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School Reform News

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THE MONTHLY NEWSPAPER FOR SCHOOL REFORMERS

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Schools Can't Use Race to Assign Students, Court Says



T.J. Rhine demonstrates in front of the U.S. Supreme Court on December 4, 2006, when the Court heard oral arguments in a case addressing the issue of race in assigning children to public schools.

By Jillian Melchior

In a 5-4 decision, the U.S. Supreme Court ruled on June 28 that states cannot use racial quotas to assign students to schools in an effort to achieve diverse student bodies—the first time the Court has addressed the issue in K-12 education.

Free-market groups applauded the

decision in *Parents Involved in Community Schools v. Seattle School District Number One*, saying it promotes a color-blind culture.

Before the ruling, lower courts had wrestled with the issue without a U.S. Supreme Court precedent. Analysts say the decision will affect school districts nationwide.

"It's taken a long time to begin to unravel this forced integration, this divvying people up by race," said Neal McCluskey, an education policy analyst at the Cato Institute in Washington, DC. "With [this idea] so deeply entrenched, [it was inevitable] it would take a long time to come back and try

RACE p. 9

Nevada Senate Approves Choice For Special Needs

By Matt Warner

Nevada's Senate made state history in May when its members unanimously approved a measure that would offer scholarships to special-needs students to attend the public or private school of their parents' choice.

Senate Bill 158 is the first school choice bill to win either Assembly or

NEVADA p. 4

Teachers Like Denver for Merit Pay Plan

By Ben DeGrow

The incentives in Denver's new performance pay plan appear to have piqued the interest of teachers, according to new data released by the school district in June.

The ratios of applicants to open job

DENVER p. 6

INSIDE SRN

- 3 Higher Ed Funding Overhauled
- 5 Florida Errs in School Grades
- 7 Schools Spend All They Can Get
- 12 So. Carolina OKs Virtual School
- 14 Learning from Utah's Voucher
- 15 Vouchers Are for Parents
- 16 Lotteries Hurt School Funding

Iowa Expands School Choice

By Ben DeGrow

Less than a year after its launch, Iowa's nonpublic school choice program received a significant boost on May 29 when Gov. Chet Culver (D) signed Senate File 601, which expands the School Tuition Organization (STO) Tax Credit limit from \$5 million in 2007 to \$7.5 million in 2008.

Since 2006, Iowans have been able to receive tax credits worth 65 percent of their contributions to eligible organizations that provide scholarships for students to attend accredited private schools. Families of scholarship recipients must earn less than three times the federal poverty amount guidelines.

IOWA p. 8

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Audio recordings from the 2006 Educational Choice Speaker Series are now available online.

The luncheon series is hosted by the Illinois School Choice Initiative (ISCI), a project of The Heartland Institute. The mission of the initiative is to enable all parents in Illinois to choose quality schools for their children. For more information, please contact Michael Van Winkle, The Heartland Institute's legislative specialist for education policy, at 312/377-4000, email mvanwinkle@heartland.org.

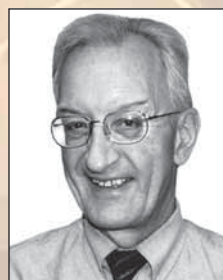
Since January, the ISCI has hosted a monthly luncheon at the Metropolitan Club of Chicago, where business and civic leaders

and school choice supporters have heard from some of the movement's most important leaders, including Robert Enlow of the Milton & Rose D. Friedman Foundation, Rebeca Nieves-Huffman of the Hispanic Council for Reform and Educational Options, and Lawrence Patrick III of the Black Alliance for Educational Options.

The audio recordings can be listened to online or downloaded to an iPod or MP3 player by subscribing to the Educational Choice Speaker Series Podcast. Visit The Heartland Institute's online audio center at <http://www.fromtheheartland.org/live/audio.html> and scroll down to the ISCI Educational Choice Speaker series.



THE FOLLOWING PRESENTATIONS ARE AVAILABLE:



JANUARY: George Clowes, The Heartland Institute

On January 19, Clowes kicked off the new monthly Educational Choice Speaker Series with a talk titled, "Competition as an Effective Education Reform: What Works and What's Ahead."



FEBRUARY: Ken Johnson, Milwaukee Public Schools

(Audio Only) On February 16, Kenneth L. Johnson, Milwaukee School Board president, addressed "Milwaukee Public School Reform: Rethinking of Parents as Our Customers."



MARCH: Virginia Gentles, Florida Department of Education

On March 16, Virginia Gentles, executive director of the Florida Department of Education's Office of Independent Education and

Parental Choice, described the school choice programs available to parents in the Sunshine State.



APRIL: Lawrence Patrick, BAEO

On April 20, Lawrence Patrick III of the Black Alliance for Educational Options (BAEO) addressed the need for educational choice for black parents and students.



MAY: Rebeca Nieves-Huffman, Hispanic CREO

On May 18, Rebeca Nieves-Huffman addressed the education crisis and how it affects Hispanic children. Huffman is president and CEO of the Hispanic Council for Reform and Educational Options (Hispanic CREO).



JUNE: Robert Enlow, Milton & Rose D. Friedman Foundation

On June 15, Robert Enlow, executive director of the Milton & Rose D. Friedman Foundation, gave an overview of the school

choice movement, assessing the strength of the movement.



JULY: Lisa Snell, Reason Foundation

On July 27, Lisa Snell, director of education and child welfare at the California-based Reason Foundation, spoke about the pitfalls of universal preschool and the benefits of weighted student funding as a viable and effective K-12 reform.



