches and venues – government, independent, religious, or in-home – serve the public and therefore all should be considered “public” education in a democratic society. Public benefit is the greatest when parents have the financial means to access the type of schooling they decide is the most beneficial for their children.

INDEPENDENT SCHOOLS

For the purposes of this document an independent school is viewed as any type of non-government school that exercises educational freedom through school-based determination of: curriculum, teacher qualifications, student assessments, admissions policies and procedures.

Within this framework teachers are encouraged to respond creatively to students’ needs out of their direct experiences in the classroom. The primary vocational motivation of independent school teachers, or any true teacher, is an altruistic desire to help students to achieve their full potential and to be of service to society. Such teachers are not teaching out of self-interest and the desire for personal profit, or to implement a political or economic agenda.

EDUCATIONAL OR SCHOOL CHOICE

From an independent school perspective, it is desirable to foster true school choice by implementing the following principles and ideals to the greatest possible extent:

The Right of a Child to an Education

All children regardless of cultural and economic background should have the right to a decent education.

Freedom for Independent Schools

Independent schools should have the freedom to establish their own educational goals, curriculum standards, and assessment procedures.

Freedom of Choice for Parents

All parents of school age children should have the financial means and freedom to send their children to the local school of their choice. In essence, school choice is parental choice.

Sufficient Financial Resources for Education

A democratic society has an obligation to ensure that sufficient resources are available to school parents to educate their children.

Equitable and Efficient Funding of Education

The financing of education needs to be shared by individuals and businesses. Efficient funding mechanisms are needed to minimize bureaucracy and enable the maximum percentage of funds to flow to schools as support for teachers, facilities, and classroom equipment and supplies.

Flow of Education Funds

Financial support for education needs to gradually shift from government funding to direct support from individuals and businesses in economic life in a manner that education tax credits now provide.

Educational Diversity

A healthy educational system rejects educational uniformity that stifles teacher creativity and dismisses the unique nature and potential of each student. Consequently, a healthy educational system fosters a diversity of educational approaches to accommodate the unique learning characteristics of students.

Primary Accountability to Parents

The best way to ensure school academic accountability to the public is giving informed parents the freedom and financial means to choose the school they think is most appropriate for their children and the freedom to withdraw their children if the school does not meet their expectations.

Informed Choices and Competition

School choice selection and admission should be based principally on a free agreement between fully informed parents and a school. In this regard, individual schools compete for the appreciation of the parents who are making a conscious decision regarding their children; this type of competition is a healthy component of true parental choice in education. Real choice and competition in education cannot take place if school parents do not have sufficient financial resources to enroll their children in the school of their choice.

THE ROLE OF THE STATE IN EDUCATION

Based on the perspective of the above principles, government or the state has an important, but limited role to play in upholding the right of a child to an education and guaranteeing freedom of choice for parents and curricular freedom for independent schools.

The appropriate, limited role of the government includes:

- Ensuring that children are educated in physically safe conditions and are protected against physical and mental abuse;
- Upholding appropriate anti-discrimination laws;
- Enforcing contractual agreements and school policies;
- Providing protection against fraudulent claims;
- Ensuring that parents are fully informed about school policies, finances, curriculum standards, student assessments, and teaching methods;
- Upholding the right of a child to an education by requiring that sufficient resources are transferred from economic life through individuals and businesses to school parents and schools;
- Determining who is eligible to receive funding set aside for education (for example, determining age range and residency requirements of children).

This limited role does not include:

- Requiring independent schools to adhere to a state or national curriculum;
- Requiring independent schools students to achieve state determined benchmarks as determined by standardized "high stakes" tests;
- Requiring independent school teachers to be trained in any specific teaching methods;
- Requiring parents to send their children to a specific school;
- Financing education through taxation.

Facilitating School Choice: Vouchers and Education Tax Credits

There are two primary approaches to school choice legislation that include provisions for the financial support of independent school parents: vouchers and education tax credits.

VOUCHERS

These programs allow parents to use all or part of the government funding set aside for their children's education to send their children to the public or private school of their choice. Most programs allow parents to send their children to either religious or non-religious private schools. Participating private schools are required to meet standards for safety, fiscal soundness, and non-discrimination. Some programs also impose additional restrictions.

Universal Voucher Programs

All school-age children are eligible. Example: Sweden.

Disadvantaged Student Voucher Programs

Children who are poor, assigned to failing schools, in foster care, or otherwise disadvantaged are eligible. Examples: Cleveland, Milwaukee, Washington D.C., Ohio (Educational Choice Program), Arizona (Displaced Pupils Program).

Special-Education Voucher Programs

Children identified as having special educational needs are eligible. Examples: Florida (McKay Program), Ohio (Autism Scholarship Program), Utah, Arizona (Pupils with Disabilities Program).

Town Tuitioning Programs

Children who live in towns that do not operate public schools at their grade levels are eligible. In a few cases the town picks the schools to which its students will be tuitioned, but usually the choice of the school is left to parents. Examples: Maine, Vermont.

TAX CREDITS AND TAX DEDUCTIONS

These credits and deductions allow individuals and/or businesses to obtain a tax credit (reduction of taxes) or tax deduction (reduction of taxable income) for eligible payments or contributions to pay for specified education expenses of a school age child. In most cases this does not involve government money.¹

Tax Credit Scholarship Programs

Individuals and/or corporations receive a tax credit for making donations to private

Sources for the universal tuition and education tax credits section are Patrick L. Anderson, Richard McClellan, J.D., Joseph P. Overton, J.D., and Gary Wolfram, Ph.D., *The Universal Tuition Tax Credit: A Proposal to Advance Parental Choice in Education* (Midland, MI: Mackinac Center for Public Policy, 1997) (revised in 1999) and Andrew Coulson, *Forging Consensus*, (Midland, MI: Mackinac Center for Public Policy and The Lead Foundation, 2004), p. 30. All other information and most of the text is taken from Milton and Rose Friedman Foundation, *The ABCs of School Choice: 2006–2007 Edition* (Indianapolis: Milton and Rose Friedman Foundation, 2006), pp. 6–7.

¹The one exception is when a personal tax credit is "refundable" if there are no taxes owed or when the credit is greater than the amount of taxes owed. The difference is then refunded to the taxpayer.

charitable organizations, which use the money to fund scholarships for students. These scholarships can cover the cost of private school tuition, tutoring, and transportation. In some states students must meet certain income criteria to be eligible for scholarships. Scholarship-granting organizations can be started by community groups, philanthropic organizations, or any other group that wants to extend school choice to children. Participating private schools are required to meet standards for safety, fiscal soundness, and non-discrimination. Examples: Florida, Pennsylvania, Arizona, Iowa, Rhode Island.

Personal Tax Credits and Deductions

Parents are given a tax credit or tax deduction from state income taxes for approved educational expenses. This usually includes private school tuition as well as books, supplies, computers, tutors, and transportation. Even when tuition is not eligible for the credit or deduction, these programs still make school choice easier for parents because they relieve the burden of non-tuition expenses at private schools. Some programs restrict the income level of eligible recipients or the amount they can claim. Examples: Minnesota, Iowa, Illinois.

Universal Tuition Tax Credits (UTTC) or Universal Education Tax Credits (UETC)

These combine personal and donation tax credits and allow donors to give to scholarship granting organizations or directly to schools. Under a UTTC any resident tax payer who pays for a child's tuition can receive a credit, whether or not the child is his or her own. Tax credits also may be applied to other designated education expenses beyond tuition (UETC). Thus far no municipality or state has implemented a UTTC or a UETC. (A detailed UETC model legislation will soon be published by a leading think tank in the U.S.) Examples: None to date.

TAX CREDIT PROGRAMS AT A GLANCE, BY STATE

| STATE | PROGRAM | HISTORY & OVERVIEW | IMPACT |
|---------------------|--|---|--|
| Arizona | Individual tax credit for scholarship donations | Enacted in 1997, the program allows taxpayers to receive a dollar-for-dollar tax credit on the state income tax worth up to \$500 (\$1,000 for married couples) for donations to non-profit organizations that award tuition scholarships. | In 2005, Arizona taxpayers made 69,232 donations totaling \$42.1 million to School Tuition Organizations (STOs) and 22,522 scholarships were awarded. |
| Arizona | Corporate tax credit for scholarship contributions | Enacted in 2006, the program gives corporations a credit on corporate income taxes for donations made to non-profit organizations that award tuition scholarships to low-income children. The total amount available for tax credit contributions is capped at \$10 million annually for 2006. | The program will provide scholarships for an estimated 500 children annually. |
| Florida | Corporate scholarship tax credit | Passed in 2001, the program provides corporations a 75 percent tax credit for donations to non-profit organizations that award scholarships to low-income families. The total amount available for tax credit donations is \$88 million. | In 2005–2006, 14,084 students received scholarships through the corporate tax credit. |
| Illinois | Individual tuition tax credit | Enacted in 1999, the law allows parents to deduct 25 percent of expenses for their children's tuition, books, and lab fees for public, private, or parochial schools up to \$500 per family. | In 2003, 194,923 families claimed the tax credit, reducing their income tax burden by approximately \$67 million. |
| Iowa | Individual tuition tax credit | Enacted in 1987 and expanded in 1996 and 1998, the law provides a \$250 tax credit on education expenses including private school tuition. | In 2003, 101,987 families used the tax credit, saving more than \$13 million. |
| Iowa | Scholarship tax credit | Enacted in 2006, the law provides a 65 percent tax credit for individuals making a contribution to non-profit organizations that award tuition scholarships to students from families with incomes below 300 percent of the poverty line. (The poverty line for a family of four in the 48 contiguous states according to federal standards is currently \$20,650.) | The tax credit program is capped at \$2.5 million for 2006 and \$5 million for future years. It is estimated that the program could provide scholarships for 500 students in its first year. |
| Minnesota | Tax credits and deductions for education expenses | Created in 1955 and expanded in 1997, the program provides partial tax credits or deductions for educational expenses for students in public or private school. Eligible expenses for the tax credit do not include private school tuition, but it can be deducted. | In 2004, families claimed about \$13.2 million in deductions and another \$16.6 million in credits. |
| Pennsylvania | Educational improvement tax credit program | Enacted in 2001 and expanded in 2003 and 2006, the program allows a partial tax credit to corporations that make donations to scholarship organizations (SOs) or educational improvement organizations (EIOs). In 2006, the cap on total tax credits for scholarship donations was raised to \$35.9 million and \$18 million for educational improvement. | During the 2004–2005 school year, approximately 25,000 low-income and middle-income students received scholarships from non-profit scholarship granting organizations that received donations. |
| Rhode Island | Corporate scholarship tax credit program | Enacted in 2006, the program allows corporations to receive a tax credit for contributions to non-profit organizations that fund scholarships. In all, \$1 million is available for tax credit donations. | The program is to provide scholarships for an estimated 200 students annually. |

REGULATIONS

STOs are required to be non-profit organizations that allocate at least 90 percent of the revenue to private school scholarships. STOs must file fiscal reports with the Department of Revenue, may not use a donor's money to support that donor's child, and may not restrict their scholarships to a single school. Participating private schools may not discriminate on the basis of race, color, handicap, familial status, or national origin.

STOs are required to be non-profit organizations that allocate at least 90 percent of their revenue to private school scholarships. STOs must file fiscal reports with the Department of Revenue and may not restrict their scholarships to a single school. Participating private schools may not discriminate on the basis of race, color, handicap, familial status, or national origin. Schools must administer and make available to the public the test scores of its students on a nationally standardized achievement test.

Scholarship tuition organizations are required to be non-profit organizations incorporated in Florida. They must disburse 100 percent of their income from tax-credit donations as scholarships in the same year in which it is received (administrative costs must be paid separately) and be audited annually by an outside accountant. They may not use a donor's money to support that donor's child. Participating private schools must complete a five-page notarized questionnaire covering issues such as the number of teachers and food safety inspections. They must also administer a norm-referenced test to participating students.

Parents must provide receipts for educational expenses. The school may not discriminate and must satisfy attendance requirements.

Expenses for religious instruction are ineligible for the tax credit; schools may itemize the portion of tuition and other expenses that apply to religious instruction so that parents can claim the tax credit on the remaining expenses. Schools must be non-profit and comply with civil rights laws.

Scholarship tuition organizations (STOs) must be governed by a seven-member board of directors, allocate 90 percent of their annual tax-credit donations to scholarships, submit annual reports, and undergo an annual financial review by a public accounting firm. They may not restrict their scholarships to one school (although all scholarships of the same STO may happen to end up at one school if all the parents decide to use them at that school). Donors may not earmark their donations for particular students. Participating schools may only receive scholarships from one STO and must be accredited by the state and adhere to federal and state civil rights laws.

Expenses for religious instruction are ineligible for both the tax credit and the tax deduction. Schools may itemize expenses in order to separate religious instruction from other expenses, so that parents may claim the tax credit or deductions on the remaining expenses.

SOs and EIOs must be non-profit organizations incorporated in Pennsylvania. An SO must contribute at least 80 percent of its annual tax-credit donations to scholarships and submit annual reports, and it may not restrict its scholarships to a single school (although all scholarships of the same SO may happen to end up at one school if all the parents decide to use them at that school). Participating schools must satisfy the requirements of Pennsylvania's compulsory attendance law and comply with anti-discrimination laws.

A CPA must certify that each donation was made. Scholarship organizations must use 90 percent of their donations for scholarships each year, and may not restrict scholarships to a single school. Donations may not be designated for particular schools or students. Scholarship organizations must annually report the number of scholarships distributed at each school, the dollar range of the scholarships, the ZIP codes of students receiving scholarships, and a description of all criteria used to determine which applicants receive scholarships.

Primary Source
for the tax credit and voucher programs at a glance text, except for the regulations, is The Heritage Foundation, "School Choice 2006 Progress Report," in *The Backgrounder*, No. 1970, September 18, 2006 (Washington, DC: The Heritage Foundation, 2006). The source for the Arizona corporate tax credit student testing requirements is www.azschoolchoice.com. All other regulations are taken from Milton and Rose Friedman Foundation, *The ABCs of School Choice: 2006–2007 Edition* (Indianapolis: Milton and Rose Friedman Foundation, 2006).

VOUCHER PROGRAMS AT A GLANCE, BY STATE

| STATE | PROGRAM | HISTORY & OVERVIEW | IMPACT |
|----------------|---|--|---|
| Arizona | Scholarship program for foster children | Enacted in 2006, the program would provide \$2.5 million for tuition scholarships for children who have been placed in foster care. Each scholarship will be worth up to \$5,000. | The program will provide scholarships for an estimated 500 children annually. |
| Arizona | Scholarship program for children with disabilities | Disabled students in public schools can obtain a voucher worth up to the student's "base support level" of state funding, which is just over \$3,000 for most students. | The program will provide scholarships for an estimated 500 children annually. |
| Florida | A+ Opportunity Scholarship program (Altered due to court order) | Enacted in 1999, the A+ Opportunity Scholarship program provides students in persistently failing public schools a voucher to attend private school. In January 2006, the Florida Supreme Court ruled that the program violated the state constitution. | In 2005-2006, 740 children participated in the Opportunity Scholarship program. In 2006, Florida enacted legislation allowing students participating in the Opportunity Scholarship program to receive scholarships through the corporate tax credit program, since the program is scheduled to end due to a state court order. |
| Florida | McKay Scholarship Program for Children with Disabilities | Enacted in 1999 and expanded in 2000, the McKay program provides scholarships to disabled students to attend private school. Any qualifying student with disabilities can apply for a scholarship worth the amount that public schools would have to spend to educate the child. | In 2005-2006, 16,812 students participated in the McKay program. |
| Maine | Town tuitioning scholarship program | Since 1873, students from families in small towns that do not have a population to support a local public school have been awarded scholarships to attend public or private schools of choice. The program does not allow students to attend religious schools. | In 2004-2005, 13,959 students participated in the tuitioning program. Of these, 6,052 attended private schools. |
| Ohio | Cleveland voucher program | Enacted in 1995 and upheld by the U.S. Supreme Court in 2002, this program provides low-income students a voucher of up to \$3,000 for elementary school or \$2,700 for high school. | In 2004-2005, 5,675 students participated in the program attending 45 private schools. |
| Ohio | Educational choice scholarship program | Enacted in 2005 and expanded in 2006, the program will provide school vouchers to up to 14,000 children who had been enrolled in low-performing public schools. | Under the program, 14,000 children will be eligible to receive scholarships. |
| Ohio | Ohio autism scholarship program | Enacted in 2001 and expanded in 2003, the program allows any child who has autism to receive a scholarship for education expenses, including private school tuition. | In 2004-2005, 270 students participated in the program. |
| Utah | Carson Smith scholarship program | Passed in 2005 and expanded in 2006, the program provides any child who has physical and learning disabilities and an Individual Education Plan the opportunity to receive a scholarship to attend any eligible private school. | In 2005-2006, as many as 500 students were expected to participate. |

REGULATIONS

Participating private schools must be located in Arizona and may not discriminate based on race, color, handicap, familial status, or national origin. Further regulations are currently being developed.

Participating private schools must be located in Arizona and may not discriminate based on race, color, handicap, familial status, or national origin. School districts must permit voucher students to participate in state tests if parents request it. Further regulations are currently being developed.

No regulations listed.

Participating schools must hire teachers who have a bachelor's degree, three years of experience, or special qualifications. They must demonstrate fiscal soundness, comply with anti-discrimination laws, meet health and safety codes, and complete a five-page notarized questionnaire covering issues such as the number of teachers and food safety inspections.

Participating schools must be non-religious and meet state standards for private schools. The eligibility of out-of-state schools is judged on a case-by-case basis. Private schools with large numbers of tuitioned students are required to administer the state test.

Participating schools must have classes of at least 10 students each or a total of at least 25 students in the school. They may not discriminate on the basis of race, religion, or ethnicity, nor may they advocate hateful or unlawful behavior. The schools must be registered with the state, attain minimal enrollment requirements, and meet Ohio's minimum standards for chartered non-public schools.

Regulations for this program have not yet been written.

Service providers must meet the minimal standards set by professional organizations in their fields, demonstrate fiscal soundness, and have at least one staff member with relevant credentials. Schools must have a formal special education program that has existed for at least a year and that employs teachers with special education credentials. Also, the voucher pays only for services specified in the student's Individual Education Plan; it is difficult to determine how restrictive this is in practice without a detailed examination of participants' plans, but it at least means students must pay the portion of tuition covering any religious instruction.

Participating schools must hire teachers who have a bachelor's degree, three years of experience, or special qualifications. The schools also must demonstrate fiscal soundness and comply with anti-discrimination laws.

Primary Source
for the tax credit and voucher programs at a glance text, except for the regulations, is The Heritage Foundation, "School Choice 2006 Progress Report," in *The Backgrounder*, No. 1970, September 18, 2006 (Washington, DC: The Heritage Foundation, 2006). The source for the Arizona corporate tax credit student testing requirements is www.azschoolchoice.com. All other regulations are taken from Milton and Rose Friedman Foundation, *The ABCs of School Choice: 2006–2007 Edition* (Indianapolis: Milton and Rose Friedman Foundation, 2006).

VOUCHER PROGRAMS AT A GLANCE, BY STATE, CONTINUED...

| STATE | PROGRAM | HISTORY & OVERVIEW | IMPACT |
|-------------------------|--------------------------------------|--|---|
| Vermont | Tuitioning program | Since 1869, students in rural areas can receive scholarships to attend a public or private school. | In 2004-2005, 8,040 students participated in the program, and 4,445 chose private schools. |
| Washington, D.C. | D.C. Opportunity Scholarship program | Enacted in 2004, the congressionally-authorized program made scholarships available to low-income students to attend private schools. The program was capped at \$13 million annually. | In 2005-2006, 1,733 students received scholarships. |
| Wisconsin | Milwaukee school voucher program | Since 1990, low-income students in Milwaukee have been eligible to receive vouchers to attend private schools. | In 2004-2005, 15,035 students participated. For future years, the cap on the number of scholarships available has been raised to 22,500 students. |

REGULATIONS

Participating schools must be non-religious, obey anti-discrimination laws, and meet state standards for private schools.

Schools must be in the District of Columbia and must have a majority of city residents on their governing boards. They must use no more than 3 percent of the total grant amount received for administrative expenses. Each year, the schools must provide a report to Congress on how the scholarship funds received were used. Schools must comply with anti-discrimination laws. Scholarship students are the subject of a mandated impact evaluation to determine the effectiveness of the program in improving student outcomes. Schools that participate in the scholarship program must agree to participate in the evaluation. Students must take the National Assessment of Educational Progress exams off the school site in addition to the normal in-school assessments.

Participating private schools must accept all eligible students. They also must obey all laws that apply to Wisconsin private schools, follow state accounting standards, file an independent audit, comply with health and safety codes, and comply with civil rights laws. In addition, students enrolled at religious schools must be allowed to opt out of religious instruction if they choose. Starting in 2006-2007, participating schools must give a nationally-normed standardized test in reading, math, and science to all voucher students in grades 4, 8, and 10. Also, schools that are not either accredited by one of a given set of organizations or approved to participate in Wisconsin's Partners for Advancing Values in Education scholarship program must apply for accreditation by the end of 2006 and achieve it by the end of 2009.

Charter Schools: A Mounting Challenge for Independent Schools

Charter school legislation does not include financial support for independent school parents. Nonetheless, charter school legislation can and often does negatively impact enrollment and finances of independent schools.

CHARTER SCHOOLS

These are two characterizations of charter schools.

"Charter schools are public, government-operated schools that are exempt from many state regulations in exchange for results-based accountability to an oversight body. Charter school laws vary widely across the nation with regard to autonomy, regulations, and accountability requirements. Students attending charter schools do not pay tuition. Forty states and the District of Columbia have charter school laws, with about 4,000 schools serving more than a million children."¹

"Charter schools are public schools that operate with freedom from many of the local and state regulations that apply to traditional public schools. Charter schools allow parents, community leaders, educational entrepreneurs, and others the flexibility to innovate and provide students with increased educational options within the public school system. Charter schools are sponsored by local, state, or other organizations that monitor their quality while holding them accountable for academic results and responsible fiscal practices."²

RECENT STUDY SHOWS CAUSE FOR CONCERN FOR INDEPENDENT SCHOOLS

A recent study of charter schools in Michigan has confirmed what many private school officials (particularly Catholic schools and independent Waldorf schools) have been experiencing nationwide: charter school legislation can have a profound negative effect on private school enrollment and finances.³ In "Beyond Achievement: Enrollment Consequences of Charter Schools in Michigan," researchers concluded that "an increase in the proportion of public school students who are in charter schools is significantly and negatively related to the proportion of total enrollment in private schools." In the case of Michigan they found that approximately 20 percent of students who enroll in charter schools were previously enrolled in a private school. Furthermore, their research indicates that private schools can anticipate "losing one student for every three students gained in the charter schools." This trend not only directly affects private schools in a negative way in terms of enrollment and finances but also means that taxpayers will be paying more as government education is extended through charter school legislation.⁴ (Currently, about 11 percent or one in nine school-age children in the United States are educated in private schools, which saves taxpayers approximately \$48 billion in education expenses!)