SEPTEMBER: David Brennan, White Hat Management

On September 21, David Brennan's speech, "The U.S. Education System Is Perfectly Aligned with Cuba and North Korea: Do We Really Treasure Individual Rights? Don't We Value the Power of Consumer Choice?" stressed the importance of innovation in our education system.



OCTOBER: Clint Bolick, Alliance for School Choice

On October 19, Clint Bolick closed the ISCI's

2006 Educational Choice Speaker Series with a discussion of school choice cases currently in the courts, and what the future holds.

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Congress Passes Higher Education Funding Overhaul

Critics, President unhappy with proposed new entitlements

By Dan Lips

In July, Congress passed legislation to overhaul federal student aid programs for higher education.

The House of Representatives voted 273-149 on July 11 to approve the "College Cost Reduction Act of 2007," which increased funding for federal financial aid programs by \$18 billion while cutting federal subsidies for private lenders.

Specifically, the legislation cut rates for federal student loans and increased funds for grant programs and loan forgiveness. The Senate approved similar legislation a week later.

"The good news is that Congress and the Bush administration have identified wasteful spending that can be cut as part of the reauthorization of the federal government's main higher education spending programs," said Dr. J.D. Foster, a senior fellow in economics and fiscal policy at The Heritage Foundation, a free-market research group in Washington, DC. "But the bad news is that Congress used most of the savings to increase other spending, including the creation of nine new entitlements in the House bill."

"In July, Congress passed legislation to overhaul federal student aid programs for higher education."

Missed Opportunity

Foster argued legislators missed an opportunity to use the savings to cut taxes.

"Neither the House bill nor its companion legislation in the Senate includes a dime of tax relief. This is the wrong tack to take," Foster explained. "A significant portion, if not all, of the savings should be returned to taxpayers in the form of education-oriented tax relief, such as an expansion of the higher education deduction."

Subsidy Cuts

Neal McCluskey, a policy analyst with the Cato Institute's Center for Educational Freedom, applauded the House's decision to trim subsidies for private lenders.

"There is one welcome part of the bill—it would trim subsidies to lenders," McCluskey said. "Sallie Mae and other



lending companies don't deserve a dime of taxpayer money, so a tiny bit of justice is served by making their arrangement a little less cushy.

"Unfortunately, the good news ends there," McCluskey continued. "By using so much of the savings from the subsidy cuts to fund loan forgiveness for 'public servants' as well-remunerated as prosecutors, and slash already-low interest rates on many federal loans, the bill would enable colleges to raise their prices without making themselves more expensive to students, driving tuition rates even higher than their already astronomical levels."

Uncertain Prospects

McCluskey says in the end students will not benefit from the increased subsidies.

"The bill would drive higher education's unbridled tuition inflation even higher, just as federal aid has done for decades," McCluskey explained. "But that's not lawmakers' concern. As long as middle- and upper-middle-class parents and students think Washington is trying to make college more affordable for them—and will vote accordingly—federal politicians will have accomplished their goal."

At press time, it remained unclear whether the legislation would become law.

President George W. Bush threatened to veto the measure because it "fails to

target aid to the neediest students currently in college and creates new mandatory federal programs and policies that are poorly designed and would have significant long-term costs," according to a statement released by the White House.

Dan Lips (dan.lips@heritage.org) is an education policy analyst at The Heritage Foundation in Washington, DC.



Nevada

Continued from page 1

Senate approval in the Nevada Legislature.

According to bill sponsor Sen. Barbara Cegavske (R-Las Vegas), the new program is a much-needed response to the problem of meeting special-needs students' individual needs.

"Traditional public schools are failing countless children with individualized education plans," Cegavske said. "These children deserve a viable alternative that their parents simply cannot afford without financial assistance."

The bill remained in the Assembly's Ways and Means committee without action at the close of the regular session on June 4.

State Solutions

The bill is part of a small but growing trend among states to introduce more parental control in special-needs education. In May, Georgia Gov. Sonny Perdue (R) signed a bill giving parents private options for their special-needs children. The new scholarship program is similar to the touted McKay Scholarship Program in neighboring Florida, where close to 17,000 special-needs students receive

scholarships to attend private schools.

Still, the state Senate endorsement was a surprise to many in Nevada—a state where school choice has not been a major part of the public dialogue.

"This is the first time it's really been on the radar," said Joe Enge, an education policy analyst with the Nevada Policy Research Institute, a nonpartisan research center based in Las Vegas. Enge expects to see a higher level of public interest in the issue now that the Senate has unanimously approved legislation.

"Nevada's Senate made state history in May when its members unanimously approved a measure that would offer scholarships to special-needs students to attend the public or private school of their parents' choice."

More Needs

Over the past few years, most states have seen a rise in the number of stu-

dents identified as "special-needs" under federal law. But Nevada's rate of growth since 1990 is the highest in the country at 149 percent, according to U.S. Department of Education statistics.

Grappling with these increases, the state's public schools may not be best equipped to meet the needs of all special-needs children.

In a June letter, the U.S. Department of Education's acting director of the Office of Special Education Programs, Patricia Guard, informed Nevada Superintendent of Public Instruction Keith Rheault that the state "needs assistance in meeting the requirements" of the Individuals with Disabilities in Education Act, the federal law governing special-needs education.

Nationwide Problem

Nevada is not alone in this shortcoming. According to the U.S. Department of Education Web site, only nine states are currently meeting the requirements of the law.