1 Milton and Rose Friedman Foundation, *The ABCs of School Choice: 2006-2007 Edition* (Indianapolis:

Milton and Rose Friedman Foundation, 2006), pp. 6-7.

2 U.S. Department of Education: <http://www.ed.gov/parents/schools/choice/definitions.html>. Accessed 3/8/2007.

3 Regarding the effect of charter schools on Catholic schools, see also Sarah Garland, "Church Schools Face

LIMITED CHOICE AND DISPLACEMENT EFFECT OF CHARTER SCHOOLS

The first charter school law was established in Minnesota in 1991. What we now call charter schools were initially called outcome-based schools in the Minnesota law. These schools were established to support national reform efforts meant to focus more on academic results or outcomes than simply complying with procedural standards or inputs, such as teacher licensing, student attendance, and syllabus requirements. Charter schools are granted more procedural freedom in exchange for being more academically accountable in attaining state education goals than the traditional assigned government schools. The enactment of charter school legislation in the various states often outpaces state and federal reform efforts to increase academic accountability standards through more rigorous academic benchmarks and standardized "high stakes" testing. This has given the appearance, at least initially, that charter schools are relatively independent from state control. This appearance is eroding as these states incrementally comply with federal curriculum standards of the federal No Child Left Behind Act as measured by mandated student testing. As these requirements systematically increase each year by law, the amount of procedural freedom is reduced accordingly. An example is the Urban Waldorf School in Milwaukee, a public magnet school established in 1994, after which many charter schools inspired by Rudolf Steiner's indications have patterned themselves. The Urban Waldorf School has had to systematically make compromises in its kindergarten curriculum and other areas of the school to ensure that the students are prepared for the state tests they will later face in the lower school grades.

While charter schools sometimes can offer greatly improved schooling environments for deserving children, they are in effect still government-funded public schools that have to abide by the state mandated curriculum standards and testing requirements. Consequently, what these schools offer in the long run in terms of true educational choice is quite limited. An additional political consequence is that charter school legislation often displaces or imperils efforts to enact true school choice that financially supports parents at independent schools.

UNITY AT WHAT COST?

School choice advocates in the private sector – supporters of vouchers and tax credits – are encouraged to cooperate with colleagues in the charter school movement when it comes to political lobbying and public relations. But there is mounting evidence that in states where there is a significant increase in the growth and numbers of charter schools with no equivalent advance in independent school choice, independent schools are being hurt financially and even being forced to close. Thus, supporters of independent school choice may need to withdraw their support of charter school legislation until and unless there is some indication that independent school choice legislation is forthcoming soon. In other words, the "united we stand" position of school choice advocates may need to change. Instead of independent school advocates supporting charter school legislation, charter school supporters will need to agree to link their efforts to full school choice legislation that includes support for independent school parents.

Challenges from Charters," *The New York Post*, February 27, 2007 and Peter Meyer, "Can Catholic Schools Be Saved," *Education Next*, no. 2, 2007 (Stanford, CA: Hoover Institution, Stanford University, 2007).

4 John T. Jones, Eugenia F. Toma, Ron Zimmer, "Beyond Achievement: Enrollment Consequences of Charter Schools in Michigan," in *Advances in Applied Microeconomics*, 14, 2006 (Amsterdam: Elsevier Press, 2006). Complete text can be found at the website of the National Center for the Study of Privatization in Education, Teachers College, Columbia University, NY: www.ncspe.org/publications_files/OP128.pdf.

A Brief History of Education Funding in the United States

By Matthew Brouillette

FUNDING UP TO THE 1850s

Today, few people ask how Americans, without the help of government schooling, came to tame an unsettled continent and eventually establish the freest nation in history. The Founding Fathers were clearly educated men, and they certainly believed that to remain free, America must always have an educated citizenry. An educated citizenry, however, does not depend on nor require that government provide or operate schools. A brief review of American education prior to the 1850s will illustrate this point.

Early colonial America was arguably the freest civil society that has ever existed. This freedom extended to education, which meant that parents were responsible for, and had complete control of, their children's schooling. There were no accrediting agencies, no regulatory boards, and no teacher certification requirements. Parents could choose whatever kind of school or education they wanted for their children, and no one was forced to pay for education they did not use or approve of.

Prior to the Revolutionary War, the majority of American schools were organized and operated on a *laissez-faire* basis. There were common schools (often partially financed by local taxpayers, but primarily funded through private means) and specialized private schools of every sort (church schools, academies that prepared students for college, seminaries, dame schools for primary education, charity schools for the poor, and private tutors). Free schools were established by philanthropists and religious societies throughout the country to meet the educational needs of the very poor.

Common schools are America's original government schools, and they existed primarily in New England. They were first built in the Puritan commonwealth of Massachusetts to inculcate the Calvinist Puritan religion in the colony's young. The Puritans modeled their common schools after those created by Martin Luther and the German princes as a means of instilling religious doctrine and maintaining social order in the Protestant states of Germany. Apart from the Puritans' religious considerations, it is uncertain whether the Massachusetts Legislature would have enacted the first compulsory school code in 1647, known as the Old Deluder Satan Act. Up to that point, none of the other colonies – with the exception of Connecticut – had enacted such laws.

As the Puritans' commonwealth acceded to the development of trade and the influx of other religious sects, enforcement of the Massachusetts school laws grew lax, and private schools soon sprang up to teach the more practical commercial subjects. By 1720, Boston had more private schools than taxpayer-financed ones, and by the close of the American Revolution, many Massachusetts towns had no tax-funded schools at all.

In drafting its new state constitution in 1780, Massachusetts decided to reinvigorate its earlier model of tax-funded schools. So it was that Boston, at the time of the nation's birth, laid the foundation for the first tax-funded school system in any American city. But it was hardly like the system of today: Primary education was still left to families' private and voluntary arrangements, and children had to be literate to enter the tax-funded grammar schools at age seven. There were no compulsory attendance laws, and

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 The Case for Choice
 in Schooling:
 Restoring Parental
 Control of Education,*
 (Midland, MI:
 Mackinac Center
 for Public Policy,
 February 2001),
 pp. 5–6. For
 detailed references
 not included
 here, see original
 article.

private schools flourished alongside the new tax-funded schools. In fact, most parents preferred private schools to the government ones.

Massachusetts's Education Act required the creation of common schools in the state's smaller towns plus grammar schools in its larger towns, where Latin and Greek were to be taught. There was no central authority in education, however: All of the schools were strictly local – financed and controlled by local committees that set their own standards, chose their own teachers, and selected their own textbooks.

Connecticut modeled its laws after those of Massachusetts to maintain the continuity of its common schools after the Revolutionary War. New Hampshire did likewise. In New York State, the legislature in 1795 appropriated a large sum of money for the purpose of encouraging and maintaining schools in its cities and towns. Many towns took advantage of this school fund and established common schools, but they were only partially financed by the state fund. The counties were required to raise matching funds, and parents also paid tuition. Wherever colonial governments showed an interest in promoting schools, private schools were also eligible for government funding. There was no discrimination against schools that provided a religious education.

As for secondary schools, the "academy" became the dominant form throughout the country between the late eighteenth and early nineteenth centuries. Academies were generally organized, as individual corporations operated, by self-perpetuating boards of trustees and financed either wholly through private endowment or through a combination of endowment and tuition. State governments accepted this corporate form of organization for secondary education as desirable public policy and actively promoted it through grants of land or money to individual academies. Americans of the time conceived of academies as public institutions – when "public" implied the performance of broad social functions and the service of a large, heterogeneous, nonexclusive clientele, rather than control and ownership by the community or state.

BLAINE AMENDMENTS AND THE FUNDING OF EDUCATION SINCE THE 1850s

Government control of schooling was intended to bring education to a larger segment of the population, but the result was that it simply pushed aside existing private schools without substantially increasing overall enrollment rates. As tax expenditures on the government system increased during the mid-1800s, more parents were drawn away from tuition-charging schools while the percentage of the child population being educated remained essentially constant. Government usurpation of schooling did little to increase educational access for children. Rather, it simply shifted the responsibility of education from the family to the state.

Modern educators argue that state intervention was, and remains, necessary in order to unify American society. It is regularly contended that government schooling has been key to bringing together various racial, religious, and political groups; and that society would otherwise become polarized and antagonistic to one another. However, based on the experiences of the 1800s, this belief is not only wrong but is exactly backwards. Author Andrew J. Coulson writes:

Prior to the government's involvement in education, there were nondenominational schools, Quaker schools and Lutheran schools, fundamentalist schools and more liberal Protestant schools, classical schools and technical schools, in accordance with the preferences of local communities. Some had homogeneous enrollments, others drew students from across ethnic and religious lines. In

areas where schools of different sects coexisted, they and their patrons seldom came into conflict, since they did not try to foist their views on one another. They lived and let live in what were comparatively stable, though increasingly diverse communities. It was only after the state began creating uniform institutions for all children that these families were thrown into conflict. Within public schools, many parents were faced with an unpleasant choice: accept that objectionable ideas would be forced on their children, or force their own ideas on everyone else's children by taking control of the system. It was this artificial choice between two evils that led to the Philadelphia Bible Riots, the beatings of Catholic children, the official denigration of immigrant values and lifestyles in public schools and textbooks, and laws – which would today be viewed as utterly unconstitutional – forcing the Protestant Bible on all families. The unparalleled treatment of black families by the government schools, which persisted for over a century, does nothing to lighten this grim picture.¹

Although none of the original state constitutions of the United States prohibited the use of public funds to assist church-related education, the inclusion or addition of such prohibitions in state constitutions occurred in isolated instances up to the 1850s. The growth of nativist and anti-Catholic sentiments in the country, however, hastened the movement to add such restrictions beginning in the mid-1800s. This served to further place private, religious schools at a *competitive disadvantage* and to force children into government-run schools.

In 1818, Connecticut was the first state expressly to limit its "school fund" to the support of "public" or "common" or "free" schools, but it did not explicitly forbid church-connected schools from being considered as "public" or "common" schools. Rhode Island adopted a similar constitutional amendment in 1843, and Kentucky and Indiana followed suit in 1850 and 1851, respectively. The first laws explicitly to exclude religiously affiliated private schools from sharing in the "public school fund" were amendments introduced into the constitutions of Ohio and Massachusetts in 1851 and 1855, respectively. The impetus behind these laws, however, seems to have been a desire to prevent state educational funds from being diverted to purposes other than general education, rather than a concern with church and state issues.

Michigan was the first state, upon its entrance into the Union in 1835, to constitutionally prohibit the use of public funds "for the benefit of religious societies or theological seminaries." The second state was Wisconsin, which included an identical prohibition in its original constitution of 1848. "Religious society" eventually came to be interpreted strictly to mean a church.