"[Special-needs scholarships] are needed in every state in the country," said Chuck Muth, a Nevada resident and executive director of Citizen Outreach, a national organization based in Washington, DC. Muth said when states allow parents of kids with special needs to choose their schools, markets will rise

Barbara Cegavske
State Senator
Las Vegas, Nevada



to the occasion and better serve the children.

Robert Teegarden, director of state projects at the Alliance for School Choice, a national school choice advocacy organization, said SB 158 "is likely to return." Teegarden hopes to see more bipartisan support for the bill during Nevada's next scheduled legislative session, in 2009.

Matt Warner (mwarner@alec.org) is director of the American Legislative Exchange Council's Education Task Force in Washington, DC.

INTERNET INFO

Nevada Senate Bill 158: <http://leg.state.nv.us/74th/Reports/history.cfm?ID=408>

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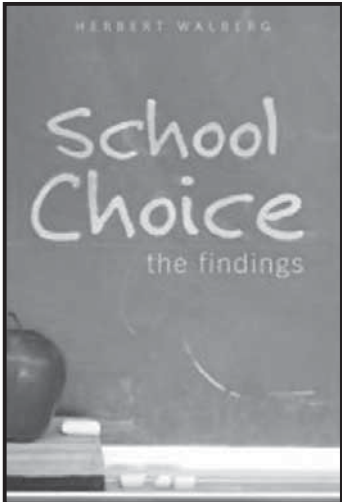
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Florida Will Omit Vital NCLB Information Due to Scoring Error

Special committee will investigate problem, review tests annually



By Jillian Metz

Due to an inability to accurately determine the learning gains of fourth graders—a vital component of the federal No Child Left Behind Act (NCLB)—Florida's Department of Education will exclude the data from its calculation of the state's school grades and teachers' bonuses for the 2006-07 school year.

The decision comes in an effort to avoid penalizing teachers and students for a scoring mistake that caused inflated scores on the third-grade reading portion of the 2006 Florida Comprehensive Assessment Test (FCAT).

The department released the test scores on June 29—two weeks after their scheduled post date. The scores are used each year to determine whether third graders are promoted to fourth grade, and whether graduating seniors receive their diplomas, teacher bonuses, and schools' grades.

"To make certain no students, teachers, schools, or school districts are disadvantaged, we will go back and re-equate and rescale the 2006 third-grade FCAT reading exam against a new set of anchor items," Florida Education Commissioner Jeanine Blomberg said. "We will also use

these new results when calculating learning gains for this year's school grades and federal Adequate Yearly Progress," a vital component of NCLB.

Two Problems

The state Department of Education was directed to investigate the scoring discrepancy on May 23 after officials discovered the 2007 scores had fallen six percentage points from the previous year. The mistake, which officials chalked up to human error, inflated third-grade reading scores by eight percentage points in 2006.

"Like many of the state's education leaders, I was troubled by this drop," Blomberg said. "I immediately directed Department of Education staff to analyze the third-grade FCAT reading data from 2005, 2006, and 2007 to better explain these variations."

Two problems were found in the set of anchor questions, which are used as a standardized testing technique to equate the scores over a series of years and confirm students are adequately performing to the benchmarks set for their grade level by the state.

"We believe the combination of the change in placement or positioning of

the anchor questions, along with the percentage of students correctly answering anchor and test questions not being as closely aligned as they should have been, resulted in an overstatement of last year's third-grade reading FCAT results," Blomberg said.

External Committee

The state Department of Education has formed an External Advisory Committee to address the 2006 scoring issues, said James McCalister, former president of the Florida Association of District School Superintendents and current superintendent of the Bay County school district.

"They have put an oversight committee in place to annually review the FCAT to avoid future problems like the one that has occurred," McCalister said. "They responded positively with the committee, and I am confident that it will ensure the prevention of future error."

Delayed News

"The third-grade parents have been anxiously waiting to see if their children will be promoted to the fourth grade," McCalister said. "In addition, those struggling students need summer school, and the start date of the summer school program had to be delayed."

Bay County delayed the start date of the summer program by one week and used alternative methods, such as past FCAT scores and grades in other core classes, to contact the students expected to benefit from summer tutoring.

Florida's Department of Education will not lower FCAT standards, and the recalculation of the 2006 third-grade reading FCAT scores will depend on the findings of the independent expert review team. The team will ultimately be responsible for analyzing the results and providing feedback regarding the situation, according to the state Department of Education.

"The FCAT is here to stay," McCalister said. "It is a valid instrument for accountability to the community and the general public. The testing is needed, and it will remain."

Jillian Metz (jmetz@gmail.com) writes from Florida.

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The
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Denver

Continued from page 1

positions, both in challenging schools and in difficult-to-fill specialties, have grown since the introduction of bonuses in the 2005-06 school year. Denver's Professional Compensation System (ProComp) awards 3 percent of the negotiated salary index (\$34,200 in 2006-07) for teachers who serve in the most impoverished schools or who specialize in high-demand fields.

Teachers at 34 Denver schools qualified to receive an additional \$1,026 each in 2006-07. Specialists in seven different job descriptions—including school nurses, speech pathologists, and special education instructors—received the same bonus amount.

Noticeable Impact

Total applications for difficult-to-serve schools have more than doubled, from nine per posted position in 2005-06 to nearly 20 per posted position in 2007-08. Similarly, the ratio of applications for difficult-to-staff assignments has increased from less than three per posted position in 2005-06 to more than eight per posted position in 2007-08.

"The bonus has an impact that's noticeable," said Henry Roman, a teacher on special assignment and ProComp's liaison to the human resources department. He said two more years of data will be

needed to confirm the trend.

An expert observer of teacher performance-pay programs also sees the increases as a positive development.

"It is encouraging that ProComp's market incentives evidently are helping lead teachers to where they are most badly needed," said Robert Holland, a senior fellow for education policy at The Heartland Institute. "Perhaps this trend will eventually lead to big increases in student achievement."

"The incentives in Denver's new performance pay plan appear to have piqued the interest of teachers, according to new data released by the school district in June."

Increased Interest

While successful applicants are required to be "highly qualified" under the terms of the federal No Child Left Behind Act, data were not available at press time on the number of applicants who fit the criteria.

However, Roman said the increased interest adds to the likelihood of principals finding enough candidates with the right credentials for their schools.

"Certainly it's nice to be able to post a position and have extra dollars attached

to it," Roman said. "It increases their pools of applicants."

'Results-Based' Pay

The Market Incentives—one of ProComp's four components of teacher pay rewards, specifically reserved as bonuses for difficult-to-serve schools and difficult-to-staff positions—represent one means by which participating instructors can build their earnings. Others include Student Growth, Knowledge and Skills, and Professional Evaluations.

School and union leaders classify ProComp as "results-based" pay. In November 2005 Denver voters approved a \$25 million-a-year tax increase to provide sustainable funds for the program.

Holland believes ProComp's reform could have been more ambitious.

"A stronger merit-pay system would weight objectively measured gains in achievement more heavily in determining performance bonuses, but Denver has taken a step in the right direction," Holland said.

Growing Participation

In all, the earnings of 42 percent of the district's teachers will be paid under terms of ProComp in 2007-08. All teachers hired starting in 2006, representing about 13.5 percent of the professional workforce, receive results-based compensation. During the first three annual opt-in windows, 1,238 full-time equivalent veteran instructors have joined the

new pay program.

"Teachers are starting to feel more comfortable with the process," Roman said. "As this starts becoming more mainstream, we'll keep getting that constant group of teachers opting into ProComp."

Denver is upgrading its technological capabilities to make it easier for participating teachers to set student growth objectives, to complete professional development projects, and to succeed at evaluations. All three elements can generate permanent salary increases under ProComp.

"I think all of that is going to benefit the overall system," said Roman.

Ben DeGrow (ben@i2i.org) is a policy analyst for the Independence Institute, a free-market think tank in Golden, Colorado.



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Schools Spend All They Can Get, Study Shows

By Karla Dial

In conducting a study to determine whether consolidating school districts would save Michigan taxpayers money, a researcher found evidence showing school officials spend as much money as they can.

While that didn't surprise Andrew Coulson, director of the Cato Institute's Center for Educational Freedom and author of the study, released in May, he was surprised how much that factor affects education spending.

To control for other variables in his study, "School District Consolidation, Size and Spending: an Evaluation," in order to isolate whether consolidation saves money, Coulson compared two theories on how public officials spend it.

"One was that if there's a lot of demand, they spend more, and if there's not, they spend less," otherwise known as the benevolence theory, Coulson explained. A competing theory from economics—public choice theory—says when public officials make a decision, they consult their own interests, just like a shopper would.

"What do public officials do if they're looking out for their own interests? They spend more money, because the bigger the budget you control, the more power you have," Coulson said.

Powerful Predictor

Coulson said the study showed public choice theory is 15 times more powerful as a predictor of spending than the benevolence theory.

"I thought the public choice model would explain more, but that it's 15 times more powerful as a predictor, it just blows me away," Coulson said. "It is the single most powerful indicator of how much they are spending. So that's by far the most powerful variable."

"If I wasn't already convinced that there are serious problems with the design of our public school model, this would do it," Coulson said.

Robert Enlow, executive director of the Milton and Rose D. Friedman Foundation, a national school choice advocacy group based in Indianapolis, agreed.

"It's common sense that school districts spend as much as they get, if not more," Enlow said. "We all know that, but I've never seen it proved like this before. It seems this study does a good job of evidencing that."

Systemic Problems

Michigan taxpayers spend \$19 billion annually on public education, said Ryan Olson, an education policy analyst at the Mackinac Center for Public Policy in Midland. And though per-pupil spending has doubled over the past 30 years, even after

adjusting for inflation, students' performance has stagnated or worsened.

"This study shows that Michigan policymakers would do well to pay attention to the finding that school officials spend as much as they're allocated," Olson said. "Spending more money just doesn't work. We should look at incentive reforms, providing more parental choice in the state."

"What do public officials do if they're looking out for their own interests? They spend more money, because the bigger the budget you control, the more power you have."

ANDREW COULSON, DIRECTOR
CENTER FOR EDUCATIONAL FREEDOM
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Possible Savings

Olson noted other ways school districts can stretch funding.

"Andrew [Coulson] spoke in the study about introducing a meaningful incentive structure, but schools in Michigan are finding they can work within the system to produce savings," Olson said, citing ideas such as "competitive contracting for janitorial and food services, and competitive bidding on health insurance."

Olson said a Mackinac Center survey of Michigan school districts in 2006 showed 38 percent bid out transportation, food, and janitorial services.

"Many are realizing significant savings," Olson said. "One contracted for janitorial and busing services and is saving about \$408 per pupil per year. What superintendent of a school board would turn down a \$408 [per child] funding increase?"

Better Methods

Coulson called his discovery "an utterly

INTERNET INFO

"School District Consolidation, Size and Spending: an Evaluation," written by Andrew Coulson and published on May 23, 2007 by the Mackinac Center for Public Policy, is available through PolicyBot™, The Heartland Institute's free online research database. Point your Web browser to <http://www.policybot.org> and search for document #21561.



damning finding for the system."