In 1864, Louisiana banned by constitutional amendment the use of government funds for any private school. The amendment stated that "[n]o appropriation shall be made by the legislature for the support of any private school or institution." Subsequently, between 1868 and 1900, 14 more states amended their constitutions to prohibit any appropriation of public funds for religiously affiliated private schools, and seven other states adopted amendments limiting the use of school funds to "public" schools only. Many of these provisions – which are commonly referred to as Blaine Amendments, after Speaker of the House James G. Blaine – were enacted as part of broader constitu-

¹ Andrew J. Coulson, *Market Education: The Unknown History* (New Brunswick: Transaction Publishers, 1999), p. 85.

tional revisions related to Reconstruction in the South after the Civil War.² In addition, the original constitutions of all new states admitted to the Union since 1857 – except those of Kansas (1859), West Virginia (1863), Nebraska (1866), and Hawaii (1959) – have contained a prohibition against the direct use of public or state funds to aid religious institutions or schools.

As the United States struggled to unify itself following the Civil War, greater state control of many services that were initially provided through private means became significantly more common. In education, the Prussian model of government-controlled schools spread across the nation as state governments assumed responsibility of funding, operating, and managing schools.

Today, nearly 90 percent of all children are in government-run schools. This monopoly of education tax dollars and schools forces families who desire a religious or non-government education for their children to finance two school systems – first through compulsory taxation for government schools they do not use and again through tuition at a private school that is educating their children. The result is a monolithic system that is unresponsive to parental desires and student needs. Observers who understand basic economic principles recognize that the current crisis in education was inevitable once a government monopoly of schooling was established.

² As Speaker of the House, James G. Blaine proposed an amendment to prohibit public aid to religious schools—something that had been commonly accepted until then. Many states adopted this language in their state constitutions in an effort to prevent Catholics from using public funds for education as Protestants had done for many years.

Is School Choice Constitutional?

If the program is well designed, it probably is! This question was answered resoundingly in 2002 when the U.S. Supreme Court handed down its decision upholding the constitutionality of Cleveland's voucher program. By a 5-4 vote, the justices made it very clear that when an individual uses public funds to make a private choice – in this case when a parent uses a voucher to send his or her child to a private school, including religious schools – it does not violate the First Amendment. As Chief Justice William Rehnquist explained in the majority opinion, voucher programs such as Cleveland's are "neutral in respect to religion (because they) provide assistance directly to a broad class of citizens, who, in turn, direct government aid to religious schools wholly as a result of their own genuine and independent private choice."

This landmark decision is in line with a long series of high-court decisions. For example, in 1983 the court upheld Minnesota's income tax deduction for educational expenses, including private-school tuition. In 1993, the court unanimously upheld the use of public funds by a blind student pursuing a divinity degree at a religious college. Moreover, the court did not strike down the G.I. Bill or Pell grants, both of which are voucher programs allowing college students to attend the public or private school of their choice, including religious colleges.

While recent U.S. Supreme Court rulings favor vouchers, some state constitutions also have language prohibiting the use of taxpayer dollars to support religious schools. However, as the Institute for Justice argues, "many court decisions interpret state constitutions to parallel the First Amendment. If so, the recent First Amendment cases discussed above should control state constitutional interpretation. If the state constitutional provision is more restrictive, advocates may have to challenge such restrictions under the federal constitution."

In the end, whether or not voucher or school choice legislation is constitutional depends on how well the bill is designed. If parents make a truly private choice of which school their child attends, if there is no financial incentive to attend a religious school over a non-religious school, and if the program does not allow undue government interference with religious schools, chances are the bill will be looked on favorably by the court.

Conclusion: rulings by the U.S. Supreme court strongly favor school choice. Because parents make a truly independent choice of where to send their children to school, there is no violation of the U.S. Constitution if they freely choose religious schools

Frequently Asked Legal Questions about School Choice in the United States

QUESTIONS RELATED TO THE FEDERAL CONSTITUTION¹

Are school choice programs that include religious schools permissible under the First Amendment?

Yes. In the U.S. Supreme Court's landmark 2002 decision upholding Cleveland's school choice program, *Zelman v. Simmons-Harris*,² the court makes it clear that educational benefit programs that include religious schools among the range of options do not violate the First Amendment. *Zelman* officially removed the First Amendment's Establishment Clause from the legal arsenal of school choice opponents.

*According to *Zelman*, what features of a choice program are necessary to satisfy the First Amendment?*

Zelman confirms that the critical features of a choice program are religious neutrality and genuine, independent school choice by the beneficiaries of the program. This is precisely the position argued by school choice advocates like the Institute for Justice (IJ) on the basis of past U.S. Supreme Court precedents. The key idea is that it is parents and students choosing the schools to attend, without the state directing or steering them towards either secular or religious schools. Any "benefits" to the chosen schools are indirect and incidental to their having been chosen by the beneficiaries of the program.

*Will *Zelman* eventually mean that legal challenges to parental choice programs will end?*

Certainly not. School choice opponents have too much at stake to leave these programs to state legislatures to decide as policy matters. Immediately after *Zelman* they indicated they would continue using any tools at their disposal to continue to thwart the spread of parental choice programs and they no doubt will. Principal among these tools will be state religion clauses.

Does it matter under the First Amendment how funds are transmitted to the schools?

No. In its recent cases, including *Zelman*, the U.S. Supreme Court emphasized that so long as the program is neutral as between public and parochial or sectarian schools and aid is triggered by the independent decisions of parents or students, the program does not have the "primary effect" of advancing religion – even if funds are directly transmitted to the schools and if religious education is included.

QUESTIONS RELATED TO STATE CONSTITUTIONS³

Why are the opponents of parental choice focusing on state constitutions' religion clauses as a means of derailing school choice programs?

There is nothing new about parental choice opponents' efforts to thwart school choice by using state constitutions' religion clauses. They have always preferred to challenge

¹ Selections from Clint Bolick and Richard D. Komer, *School Choice: Answers to Frequently Asked Legal Questions*, 5th edition, revised January 2004 (Washington, DC: Institute for Justice, 2004).

² 536 U.S. 639 (2002).

³ Selections from Richard D. Komer, *School Choice: Answers to Frequently Asked Questions About State*

parental choice programs on state constitutional grounds,⁴ because it is harder for the defenders of choice programs to obtain U.S. Supreme Court review of such decisions. What is new is that they no longer have the second string to their bow, which was their claim that parental choice programs violate the U.S. Constitution's Establishment Clause. Their defeat in *Zelman v. Simmons-Harris* eliminated that line of attack, leaving them with the state constitutions as their only alternative.

What are Blaine Amendments?

The Blaine Amendments are the most common type of religion clause found in state constitutions. By the Institute for Justice's count, they are found in 37 state constitutions, although their language varies and some interpretation is involved in classifying a provision as a Blaine Amendment. The Institute for Justice considers any provision that specifically prohibits state legislatures (and usually other governmental entities) from appropriating funds to religious sects or institutions (often specifically including religious schools) to be a Blaine Amendment.

The Blaine Amendments are named after a failed federal constitutional amendment introduced in the U.S. Congress by Senator James G. Blaine of Maine in 1875. It was directed primarily at efforts by Catholics to obtain a share of funding for their schools, which they had created because of their unwillingness to send their children to the Protestant-oriented public schools.

What about the other states that don't have a Blaine Amendment – do their state constitutions contain religion language that poses a potential problem for parental choice efforts?

Yes. Although the Blaine Amendments are the most common type of state religion clause, there is another very common provision that the Institute for Justice calls "compelled support" provisions. In fact, 29 states have this sort of language in their constitutions. Many states have both compelled support and Blaine Amendment language. Only three states, Louisiana, Maine and North Carolina, have neither sort of language. The common component of a compelled support clause is language providing that no one shall be compelled to attend or support a church or religious ministry without his or her consent. Sometimes the language will specifically include religious schools in the entities that cannot be supported.

What is the legal argument that parental choice programs violate these Blaine Amendments?

Much like their theory under the federal Establishment Clause, opponents of parental choice programs argue that providing student assistance to families opting for a religious school for their children's education is the equivalent of providing aid directly to the religious schools themselves. Although the Blaine Amendments were obviously designed to address direct aid to the schools themselves, which was, after all, what Catholics were requesting at the time the Blaine Amendment was created, opponents of choice wish to extend the language to encompass money that incidentally reaches religious school coffers because parents have selected to spend their scholarships there.

The U.S. Supreme Court definitively rejected this theory under the Establishment Clause in *Zelman*, holding that where the scholarship program is religiously neutral, that is, neither favoring nor disfavoring the choice of religious schools, and where the

Constitutions' Religion Clauses, updated September 2006 (Washington, DC: Institute for Justice, 2006). For detailed references see original article.

⁴ Religion clauses are not the only state constitutional provisions that opponents use against school choice programs. For example, after nearly seven years of litigation, the Florida Supreme Court in 2006 struck down

parents make a free and independent choice of a religious alternative for their children's education, the aid is not to be treated the same as direct aid to the religious schools. Parental choice opponents hope that the state supreme courts will nonetheless adopt a broader construction of their state's Blaine Amendments that will be more restrictive of parental choice than the federal Establishment Clause. The Institute for Justice's counterargument is the same as under the Establishment Clause: scholarship/voucher programs aid families – not schools – and not one dime reaches a religious school but for the free and independent choice of a parent.

Is the legal argument under the "compelled support" clauses similar to that under the Blaine Amendments?

Yes. Parental choice opponents argue that when people's taxes are used to pay tuition for children whose parents have enrolled them in religious schools it is tantamount to compelling people to pay taxes to be given to a church, ministry, or church school. This is, of course, a far cry from the practice of tithing that the compelled support clauses were originally intended to combat, where the government served as a tax collector for an established church. Nonetheless, opponents of parental choice programs insist that these provisions prohibit giving assistance to families if they choose a religious option for their children's education.

How successful have these anti-choice arguments been so far?

Not very successful. The Institute for Justice and its allies have successfully repelled attacks on parental choice programs based on Blaine Amendments in Arizona, Illinois, and Wisconsin. On the other hand, as mentioned above, opponents succeeded in nullifying the Puerto Rico parental choice program by an attack based on the commonwealth's constitution. Like many newer states, Puerto Rico's constitution contains a Blaine Amendment because the congressional enabling act that permitted Puerto Rico to become a commonwealth required it.

In states with compelled support clauses, the Institute for Justice helped successfully defend parental choice programs against attack in Illinois, Ohio, and Wisconsin. However, the Institute for Justice lost in Vermont where the Vermont Supreme Court ruled that its clause required the exclusion of the option of choosing a religious school from Vermont's tuitioning system. (Under that system, approximately 90 school districts tuition their high school students to the public or private school the parents choose, in lieu of operating their own public high school.) Despite the fact that parents had the option of choosing religious schools from the inception of the program in 1869 until the Vermont court ruled it violated the Establishment Clause in 1961 (a decision the Vermont Supreme Court itself reversed in 1994), the Court ruled that inclusion of the option would be compelled support of a ministry.

Opportunity Scholarships as a violation of the state Constitution's education article, which requires the state to provide a "uniform, efficient, safe, secure, and high quality system of public schools." *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006). The unprecedented decision is at odds with a Wisconsin Supreme Court ruling upholding Milwaukee's school choice program under the "uniformity" provision of the Wisconsin Constitution. *Davis v. Grover*, 480 N.W. 2d 460 (Wis. 1992). The Florida court did not address the unions' claim that the program violated the Florida Constitution's Blaine Amendment. For more on the "uniformity" ruling visit: <http://www.ij.org/schoolchoice/florida/index.html>.

If You Pass It, They Will Sue: Vouchers and Tax Credits in the Courts

By Andrew Coulson

Enacting a market education policy is one thing; defending it in the courts is another. So how well do voucher and tax credit programs compare in their ability to survive the legal gauntlet?

In *Zelman v. Simmons-Harris*, the U.S. Supreme Court found that Cleveland's voucher program does not violate the U.S. Constitution. In the wake of that ruling it is generally accepted that other carefully designed voucher and tax credit programs will also pass federal constitutional muster, even if they include religious schools. The same cannot be said at the state level. Originally, both the Vermont and Maine voucher programs permitted the participation of parochial schools, but they amended their voucher statutes in 1961 and 1981, respectively, to exclude religious schools. During the 1990s, lawsuits were filed in both states to try to restore the ability of religious schools to participate, but lower courts upheld their exclusion. On appeal, the state Supreme Courts of each state confirmed the lower court decisions. The two state Supreme Court rulings were ultimately appealed to the U.S. Supreme Court, and both appeals were denied in 1999. In other words, there are two cases in which a) states ruled against vouchers for religious schools and b) the U.S. Supreme Court permitted the exclusion of religious schools to stand.

An important distinction between these two cases is that while the Maine ruling was based on the federal Constitution, the Vermont ruling rested entirely on state constitutional grounds. The Supreme Court of Maine ruled in 1999 that including religious schools in its voucher program violated the First Amendment's Establishment Clause. In the wake of *Zelman*, that ruling is almost certain to be reversed at some point. The one catch is that while the federal Constitution has now been read to *permit* the inclusion of religious schools in voucher programs, it has not been read to *require* their inclusion. Since Maine law now excludes religious schools from redeeming vouchers, it would have to be amended by the state legislature in order to once again permit their participation.

Vermont's ultimate rejection of religious voucher schools stemmed not from the federal Establishment Clause, but rather from the state's own constitution. A lower court initially invalidated the participation of religious schools on both state *and* federal grounds, but the Vermont Supreme Court was more cautious and more prescient. Stating that "the construction of the federal constitution ... faces an uncertain future," and thus anticipating the *Zelman* ruling that was yet to come, the state's supreme justices came down against the inclusion of religious schools solely on state constitutional grounds. Vermont's highest court found that the inclusion of religious schools violated Chapter I, Article 3 of the state constitution which stipulates that "no person ought to, or of right can be compelled to ... erect or support any place of worship..., contrary to the dictates of conscience."

This is an excerpt from Andrew Coulson, *Forging Consensus* (Midland, MI: Mackinac Center for Public Policy, 2004), pp. 50-54. Complete references can be found in the original document.

The counter example to the Vermont case is that of Milwaukee, Wisconsin. In *Jackson v. Benson* (1998), the Wisconsin Supreme Court upheld the Milwaukee voucher program's inclusion of religious schools despite the fact that Wisconsin, like Vermont, has a constitutional provision prohibiting "compelled support" of religion. Article I, Section 18 of the Wisconsin constitution states that no person shall "be compelled to attend, erect or support any place of worship, or to maintain any ministry, without consent." Under the Milwaukee voucher program, taxpayers are compelled to pay for schools that are both ministries (in that they inculcate specific religious beliefs) and places of worship (in that they practice organized school prayer). Nevertheless, the Wisconsin Supreme Court concluded that the compelled support clause was not violated. The Court arrived at that conclusion by applying the compelled support clause only to students and not to taxpayers. The Court's justification for not considering taxpayers, when this was the group to which the plaintiffs had specifically drawn attention, is murky and unconvincing. The case of students was, on the other hand, crystal clear. Since voucher students could voluntarily opt out of devotional religious classes in Milwaukee, the Justices concluded that they were not being compelled in violation of the state's constitution. Having so concluded, they deemed the entire compelled support clause satisfied and upheld the voucher program's inclusion of religious schools.

The compelled support clauses that exist in Vermont, Wisconsin, and 17 other states represent only one of two state constitutional barriers to government funding of religious schools. The other is the notorious and ubiquitous Blaine amendment. The original proposal of James G. Blaine, a failed 19th century presidential candidate, was to amend the U.S. Constitution to forbid government funding of religious schools and other institutions. The public schools of the time were pervasively Protestant, and this amendment was aimed at preventing Catholics from gaining their own government-funded schools. Blaine's amendment was never adopted at the federal level, but 36 states and the Commonwealth of Puerto Rico eventually amended their own constitutions in accordance with his idea, forbidding state funding of religious institutions or practices.

All but three states have a "compelled support" clause and/or a Blaine amendment in their constitutions. Every voucher program enacted in a state with one of these clauses will be litigated. "Compelled support," for instance, is one of the two legal pegs on which the ongoing Colorado voucher lawsuit has been hung. Readers may judge for themselves whether current and future legal decisions are more likely to follow the Vermont interpretation of "compelled support" (i.e., that it applies to taxpayers) or the Wisconsin interpretation (that it does not). In any event, states that do find that either or both of these provisions preclude the participation of religious schools are not apt to be overruled by the U.S. Supreme Court, given that the Vermont ruling was allowed to stand.

On February 25th, 2004, the United States Supreme Court ruled in *Locke v. Davey* Washington State had the right to deny Joshua Davey a government-funded college scholarship. Davey was a theology student studying at a religious college to become a minister. Not surprisingly, there is virulent disagreement over the implications of this decision for government-funded K-12 voucher programs. Does it mean that states could exclude religious schools from voucher programs without running afoul of the Free Exercise Clause of the First Amendment? People for the American Way (PFAW), a group opposed to vouchers, suggests that it might, asserting that the ruling has "broad consequences" for all government funding of religious instruction. Richard Komer of

the pro-voucher Institute for Justice presents a different view:

The Court issued a narrow, historically based decision involving special state-level concerns that deal with funding the training of ministers....These concerns clearly are not implicated in school choice programs.

On the face of it, Komer would appear to be right. In deciding this case, the majority weighed two competing principles: the Free Exercise Clause (which arguably favored equal treatment of religious and non-religious degrees) and the Establishment Clause (which arguably proscribes state funding for the training of clergymen/women). Free Exercise mitigated for allowing Davey's scholarship, while Establishment mitigated against it. The Justices, as already noted, concluded that Washington State *did* have a compelling Establishment Clause interest in not funding clerical training, whereas Davey's Free Exercise rights were not substantially circumscribed.

The pivotal statement in Chief Justice Rehnquist's majority opinion was that: "we... cannot conclude that the denial of funding for *vocational* religious instruction alone is inherently constitutionally suspect." Rehnquist defended the 7-to-2 ruling, in part, on the grounds that Promise scholarships are not overly burdensome on religion because they *are* available for students attending pervasively religious schools, even to those taking devotionally religious courses (so long as they are not specifically pursuing a career in the ministry).

Despite the narrowness of this ruling, there are two reasons to suspect that the Court might also uphold a state's right to exclude religious schools from a K–12 government voucher program. First, the Court already had an opportunity to strike down Vermont's exclusion of religious schools from its voucher program, and it elected not to do so. This is not equivalent to the Court explicitly upholding the Vermont law, but it is certainly suggestive.

The second reason is that, in the wake of *Zelman*, voucher cases will likely turn on a fundamentally different legal argument than did the *Locke* case. *Locke* pitted Free Exercise against Establishment because training the clergy was argued to represent precisely the kind of government support for religion that the Establishment Clause was intended to prevent. But *Zelman* has already determined that neutrally available K–12 voucher programs that include religious schools *do not constitute an Establishment Clause violation*. With that argument gone, future voucher litigation will inevitably pit Free Exercise against Free Exercise. The question will be: does the free exercise right of parents (who want to use vouchers for religious schooling) trump the free exercise right of taxpayers (who object on moral or religious grounds to paying for that schooling). Because the federal Constitution does not provide clear guidance on how to resolve this conflict, the Supreme Court may well defer to state constitutional provisions that forbid compelled support of religion or state funding of devotional instruction.

When it comes to these religion-based legal challenges, tax credit programs have a distinct advantage over vouchers. In *Kotterman v. Killian*, opponents of Arizona's donation tax credit program sued the state, alleging that tax credits constituted government spending and hence violated that state's Blaine amendment. The Arizona Supreme Court rejected the plaintiffs' premise, ruling that credits *were not government spending* and hence did not violate the state's Blaine amendment.¹ In other words, tax credits just

¹ *Kotterman v. Killian*, Arizona Supreme Court, No. CV-97-0412-SA. That ruling read, in part, as follows:

33 *The parties are in considerable disagreement over the meaning of "public money or property." No definition of these words appears in the Arizona Constitution or in our statutes. We must therefore look to their "natural, obvious and ordinary meaning. . . ."*

let taxpayers keep more of their own money, and if they choose to claim a credit and make a donation to a religious scholarship granting organization, they do so entirely voluntarily. No one is compelled to support educational practices that violate their convictions. The Arizona Supreme Court decision was appealed to the U.S. Supreme Court, but the nation's highest court refused to hear the appeal, letting stand the lower court ruling and the reasoning on which it was based.

While state supreme court rulings do not constitute legally binding national precedents, there is considerable evidence that other courts share Arizona's interpretation of tax credits. In reaching their conclusion, the Arizona justices referred to numerous precedents from other states including Maryland, Indiana, Nebraska, South Dakota, California, Kentucky, and New Mexico, all of which agreed that tax credits are not state money (and hence cannot violate Blaine's compelled support clauses). The issue was also raised in two separate Illinois Circuit Court cases, both challenging that state's 1999 tax credit law. In each case, the courts rejected the argument that tax credits are legally equivalent to government spending.

Even scholars skeptical of market education as a whole generally acknowledge this difference. Two researchers writing for the predominantly anti-market Center for the Study of Privatization in Education at Columbia University's Teachers' College concluded that "ETCs [Education Tax Credits] – because they are not government funds – are less likely to face legal barriers compared to reforms such as educational vouchers."

[Author's note: Paragraphs 34 and 35 of the decision list numerous court cases that define the term public money. By these definitions, the tax credit in question did not constitute public money. The court then continued:] ³⁶ According to *Black's Law Dictionary*, "public money" is "[r]evenue received from federal, state, and local governments from taxes, fees, fines, etc." *Black's Law Dictionary* 1005 (6th ed. 1990). As respondents note, however, no money ever enters the state's control as a result of this tax credit. Nothing is deposited in the state treasury.

School Choice

Court Cases (as of March, 2007)

CURRENT SCHOOL CHOICE CASES IN PROGRESS

Arizona Scholarships for Disabled and Foster Children – *Cain v. Horne*

Arizona Corporate Tax Credit Scholarships – *Green v. Garriot*

Arizona Tax Credits (Federal Court Case) – *Winn v. Hibbs*

COMPLETED SCHOOL CHOICE CASES

Maine School Choice Program (Second Case) – *Anderson v. Town of Durham*

Florida Opportunity Scholarships – *Holmes v. Bush*

Arizona Tax Credits (State Court Case) – *Kotterman v. Killian*

Arizona Education Guarantee – *Crane Elementary School District v. State of Arizona*

Chicago Education Guarantee – *Jenkins v. Leininger*

Cleveland School Choice (U.S. Supreme Court) – *Zelman v. Simmons-Harris*

Cleveland School Choice (Ohio Supreme Court) – *Simmons-Harris v. Goff,
 Gatton v. Goff* (consolidated)

Colorado Opportunity Contracts – *Colorado Congress of Parents,
 Teachers and Students v. Owens*

Illinois Tax Credits – *Toney v. Bower, Griffith v. Bower*

Los Angeles Education Guarantee – *Arviso v. Honig*

Maine School Choice (First Case) – *Bagley v. Raymond*

Milwaukee School Choice – *Jackson v. Benson*

Southeast Delaware County (Pennsylvania) School Choice –
Giacommuci v. Southeast Delco School District

Vermont School Choice (First Case) – *Genier v. Larson*

Washington State Student Teaching – *Harrison v. Gregoire*

Amicus Briefs – “Friend of the Court” briefs filed by Institute for Justice.