"It means there's nothing you can do to increase the efficiency of the system that will have an impact unless you change the incentives by injecting competition and school choice," Coulson explained. "If we don't do that, spending will continue to go up, and shuffling districts around won't make a dent in that."

As for his intended subject, school district consolidation in Michigan, Coulson found taxpayers would save more money

by breaking large districts into the optimal size of 2,900 students rather than consolidating small districts. But the savings would not be worth the trouble of completely redrawing district lines statewide, he said.

Coulson plans to release a national study on his findings later this year.

Karla Dial (dial@heartland.org) is managing editor of School Reform News.

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Iowa

Continued from page 1

The tax credit expansion passed one year after the initial program was created, as supporters observed contributions had reached capacity.

"We already had evidence that STOs had formed, that they'd covered the state, and they had exhausted their first round of charitable tax credits," said Sen. Rob Hogg (D-Cedar Rapids). "We knew the willingness to contribute and the demand was there."

More Opportunities

Trish Wilger, executive director of the Iowa Alliance for Choice in Education (ACE), is pleased to see her organization's advocacy for nonpublic education options pay off during its first two years.

"It's a great affirmation that the work we do is needed and wanted," Wilger said. "Educational opportunities for not only low-income families, but also middle-income families, will become more available. We are glad to see school choice is expanding to reach a much larger number of citizens."

Iowa ACE works to remove finan-

cial barriers that prevent low-income parents from sending their children to nonpublic schools—including Catholic and other Christian schools. The group helped draft the original tax credit legislation and works to coordinate the program's implementation at the grassroots level.

"We already had evidence that [school tuition organizations] had formed, that they'd covered the state, and they had exhausted their first round of charitable tax credits. We knew the willingness to contribute and the demand was there."

ROB HOGG
STATE SENATOR
CEDAR RAPIDS, IOWA

After outgoing Gov. Tom Vilsack (D) signed the STO Tax Credit into law on June 2, 2006, nine organizations had to work quickly to collect the \$2.5 million

in allotted tax credits for the remaining calendar year. Only one STO was able to help even a handful of students with tuition scholarships for the 2006-07 school year, Wilger said.

Bipartisan Support

Like Culver and Vilsack, Iowa's current legislative majorities of 30-20 in the Senate and 53-47 in the House are Democrats. Wilger said support for education options outside the government system is strong on both sides of the aisle in her state.

"It's definitely a bipartisan issue in Iowa," Wilger said. "A lot of nonpublic schools are important to the rural areas and smaller communities. A large number of our legislators also attended nonpublic schools themselves."

Hogg agreed.

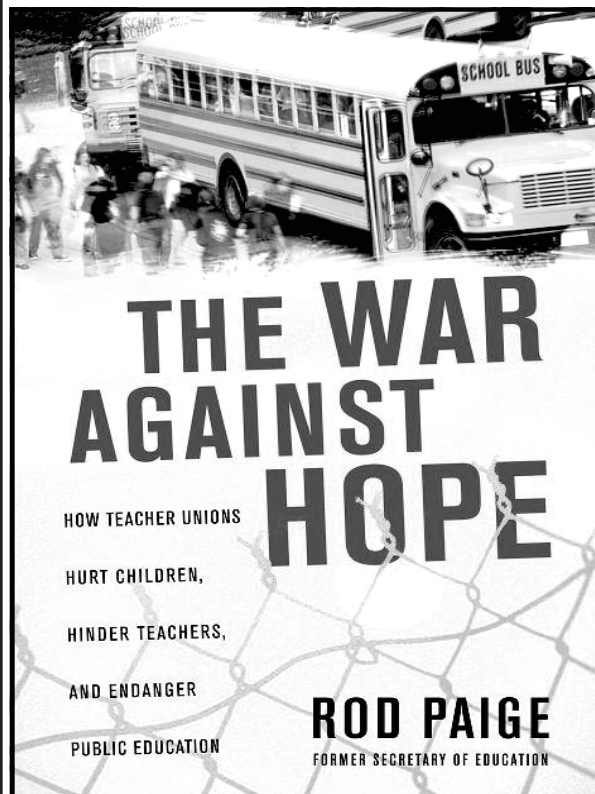
"There are some party differences, but what you see is that while we need to meet our obligation to public schools, that isn't exclusive of our support for private schools," Hogg said. The Cedar Rapids lawmaker believes the recent tax credit expansion is closer to meeting public demand, but further expansion could be coming in 2008.

"I think next year we're going to take a serious look at stepping it up to \$10 million," Hogg said.



Iowa Gov. Chet Culver signed a bill giving school tuition organizations \$2.5 million more in funding for 2008.

Ben DeGrow (ben@i2i.org) is a policy analyst for the Independence Institute, a free-market think tank in Golden, Colorado.



Strength in Unity?

Former U.S. Secretary of Education Rod Paige is no stranger to controversy when it comes to his beliefs about teachers' unions. In 2004, for example, he was criticized widely for labeling the National Education Association a "terrorist organization" because of its opposition to provisions of the federal No Child Left Behind Act; he later apologized for his choice of words. In his new book, **The War Against Hope**, he elaborates on what he sees as the dangerous hold unions have on schooling, and calls on the public—parents, school boards, and local businesses—to regain its control of public education.

"Until we as a nation face up to [teachers' union bosses'] systematic efforts to thwart meaningful change, all the billions of dollars, millions of man hours, and immense political capital spent on public education reform will be—to borrow from Shakespeare—"but a tale told by an idiot, full of sound and fury, signifying nothing."

From **The War Against Hope: How Teachers' Unions Hurt Children, Hinder Teachers, and Endanger Public Education**, by Rod Paige (*Thomas Nelson, www.thomasnelson.com*; 336 pp., \$25.99 hardback). Reprinted with permission.

Race

Continued from page 1



Lee Walker, president of The New Coalition for Economic and Social Change, said racially diverse classrooms do not necessarily improve education for minority students.

and reach the ideal where we don't distribute education based on somebody's race."

Old Problem

The Supreme Court responded to situations in Louisville, Kentucky and Seattle,

Washington, where students could be turned away from their school of choice if administrators thought their race would rock the balance the school sought.

The ruling centered on the constitutionality of using race quotas in school assignment processes. It also questioned the effects forcibly diverse classrooms have on children.

Lee Walker, president of The New Coalition for Economic and Social Change, a Chicago-based nonprofit organization devoted to advancing conservative multiculturalism, said racially diverse classrooms do not necessarily improve education.

"There's nothing magic about black kids sitting next to white kids," Walker said.

Research shows diverse classrooms do not boost achievement, noted John R. Munich, a St. Louis-based lawyer who filed a legal brief in the case on behalf of three prominent social scientists, Dr. John Murphy, Dr. Christine H. Rossell, and Dr. Herbert J. Walberg. Walberg is chairman of The Heartland Institute's board of directors.

Munich said the effects of forced integration on learning are neutral at best and detrimental at worst.

He filed his brief to give the court insight into the vast literature and research regarding the effects of forced diversity on education.

Nothing New

The crucial decision took a second glance at other rulings dating back to the 1960s and has freshly placed the spotlight on affirmative action in primary and secondary schools.

But beyond that, it's not anything new, said Walker. He said the decision merely upholds a standard that's been in place for about 50 years.

"I don't know why folks were surprised," Walker said.

The ruling isn't contrary to the 1954 *Brown v. Board of Education* decision, which held schools could not segregate on the basis of race, Munich agreed.

Brown also involved courts in race issues, launching a long series of subsequent cases, Munich noted.

"Making decisions based on kids' race is wrong no matter what and no matter when," Munich said.

Right Step

The Court's decision is constitutionally sound, McCluskey said. Nevertheless, so long as tax dollars fund public schools and the government decides which schools children attend, the education system cannot be truly just, he added.

"The only way to have real, complete freedom and justice within the education system is to give the parents money and let them choose the schools they want,"

McCluskey said, adding they should be able to choose whether to send their children to public schools or private schools or homeschool them.

In the long run, the wisest course of action may be for schools to focus on their program offerings, not children's race, Munich said. Schools should hunt for programs with a track record or strategy of improved achievement, he said.

Walker agreed.

"The bottom line here," Walker said, "is public policy issues should always be thought of in terms of freedom and liberty."

Jillian Melchior (jmelchior@hillsdale.edu) writes from Washington, DC.

INTERNET INFO

The full text of the U.S. Supreme Court's June decision in *Parents Involved in Community Schools v. Seattle School District Number One* is available through PolicyBot™, The Heartland Institute's free online research database. Point your Web browser to <http://www.policybot.org> and search for document #21773.

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The Educational Morass

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Arizona Voucher Programs Survive Challenge

By Aricka Flowers

On June 13, Maricopa County Superior Court Judge Bethany Hicks ruled Arizona's voucher programs for foster children and special-needs students are constitutional. The decision comes one year after the tuition scholarship programs were signed into law by Gov. Janet Napolitano (D).

Because most school choice legislation is challenged in court, proponents are hailing the decision as proof that vouchers and similar programs are legally sound.

"The Arizona courts have consistently ruled that voucher programs, tax credits, and tax-deductible donations to scholarship-granting organizations are constitutional, fair, and benefit students," said Andrew Campanella, spokesperson for the Alliance for School Choice, a Washington DC-based advocacy organization. "People can appeal all they want—but the programs are not only constitutional but also the right thing to do."

Earlier this year, the Arizona supreme court rejected the first legal challenge to the vouchers. In February—about one month after the state supreme court's decision—several groups, including People for the American Way (PFAW), Arizona Education Association, and ACLU Foundation of Arizona, filed a second challenge.

'Inhumane' Effort

Formerly called The Displaced Pupils Choice Grant Program and Arizona Scholarships for Pupils with Disabilities Program, the legislation serves the state's most vulnerable students. The Displaced Pupils program is open to any child who was placed in foster care at any time before graduating high school or earning a general equivalency diploma. The scholarship covers the price of tuition and fees, with a cap of \$5,000.

The program for students with special needs is open to any disabled child who



Arizona Gov. Janet Napolitano, who last year signed a tuition scholarship law that was recently upheld in court, is shown here at the annual Pack to School campaign event, where more than 30 state agencies donated school supplies.

has been issued an Individualized Education Program by the state and attended a public school during the previous school year. The amount of financial assistance is based on the amount of money a public school would have received to educate the child.

Clark Neily, a senior attorney at the Institute for Justice, a Virginia-based libertarian public interest law firm, represented six families in the Arizona case. He said the fight against school choice legislation designed for special-needs students and foster children is unprecedented.

"In nearly 20 years, this is the first time we have ever seen school choice opponents challenge a program specifically designed for children with special needs," Neily said. "Their willingness to force those kids back into public schools that were systematically failing them is cynical, inhumane, and smacks of desperation."