Washington State College Scholarships – *Locke v. Davey*

Source: A detailed description of each case can be found at the Institute for Justice’s webpage: www.ij.org/school-choice/index.html.

School Choice and Student Testing

Before reading the ALEC model legislation (presented in a following section), which is representative of the current thinking about school choice by its major advocates, it is important to first consider the following.

EDUCATIONAL VALUES AND STANDARDIZED HIGH STAKES TESTING

One of the greatest concerns for independent schools in general and Waldorf schools in particular with regard to any type of school choice legislation is government student testing requirements. The standardized norm-referenced high stakes tests being developed in various states in concert with the No Child Left Behind Act are designed to shape the government school curriculum and learning goals. They will not be used only to inform parents and the public regarding student progress. Many teachers are of the opinion that such tests serve little or no educational purpose other than to grade and rank students and schools, a ranking that enforces compliance with the government's uniform curriculum standards and goals. Requiring independent schools to administer government mandated tests undermines their freedom to offer unique curricula and to provide overall diversity in education. It also impairs a teacher's ability to teach creatively in a way that directly addresses needs of the students, as perceived by them in the classroom.

Norm-referenced standardized tests may have some limited use in the broader field of education but they fail to measure many of the values, faculties, and capacities deemed important by true educators whether they be Waldorf or otherwise. These include self reliance, an inner experience of individual freedom, an awareness of community, the sense of place, artistic capacities, imaginative thinking, social understanding, social skills, respect for others, respect for nature, reverence, perseverance, initiative, compassion, courage, truthfulness, the love of work, physical and mental dexterity, and the sheer love of learning. Standardized tests not only fail to measure a student's aptitude and progress in regard to these vitally needed human capacities but also can undermine a teacher's ability to foster them.

This undermining effect increases dramatically when high stakes are attached to student standardized test results. High stakes may include whether or not a student passes a grade, the pay scale for teachers and administrators, the amount of funding for a school, and public excoriation in the media. These stakes force teachers, administrators, and school boards to focus almost exclusively on the narrowly defined intellectual learning goals set by the state as measured by standardized tests.

It is no secret that big business has lobbied heavily at the state and federal level for standardized high stakes tests. In essence, standardized high stakes tests are cultural engineering tools employed by the state to serve the needs of the major players in the competitive market. What is needed now for school choice to flourish in this country are learning assessments that serve the educational process and genuine learning, not compulsory standardized high stakes tests that serve political and economic interests. Such assessments would benefit all three spheres of social life: cultural, political, and economic.

CURRENT TRENDS

There are two trends that have already emerged in school choice legislation that should be of great concern for independent Waldorf schools. The Tax Credit and Voucher Program charts beginning on page 10 reveal that various school choice programs that have been enacted already are requiring scholarship students to take standardized tests. This includes both voucher programs and tax credit programs. Voucher programs that require students to take norm-referenced tests are Milwaukee, Washington, DC, and Maine (although in Maine tests are required only if a school reaches a certain percentage of voucher students). Even though education tax credits do not involve government money, two corporate tax credit programs require scholarship students to take standardized tests: Florida and Arizona.

In the case of the DC voucher program, which is often praised for its success by government officials in Washington, it is rarely mentioned that students who benefit from this voucher program must take and pass whatever tests are required by their schools, and then – after the school day and on Saturdays – take the standardized tests required by the research study connected to the voucher program itself. Independent schools participating in this voucher program have insisted that these standardized tests be administered off the campuses of the schools themselves in order to maintain the integrity of their own schools.

PROBLEMATIC PERSPECTIVES OF SCHOOL CHOICE ADVOCACY GROUPS

It can be expected that opponents of school choice will try to restrict school choice legislation by advocating for testing requirements. Unfortunately, it also appears that the major national school choice advocacy organizations are themselves to a certain degree justifying and promoting the idea that independent schools should be required to administer standardized tests. ALEC's model voucher and tax credit legislation, created with the help of the Milton Friedman Foundation, the Alliance for School Choice, and the Institute for Justice, supports the use of standardized tests to inform parents about their children's academic progress. The justification for this view can be found in the following excerpt from *Funding School Choice: A Road Map to Tax-Credit Scholarship Organizations*, published by the Milton and Rose Friedman Foundation.

Participating schools should...be subject to reasonable regulations, not unreasonable ones. Private schools already adhere to a wide variety of health and safety codes, anti-discrimination statutes, and other regulations. Legislation creating tax-credit scholarship programs should incorporate these regulations as requirements for participation. Schools should also be accountable to parents for their performance; one way to ensure this is to require the schools to administer a standardized test to scholarship students and share the results with parents. This requirement is not much of a burden on private schools, since virtually all of them do this.¹

¹ Milton and Rose Friedman Foundation, *Funding School Choice: A Road Map to Tax-Credit Scholarship Organizations* (Indianapolis: Milton and Rose Friedman Foundation, 2006).

A WALDORF RESPONSE

It is one thing for an individual independent school to decide on its own to administer a particular test and share the results with parents. It is quite another to relinquish an essential aspect of educational freedom by giving the government the authority to require norm-referenced standardized testing. It is indeed a most dangerous precedent that can easily lead to the government's determining the amount and types of tests the schools must administer in the future.

In recognition of the significant threat that the imposition of norm-referenced standardized testing poses for independent education the not-for-profit Research Institute for Waldorf Education, in association with AWSNA, is initiating a research study into the negative effects of high stakes testing on children and schools. The study will simultaneously research and develop rigorous alternative assessment methods that are helpful to the education process and do not infringe upon the teacher's freedom and creativity. The alternative assessment research will be done in collaboration with the Association for Cooperative Advancement of Science and Education (ACASE), a leading educational assessment research institution, and the Institute for Social Renewal. (See the next section on researching testing and alternative assessments.)

Researching the Effects of High Stakes Testing and Alternative Assessment Methods

The Research Institute for Waldorf Education, an affiliate of the Association of Waldorf Schools of North America, is seeking funding to undertake new research on the effects of high stakes testing on children and the development of alternative assessment methods. High stakes testing is now pervasive in public and most independent schools, where the illusion prevails that testing is the only way for schools to be educationally accountable. While some studies of the effects of testing have been done, they are scattered and not well known. Consequently, the benefits of testing are rarely questioned by parents, students, journalists, politicians, and professionals in education, psychology, pediatrics, and other fields.

GOALS OF THE RESEARCH

Waldorf educators believe there are better, more comprehensive, and less harmful ways to assess children's progress than through standardized tests. Many public school teachers as well are beginning to voice their opinion that standardized high stakes tests are not helpful to the educational process. This view is becoming more prevalent but needs the support of hard research.

The project's immediate goals are to provide Waldorf school communities and the general public with an up-to-date, comprehensive summary of the known effects on children of testing and to build a clear picture of educationally grounded assessment that does not use testing, as is applied in Waldorf education.

The research will encompass a review of a wide range of sources in the fields of education, psychology, and child development, including but not limited to Department of Education databanks, published reports, medical findings and other sources. It will take note of findings related to long- and short-term cognitive, psychological, motivational, emotional, and other effects of testing – the scope and particular emphases of the research will evolve, depending on what is found. A full written report of the research will be the basis for an article to be submitted for publication to one or more major educational magazines (for example, *Teacher Magazine* or *Education Week*), scholarly journals in the field of education, and European publications. The results will be published in the Research Bulletin of the Research Institute for Waldorf Education.

An important component of the project is to include in the article and any other written versions of the research detailed descriptions of Waldorf assessment methods – assessment in the process of teaching, for example – as alternatives to high stakes testing.

Other goals are to establish the Waldorf position firmly in support of the rights of children to a childhood and schooling free of testing, and to contribute our perspective to the public debate on this controversial issue. AWSNA will work to generate public settings where testing can be challenged and debated using the results of the research. If adverse effects of testing identified by the research include health issues, the Association will use medical doctors familiar with Waldorf education to place these results in pediatric journals.

ALEC

Model School Choice Legislation

Note: The inclusion of these model legislations should not be construed as an endorsement of their provisions. Rather, they are included to show what is being promoted in the political realm and to highlight some major areas of concern for independent schools. Some of these concerns are explained in the "School Choice and Student Testing" section, which should be read first. We anticipate model legislation being developed by other sources in the near future that is more in harmony with the social and pedagogical mission of Waldorf education.

The American Legislative Exchange Council (ALEC) is a voluntary association of conservative state legislators, think tank representatives, and business leaders. It has several task forces including one on education, which developed the model legislation (see Alliance for School Choice website: www.allianceforschoolchoice.org). Private sector educational choice organizations that have contributed to the formulation of various forms of model legislation are the Alliance for School Choice, the Milton and Rose Friedman Foundation, and the Institute for Justice. The current chairs of the Education Task Force are Missouri representative Jane Cunningham and Robert Enlow, Executive Director of the Milton Friedman Foundation.

PARENTAL CHOICE SCHOLARSHIP PROGRAM ACT

(Means-Tested Voucher Program)

Main Features

Eligible students are from households with an annual income not exceeding 2.5 times the income standard to qualify for a reduced lunch under the Federal Free and Reduced Price Lunch Program.

Scholarship Amounts

Amounts range from 25 percent to 100 percent of the amount the resident school district would have received from state and local sources had the student enrolled there.

Administrative Accountability for Scholarship Redeeming Schools

Schools who accept the scholarships are required to be in compliance with local health and safety laws and codes; non-discrimination in admissions on the bases of race, color, national origin, religion, or disability; and state laws that apply to non-government schools regarding criminal background checks for employees.

Participating School Autonomy

A participating school is autonomous and not an agent of the state or federal government and therefore:

- (1) The department or any other state agency may not in any way regulate the educational program of a participating school that accepts a Parental Choice Scholarship;
- (2) The creation of this program does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of non-public schools beyond those necessary to enforce the requirements of the program;

(3) Participating schools shall be given the maximum freedom to provide for the educational needs of their students without governmental control.

Financial Accountability for Scholarship Redeeming Schools

Schools must submit a government-approved financial report conducted by a certified public accountant. Schools must show financial viability by filing a surety bond equal to the amount of annual scholarship money received payable to the state or by submitting financial information that demonstrates the school's ability to pay the state an amount equal to the amount of annual scholarship money received.

Academic Accountability Standards¹

All participating schools shall regularly report to the parents on the student's progress. The following quotation from the authors of the model legislation explains this in more detail.

The authors [of the ALEC model legislation] believe that empowered parents are the best way to achieve academic accountability and that schools of choice are generally much more accountable for academic performance than assigned public schools. However, we recognize that some legislators may feel the need to demonstrate academic accountability more concretely or to mandate testing to ensure that parents are given useful measurements of their children's progress. In that case, we recommend that all participating schools be required to annually administer either the state achievement tests or nationally recognized norm-referenced tests in math and language arts or both to any student participating in the program in grades that require testing under the state's accountability testing laws. Most non-public schools already administer such norm-referenced tests so this provision should not be seen as burdensome. It is important, however, to give schools the ability to choose between a state test and the nationally recognized test. Many non-public schools would simply refuse to participate in the program if they were forced to administer the state tests, because it implies that they are no longer independent of the state. The reason many opponents to school choice promote state testing of non-public schools is in fact because they want to discourage school participation and quietly destroy the program. Testing should take place at a time comparable to when public schools conduct state achievement tests. Participating schools should provide the parents of each student with a copy of the results and should provide the results to the state evaluator described in the additional note below in a manner that protects the identity and privacy of individual students. The purpose of this testing requirement should be to provide each parent with a measure of their student's progress and to allow the taxpayers to measure the achievements of the program. The number and scope of the tests should be carefully limited to ensure that there is sufficient information to demonstrate the achievements of the program without being so exhaustive or prescriptive as to result in dictating the curriculum at participating schools. The costs of the testing requirement for a non-public school must be included in the costs used to determine the size of the scholarships at the school. . . .