"School choice is the wave of the future, and their desperate attempts to block the schoolhouse doors to keep children

trapped inside recalls a time when other people stood in schoolhouse doors to keep kids trapped outside," Neily continued. "Those people were on the wrong side of history then, and school choice opponents are on the wrong side of history now."

Settled Issue

Neily said voucher opponents plan to appeal the latest decision by Hicks. In a November 2006 news release, PFAW Vice President Elliot Mincberg said religion is a key reason they oppose the scholarships.

"This voucher scheme thumbs its nose at the separation of church and state," Mincberg wrote in the statement. "The Arizona Constitution is very clear that taxpayer money shouldn't fund religious instruction or private schools."

But Campanella said the issue of religion and vouchers was addressed in 2002 in *Zelman v. Simmons-Harris*, when the U.S. Supreme Court deemed an Ohio voucher program constitutional.

"In the *Zelman* case, the U.S. Supreme

Court said that vouchers are constitutional as long as the program does not prohibit parents from choosing a religious school," Campanella explained.

"Money is not being funneled from public schools," Campanella continued. "It is being put in the hands of the parents and allows them to use it however they want for their child's education. The money is being given to the parents, not the private institutions."

"On June 13, Maricopa County Superior Court Judge Bethany Hicks ruled Arizona's voucher programs for foster children and special-needs students are constitutional."

United Front

For now, the Arizona scholarship programs remain available for the upcoming school year. Although their future may be uncertain, Campanella said the latest decision in Arizona is positive for voucher programs all over the country.

"The constitutionality of the vouchers has been affirmed," Campanella said. "It's unfortunate that these lawsuits continue to be filed, especially when special-needs students and foster children are being used to make some political point."

"We have to come together as a nation to say 'this issue matters.' We have to stand up and say parents should have the choice in deciding where and how their child is educated," Campanella said.

Aricka Flowers (atflowers@hotmail.com) writes from Chicago.

Choice Schools Teach Civic Values Better than Traditional Public Schools

By Neal McCluskey

Many Americans believe public schooling is essential not only for teaching core subjects such as reading and math, but also for imparting civic values such as patriotism and respect for the rights of others. According to a recent report, that belief is unfounded.

In the Summer 2007 issue of the jour-

nal *Education Next*, University of Arkansas professor Patrick J. Wolf analyzed 21 studies comparing how effectively traditional public schools and schools of choice inculcate civic values and knowledge.

Wolf found private and charter schools more effectively impart civic knowledge and values than traditional pub-

lic schools, with the latter coming out ahead only in non-rigorous assessments of patriotism. In all other areas, most studies showed either no difference or an advantage for schools of choice.

At a minimum, to be included in Wolf's analysis, studies had to be quantitative and adjust for "observable" differences in student populations. To classify as

"rigorous," studies also had to adjust for "selection bias," or people's tendency to sort themselves into schools according to unobservable factors.

Consistent Results

In addition to conducting the analysis using all schools of choice, Wolf repeated it without including Roman Catholic institutions.

"Several prominent scholars have claimed that Catholic schooling may be largely responsible for the generally positive school choice effects on civic values," Wolf explained.

CONTINUED on right

School Choice Expands in Nebraska

Earlier segregation concerns addressed

By Ben DeGrow

In late May, Nebraska lawmakers expanded parents' education options within a new, more equalized funding structure, while fixing a law that some critics said segregated schools.

By signing Legislative Bill 641 on May 24, Gov. Dave Heineman (R) rescinded part of a 2006 statute (LB 1024) that generated controversy by splitting Omaha Public Schools (OPS) into three districts. LB 1024 was designed to split the district into smaller pieces to provide services more effectively.

However, the Omaha branch of the National Association for the Advancement of Colored People (NAACP) filed a lawsuit against the state in 2006 after LB 1024 passed, saying each of the three districts would be racially distinct. The state legislature revisited the issue and satisfied the complaint by passing LB 641 this year.

"[The lawsuit] put the pressure from this community on them to make them look at it," said branch president Tommie Wilson. "We have established the fact that separate is not equal, due to *Brown v. Board of Education*. The way it was divided into all-white, all-black, all-Latino would not work."

Original Goal

Senate Education Committee Chairman Sen. Ron Raikes (Lincoln), who sponsored both bills, disagreed.

"You wouldn't have to divide it that way," Raikes said. "The idea was to provide educational opportunity to kids, regardless of where they lived."

Raikes said LB 1024's centerpiece was the creation of a Learning Community to coordinate education services for students in the Omaha metropolitan area's 11 school districts. Under the arrangement, the districts would share most of the property tax base—despite a wide range in average property valuation per student.

But Wilson said the original proposal would have left blacks and poor whites in the more impoverished neighborhoods of north Omaha with less funding.

"It was not going to be equal," Wilson said.

More Choice

LB 641 did not affect plans for the Learning Community, oversight for which will be provided by a coordinating council of six appointed metro school board members and 12 other citizens elected at large.

"It involves a formal structure in which

school districts not only compete with each other but also, in important ways, they cooperate," Raikes said.

In addition, Raikes said, the bill increases students' opportunities to cross district boundaries to attend public schools of choice. Eligible to receive joint funding from across the attendance area, "focus schools" will highlight special curricula and promote racial diversity on campus. As an expansion of opportunity for open enrollment, student transfers will be voluntary.

"In late May, Nebraska lawmakers expanded parental options within a new, more equalized funding structure, while fixing a law that some critics said segregated schools."

"There's nothing here that requires assignment based on race," Raikes said.