Some critics of school choice programs will demand that participating schools comply with all of the regulations placed on public schools in order to ensure

¹ See the "School Choice and Student Testing" section for commentary on these student testing provisions.

“academic accountability” for the taxpayers. Of course, their real intent is to kill the program by driving schools from the program with burdensome regulations. Legislators sincerely wishing to demonstrate the program’s academic success to taxpayers could require a scientific evaluation of the program using the testing data proposed. It is crucial that the legislature give the oversight responsibility for this study to a trusted objective nonpartisan source like a legislative service agency. We have provided model language for such an independent evaluation of the program below. The outlined research would evaluate not only whether students who participate in the program are better off, but also, more importantly, whether the competition from non-public schools improves the performance of public schools. The outlined longitudinal study includes a comparison of students in the choice program with a similar cohort in the public schools for the duration of their education from kindergarten through high school. Unfortunately, a 13-year longitudinal study is likely to be quite expensive. Accordingly, the legislation allows the legislature (or a legislative service agency) to accept private grants to completely fund such a study. In some states, the legislature is not allowed to accept such grants and another trusted agency would have to be selected. It will be tempting for legislators to further define the details of the study but they should take care not to dictate the methodology or the results in order to maintain the credibility of the research.

Evaluation of the Parental Choice Scholarship Program

ALEC’s model legislation includes a proposal for a thirteen-year study of the program to determine:

- Level of parental satisfaction,
- Level of student satisfaction,
- Impact on resident school districts,
- Participating student’s academic performance and graduation rates compared to students who applied but did not receive a scholarship because of random selection.

This provision requires the cooperation of the relevant schools and also, obviously, that the participating students will be administered norm-referenced standardized tests.

Excess Available Students

Participating schools that have more eligible students applying than spaces available shall fill the available spaces by lottery. Schools may give preference to siblings of enrolled students and previous scholarship students.

ALEC GREAT SCHOOLS TAX CREDIT (Scholarship Tax Credits)

Main Features

This legislation authorizes a tax credit for individuals and corporate contributions to scholarship granting organizations that provide scholarships to eligible students so they can attend public and private schools of their parents’ choice.

Eligible Students

Eligible students are from households with an annual income not exceeding 2.5 times the income standard to qualify for a reduced lunch under the Federal Free and Reduced Price Lunch Program.

Scholarship Granting Organization Requirements

A scholarship granting organization must meet the following requirements:

- Not-for-profit and 501(c)(3) status.
- At least 90 percent of revenue must be used for scholarships.
- Criminal background check of employees.
- Submit financial information according to guidelines established by the State Education Department.
- Demonstrate financial viability by filing a surety bond or providing financial information that demonstrates financial viability.
- Ensure that participating schools: comply with health and safety laws; do not discriminate according to race, color, national origin, religion, or disability; and regularly inform parents of student progress.
- Provide reports annually to the Education Department on participating students and scholarship amounts.

Tax Payer Restrictions

Individual and corporate taxpayers are limited to tax credits up to 50 percent of their state tax liability.

Academic Accountability Standards

All participating schools shall regularly report to the parents on the student's progress. The following quotation from the authors of the model legislation explains this in more detail.

We believe that empowered parents are best able to demand academic accountability.¹ However, we recognize that some legislators may feel the need to demonstrate academic accountability to a wider audience. In that case we recommend that all participating schools be required to administer testing of scholarship students for grades that require testing under the state's accountability testing laws. Students should take either the state achievement tests or a nationally recognized norm-referenced test in math and language arts or both. Testing should take place at a time comparable to when public schools conduct state achievement tests. Participating schools should provide the parents of each student with a copy of the results and should provide the results to the state evaluator described in the additional note below in a manner that protects the privacy of individual students. The purpose of the testing requirement should be to provide each parent with a measure of their student's progress and to allow the taxpayers to measure the achievements of the program without being so exhaustive or prescriptive as to end up dictating the curriculum at participating schools. The costs of the testing requirements for a non-public school may be included in the scholarship amounts given to eligible students.

Some critics of school choice programs will demand that participating schools comply with all of the regulations placed on public schools in order to ensure "academic accountability" for the taxpayers. Of course, their real intent is to kill the program by driving schools from the program with burdensome regulations. Legislators sincerely wishing to demonstrate the program's academic success to

¹ See the "School Choice and Student Testing" section for commentary on these student testing provisions.

taxpayers could require a scientific evaluation of the program using the testing data proposed. It is crucial that the legislature give the oversight responsibility for this study to a trusted objective nonpartisan source like a legislative service agency. We have provided model language for such an independent evaluation of the program below. The longitudinal study we have outlined would compare students in the choice program with a similar cohort in the public schools for the duration of their education from kindergarten through high school. Unfortunately, a 13-year longitudinal study is likely to be quite expensive. Accordingly, the legislation allows the legislature (or a legislative service agency) to accept private grants to completely fund such a study. In some states, the legislature is not allowed to accept such grants and another trusted agency would have to be selected. It will be tempting for legislators to further define the details of the study but they should take care not to dictate the methodology or the results in order to maintain the credibility of the research.

Evaluation of Program

This model legislation suggests a 13-year evaluation study of the program similar to the one proposed in the Parental Choice Scholarship Program Act.

Advantages of Education Tax Credits Over Vouchers

*As Seen by Most School Choice Organizations,
Voters, and School Administrators*

1. SCHOOL CHOICE ORGANIZATION SURVEY

The following survey results are a part of a larger work "School Choice Snapshot: A 2006 Survey of U.S. Policy and Advocacy Organizations" by Adam B. Schaeffer, published as a policy brief by the Mackinac Center for Public Policy, Midland, MI.

The organizations surveyed were U.S. organizations that are generally known to be directly involved in school choice or general education reform. A substantial number of the respondents were self-identified "free market" organizations. Most major state and national free-market think tanks, most major state and national school choice issue organizations, and most major state and national fiscal, religious, and family issue organizations were contacted. There were a total number of 473 organizations contacted.

These survey results clearly show that most organizations view educational tax credits superior to vouchers from a political and legal perspective.

In your opinion which school choice policy do you think is *generally more popular* with voters?

| | |
|----------------------|-------|
| Vouchers | 14.5% |
| Education Tax Credit | 53.5% |
| Same | 15.1% |
| (Don't Know) | 6.9% |
| Total Respondents | 172 |

In your opinion which school choice policy do you think is *more popular* with voters *in your own state*?

| | |
|-----------------------|-------|
| Vouchers | 15.7% |
| Education Tax Credits | 46.5% |
| Same | 16.3% |
| (Don't Know) | 21.5% |
| Total Respondents | 172 |

In your opinion which school choice policy is *more likely to be passed* by state legislatures *generally*?

| | |
|-----------------------|-------|
| Vouchers | 11.0% |
| Education Tax Credits | 65.7% |
| Same | 7.6% |
| (Don't Know) | 15.7% |
| Total Respondents | 172 |

In your opinion which school choice policy is *more likely* to be passed by *your own state legislature*?

| | |
|-----------------------|-------|
| Vouchers | 13.4% |
| Education Tax Credits | 58.7% |
| Same | 10.5% |
| (Don't Know) | 17.4% |
| Total Respondents | 172 |

In your opinion which school choice policy is more likely to be challenged in state courts generally?

| | |
|-----------------------|-------|
| Vouchers | 66.9% |
| Education Tax Credits | 3.5% |
| Same | 16.3% |
| (Don't Know) | 13.4% |
| Total Respondents | 172 |

In your opinion which school choice policy is *more likely* to be challenged in *your own state court*?

| | |
|-----------------------|-------|
| Vouchers | 56.4% |
| Education Tax Credits | 4.7% |
| Same | 25.6% |
| (Don't Know) | 13.4% |
| Total Respondents | 172 |

In your opinion which school choice policy is more likely to survive a challenge in state courts generally?

| | |
|-----------------------|-------|
| Vouchers | 5.2% |
| Education Tax Credits | 58.1% |
| Same | 15.1% |
| (Don't Know) | 21.5% |
| Total Respondents | 172 |

In your opinion which school choice policy is *more likely* to survive a challenge in *your own state court*?

| | |
|-----------------------|-------|
| Vouchers | 7.6% |
| Education Tax Credits | 53.5% |
| Same | 17.4% |
| (Don't Know) | 21.5% |
| Total Respondents | 172 |

2. VOTER SURVEY: EDUCATION TAX CREDITS AND VOUCHERS

A survey of voters was conducted in fall 2003 in 10 states by Basswood Research, Washington, DC. It shows a clear preference by voters for tax credits over vouchers. This preference is significant now but may become less so in the future as opponents of both vouchers and tax credits try to minimize the fundamental differences between them.

| | | Individual donation tax credits ¹ | Corporate donation tax credits ² | Universal v. targeted tax credits ³ | Universal vouchers ⁴ | Targeted vouchers ⁵ |
|-----|---------|--|---|--|------------------------------------|-----------------------------------|
| AR | Support | 58 | 58 | 65 | 50 | 34 |
| | Oppose | 33 | 33 | 26 | 39 | 54 |
| IN | Support | 58 | 60 | 66 | 51 | 33 |
| | Oppose | 34 | 32 | 24 | 38 | 56 |
| FL | Support | 50 | 54 | 65 | 47 | 30 |
| | Oppose | 44 | 39 | 21 | 45 | 63 |
| LA | Support | 65 | 63 | 67 | 58 | 40 |
| | Oppose | 26 | 27 | 22 | 30 | 48 |
| ME | Support | 52 | 57 | 61 | 49 | 33 |
| | Oppose | 40 | 35 | 29 | 43 | 57 |
| MD | Support | 57 | 61 | 61 | 49 | 40 |
| | Oppose | 36 | 30 | 28 | 45 | 52 |
| MI | Support | 57 | 62 | 73 | 47 | 37 |
| | Oppose | 57 | 34 | 20 | 44 | 55 |
| NE | Support | 56 | 56 | 67 | 49 | 34 |
| | Oppose | 36 | 34 | 23 | 39 | 53 |
| NV | Support | 53 | 58 | 69 | 50 | 29 |
| | Oppose | 38 | 34 | 22 | 43 | 62 |
| WI | Support | 53 | 57 | 59 | 52 | 33 |
| | Oppose | 40 | 36 | 29 | 40 | 56 |
| AVG | Support | 56 | 59 | 65 | 50 | 34 |
| | Oppose | 36 | 33 | 24 | 41 | 56 |

QUESTIONS USED IN THE POLLING WERE AS FOLLOWS:

1. Would you support or oppose giving [state] taxpayers an individual income tax credit for contributions to scholarship funds that help parents send their children to the public, private, or religious school of their choice?
2. Would you support or oppose giving local businesses a state corporate income tax credit for charitable contributions to scholarship funds that help parents send their children to the public, private, or religious school of their choice?
3. Would you prefer that all students in all public schools be eligible to receive the tax credit scholarship funds, or would you prefer that tax-credit scholarship funds go only to low-income students in poorly performing schools?
4. Would you support or oppose education vouchers, which provide parents with state funds that they can use to help pay the costs at the school of their choice?
5. Would you support or oppose education vouchers, which provide parents with state funds that they can use to help pay the costs at the school of their choice, if only low-income students in poorly performing schools were eligible to receive vouchers?

Source: Andrew Coulson, *Forging Consensus* (Midland, MI: Mackinac Center for Public Policy, 2004), p. 49.

3. PRIVATE SCHOOL ADMINISTRATORS' SURVEY

A survey was conducted by H. Lillian Omand for the Cato Institute to gain insight into the effect of regulations on the private school market; it was published in 2003. Just over 1,000 principals or school directors responded to the survey. Most of the schools were participants in privately-funded school choice scholarship programs. In addition to surveying the respondents regarding their opposition to various regulations that might be attached to school choice legislation, they were also asked their opinions regarding voucher and tax credit programs. "Despite having just expressed majority opposition to several regulations [including tuition caps, certain admissions policies, and standardized tests] that might be attached to school choice, they expressed overwhelming support for the concept [of school choice itself]" (p.12). The results show that there is a greater support by school administrators for education tax credits than vouchers.

| | |
|-------------------------------------|--------|
| Support for Vouchers | 82 % |
| Support for Personal Tax Credits | 97 % |
| Support for Scholarship Tax Credits | 99.5 % |

CAPE

Reaches Consensus on School Choice Legislation

The Association of Waldorf Schools of North America is a member of the Council for American Private Education (CAPE), which consists of 16 national and 28 affiliated state organizations. (Patrice Maynard, the Leader for Outreach and Development of AWSNA is the elected Secretary of the CAPE Board of Directors.) The Board has approved certain school choice principles with which they will critique future legislation. While the principles emphasize the importance of maintaining freedom for private schools in general, the CAPE directors referred to the various forms of vouchers and tax credits with equal dispatch "because any one of these approaches might be best in a given situation," and they did not strongly oppose mandatory student testing partially because of the fact that many private schools already use some form of standardized testing. They did assert that test scores should never "become a sole or dominant indicator of achievement or failure."

CAPE PRINCIPLES RELATING TO SCHOOL CHOICE LEGISLATION

Introduction

The Council for American Private Education (CAPE) is a broad-based national organization representing private schools. In its vision statement CAPE recognizes that America's children have greater opportunities because of access to an array of high-quality schools. CAPE's mission is to preserve and promote educational pluralism so that parents have a choice in the schooling of their children. In keeping with its vision and mission, CAPE offers the following principles to guide school choice legislation at the state and federal levels.

Choice initiatives have taken various forms, including government vouchers for parents, tax credits/deductions for parents, and tax credits/deductions for corporate or individual contributors to programs that award scholarships. Because any one of these approaches might be best in a given situation, these principles are intended to apply to all of them.

General Principles

- Funds relating to school choice should flow through parents rather than directly to schools.
- School choice initiatives should not in any way infringe upon the existing right of private schools to control the hiring of staff.
- School choice programs should safeguard the right of private schools to control the instructional program and curriculum, and should not add restrictions or regulations in this regard beyond what may already exist in state law.
- School choice programs should allow schools to retain their admission policies.
- Test scores should never be allowed to become a sole or dominant indicator of achievement or failure.

Level and Distribution of Benefits

- Benefits to families should be substantial enough to allow families to select from a variety of schools.
- Benefits should vary with family financial need to ensure that families with the greatest need receive the greatest benefit.
- Families with children already in private schools should be eligible for benefits.

Responsibilities of Participating Schools

Participating schools should comply with federal, state, and local requirements that currently apply to private schools, including those relating to civil rights, nondiscrimination, background checks for employees, and student health and safety. However, choice legislation should not give rise to additional regulation of private schools.

Education Tax Credits: Philosophical and Practical Advantages for Waldorf Schools in the United States

Of the two main school choice funding mechanisms – vouchers and education tax credits – education tax credits are clearly more in harmony with the social and pedagogical ideals of Waldorf education. The universal education tax credit proposal by Andrew Coulson in *Forging Consensus*, previously cited, is the best articulation to date of what should be striven for. This proposal combines both personal and donation tax credits in such a way that support for education can arise directly out of economic life through individuals and businesses without passing through the government. Similarly, Rudolf Steiner, the founder of the Waldorf School movement, strongly urged that we need to find ways to fund education directly out of economic life and not through taxation if we are ever to develop a truly independent school movement and a cultural life free from the dictates of the state and big business. We will be more likely to achieve this goal by many people and organizations contributing small amounts than by a few entities such as government agencies or large businesses providing large amounts and thereby gaining undue power and control over education and cultural life. Education tax credit legislation can limit the amount that any individual or business can contribute and thus ensure that economic power does not become cultural coercion.

Furthermore, education tax credits have a number of advantages from a Waldorf perspective that are also recognized by a growing number of people:

- Because donations and private expenditures for educational services under a tax credit option are not considered government money, schools accepting scholarships from an Scholarship Granting Organization are potentially less subject to government regulations than if they accept government funding (as is the case with vouchers).
- Education tax credit legislation is often easier to enact than government voucher programs.
- Multiple scholarship organizations funded by donations eligible for tax credits are less likely to create ideological conflicts than government-funded single-payer voucher systems.
- Surveys indicate that voters, school choice organizations, and school administrators consistently prefer educational tax credit options over voucher programs if given the choice.
- Multiple scholarship organizations under a tax-credit system can offer greater flexibility and creativity in responding to individual family circumstances in their region than a government-funded single-payer system can.
- The tax credit approach provides not only parental choice in school selection but also donor choice of recipient. Under typical education tax-credit options, individual and corporate donors can select any Scholarship Granting Organization in their state and often can stipulate which school they want to support. Thus, the effect of positive competition can work at both the parental and donor levels.

THE UNIQUE HERITAGE OF INDEPENDENT SCHOOLS IN THE UNITED STATES

It is important to note that a unique and powerful sense of educational freedom still lives in the independent school movement in the United States. This sense of freedom makes independent school supporters cautious about any type of government funding and associated regulations. This can lead to the perception that U.S. independent schools are elitist, catering mainly to the well-to-do. In contrast, non-government schools in many other industrialized nation-states are heavily subsidized making them affordable to most families. These subsidized schools have gradually grown accustomed to national curricula, teacher licensing, and state exams, something most U.S. independent schools find unacceptable.

However, the gradual eroding of an affluent middle class in the United States has made an independent school education difficult, or even impossible, for most lower and middle income families. Consequently, many independent schools are facing increasing financial challenges and have begun to cautiously consider school choice legislation as a way to enable more families to afford independent schools and overcome their competitive disadvantage with government or government-funded schools.

The heritage of a vibrant privately-funded independent educational system free from government control still lives in the United States. For the first time anywhere in the world the education tax credit movement in the United States offers a society-wide private funding mechanism that is a government recognized alternative to tax funding. The unique contribution that education tax credits makes to the realm of school choice and educational freedom needs to be recognized. The understanding of education as a free cultural activity, and not a function of a government agency, is in and of itself invaluable and increasingly rare in the world.

Resources:

Note: This list should not be construed as an endorsement of the views or practices of the following organizations.

KEY NATIONAL SCHOOL CHOICE ORGANIZATIONS

American Legislative Exchange Council (ALEC)
 1129 20th St., NW
 Suite 5
 Washington, DC 20036
 202-466-3800
www.alec.org

The American Legislative Exchange Council (ALEC) is a voluntary association of conservative state legislators, think tank representatives, and business leaders. It has several task forces including one on education, which has developed model school choice legislation. (See "ALEC Model Educational Choice Legislation" section.)

All Children Matter
 201 Monroe Ave., NW
 Suite 300
 Grand Rapids, MI 49503
 616-776-5440
www.allchildrenmatter.org
 Greg Brock, Executive Director

All Children Matter is the lead organization of a number of Political Action Committees (PACs). Funded by the founding families of Wal-Mart and Amway, it supports political candidates who support school choice.

Alliance for School Choice (ASC)
 1660 L St., NW
 Washington, DC 20036
 202-280-1990
www.allianceforschoolchoice.org
 Charles Hokanson, President
 Liz Moser, Director of Outreach and Training

The Alliance for School Choice has a website that is perhaps the best single source of information on school choice at the national and state levels. It gives a state by state description of all the educational choice programs and leading advocacy organizations. ASC publishes two quarterly newsletters, *School Choice Advocate* and *School Choice Navigator*, providing the latest information on school choice developments and research. ASC's staff provides practical information to school choice groups around the country.

Institute for Justice
 901 N Glebe Rd., Suite 900
 Arlington, VA 22203
 703-682-9320
www.ij.org

The Institute for Justice is a litigation firm that has successfully defended school choice in courtrooms nationwide, including the U.S. Supreme Court. It maintains a complete list of completed and current school choice court cases and a media kit on school choice.

Mackinac Center for Public Policy
 140 West Main St.
 Midland, MI 48640
 989-631-0900
www.mackinac.org

Mackinac Center for Public Policy is one of America's largest think tanks. It first developed the idea of a universal tuition tax credit and is very supportive of educational freedom.

Milton and Rose Friedman Foundation
 One American Square
 Suite 2420
 Indianapolis, IN 46282
 317-681-0745
www.friedmanfoundation.org
 Robert Enlow, Executive Director

The Milton and Rose Friedman Foundation is named after Nobel prize-winning economist Milton Friedman, who first conceived of educational vouchers in 1955. The Foundation views vouchers as the best form of educational choice. Their website lists all current educational choice programs as well as those under consideration with full text of the legislation. They also provide a number of excellent publications, including *ABCs of School of Choice* and *School Choice Advocate*, and a media kit on educational choice.

OTHER ORGANIZATIONS SUPPORTIVE OF SCHOOL CHOICE

Alliance for Catholic Education
www.ace.nd.edu

*Association of Waldorf Schools
of North America*

www.whywaldorfworks.org

Black Alliance for Educational Options
www.baeo.org

Cato Institute
www.cato.org

Council for American Private Education
www.capenet.org

Goldwater Institute
www.goldwaterinstitute.org

The Heritage Foundation
www.heritage.org/schoolchoice

*Hispanic Council for Reform and
Educational Options*
www.hcreo.org

Hoover Institute at Stanford University
www.hoover.org

The Institute for Social Renewal
www.socialrenewal.com

Manhattan Institute for Policy Research
www.manhattan-institute.org

EDUCATIONAL ASSESSMENTS RESEARCH

*Association for the Cooperative Advancement
of Science and Education (ACASE)*

110 Spring St.
Saratoga Springs, NY 12866

518-583-4645

www.acase.org

Paul Zachos, Director

ACASE is developing educational assessments approaches that are viable alternatives to norm-referenced high stakes testing.

IMPORTANT SCHOOL CHOICE PUBLICATIONS

*School Choice Yearbook and Model Legislation
Reference*

Published annually by the Alliance
for School Choice.

The ABCs of School Choice

Published annually by the Milton and
Rose Friedman Foundation.

Forging Consensus

Written by Andrew Coulson and published by the
Mackinac Center for Public Policy.

*School Choice and State Constitutions:
A Guide to Designing School Choice Programs
and Bulletproofing School Choice*
Available from the Institute for Justice.



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