While Wilson cited these opportunities as improvements, she noted the focus schools' capacity is limited. She also anticipates issues with inadequate transportation for children from poorer

neighborhoods, but said the local NAACP is looking for ways to help families who make that choice.

'Innovative Effort'

LB 641 also provides for the creation of Learning Centers that can be operated by private, nonprofit groups through a public contract to provide after-school and summer programs to at-risk elementary students. By law, there must be at least one center for every 25 elementary schools, with at least 35 percent of the student population classified as eligible for free or reduced-price lunch.

"This is a far-reaching and innovative effort to address metropolitan area issues regarding educational opportunity and achievement of particularly at-risk kids, but more generally all kids," said Raikes.

Wilson said she has been disheartened to see conditions where many black teens lose hope and drop out of high school, and those who gain knowledge and skills "leave town." But she also believes "things are going to change."

For now, the local NAACP president is glad to see her city will not be setting another precedent for others nationwide.

"We didn't want anyone to say that [segregation] works in Omaha," Wilson said.

Ben DeGrow (ben@i2i.org) is a policy analyst for the Independence Institute, a free-market think tank in Golden, Colorado.

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After removing Catholic schools, Wolf found schools of choice did not do as well on political tolerance and voluntarism as when they were included, but a strong choice advantage remained.

Wolf noted several possible explanations for the choice advantage, including that chosen schools might have stronger communities than traditional public schools, and that private school teachers might be freer to teach values than their public school counterparts. The causal factors have yet to be studied.

"No direct evidence yet exists regarding the specific conditions or practices of choice schools relative to traditional public schools that would explain this pattern of results," Wolf wrote.

Myth Dispelled

Dan Lips, an education analyst at The Heritage Foundation, a free-market research group in Washington, DC, said the findings undermine the notion that public schools are essential to democracy and provide another reason policymakers should support school choice.



"Dispelling this myth that the current public school system is the bedrock of our democracy should help more policymakers recognize why they should support expanding parental choice," Lips said.

Ed Schwartz, president of the Philadelphia-based Institute for the Study of Civic Values, was not as positive, asserting the report set up a "straw man."

"I don't think I've ever heard anyone

argue that a non-public school couldn't teach democratic values," Schwartz said. He added, though, that "the arena for change is the public school system."

Regardless of how people use his report, Wolf said he plans to continue his civic values research.

"The really interesting question is the why and how," Wolf said. "We can only speculate about that at this point,

"[University of Arkansas professor Patrick J.] Wolf found private and charter schools more effectively impart civic knowledge and values than traditional public schools ..."

but I'm hoping eventually to be able to identify civic training best practices that schools of choice are using to enhance the citizenship training of their students."

Neal McCluskey (nmcccluskey@cato.org) is a policy analyst at the Cato Institute's Center for Educational Freedom.

INTERNET INFO

"Schools of Choice Boost Civic Values," by Patrick Wolf, *Education Next*, May 14, 2007: <http://www.hoover.org/publications/ednext/7460537.html>

South Carolina Creates Statewide Internet-Based Learning Program

By Jim Waters

Virtual learning just makes sense, says Robb Streeter, principal of South Carolina's Cross High School.

"We shop online, bank online, do everything else online, so why not go to school online?" Streeter said.

Streeter is just one of many people across the state praising a new law signed by Gov. Mark Sanford (R) on May 17 creating the South Carolina Virtual School Program as an occasion for more students—especially higher-performing ones—to access academic courses their schools are unable to provide.

Detractors see it as a "camel's nose under the tent" effort by a governor who has worked tirelessly to expand school choice in the state, which currently offers parents very few options.

Some legislators voted against the bill because they oppose school choice, even though homeschooled and privately educated students who enroll in the online courses will likely be required to pay for the curriculum materials that public



South Carolina Gov. Mark Sanford has been vocal in his support for school choice options, including the South Carolina Virtual School Program.

school participants will receive for free. South Carolina education officials say they are still working out some of the

details, including any additional fees charged nonpublic school students.

Right Direction

"When the debate turned into a school choice debate, those who were opposed to school choice said 'no' and tried to turn it into an 'us-versus-them' situation," said Denver Merrill, communications director for South Carolinians for Responsible Government, a free-market group based in Columbia. "Thankfully, there are a number of common-sense legislators who were willing to fight for this because it offers learning opportunities for more kids."

The law appropriates \$3.6 million to put the program into effect this school year but limits participation to 3,000 students per semester—not much of an increase from the 1,921 students from 11 school districts who participated in a pilot program that began on a limited basis last summer.

Still, supporters say it's a positive development, especially for children in rural communities and those in the "low country" along the coast.

"It's certainly not a massive program, but it was a step in the right direction," Merrill said. "The more options, the better."

Technological Divide?

Streeter, whose rural school has 430

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students in grades seven through 12, agreed. He expects the program particularly to benefit children who already are "focused and motivated."

"Those who are in what we call 'credit recovery'—who are struggling—this probably will help them much less," Streeter said. "They will need more interaction."

As a result, some school choice advocates say the program represents another "top-down" solution by the education bureaucracy that widens the academic and technological divide between lower-income minority children and computer-savvy white children in middle- or upper-income districts. They say more choice among schools is the answer.

"The parents who have no choices are not the parents who are capitalizing on this kind of a top-down program, which is what this virtual school project represents," said Neil Mellen, research director for the South Carolina Policy Council, a think tank in Columbia.

"The best way to facilitate instruction is choice," Mellen continued. "Give our underserved kids the same opportunity that upper- and middle-class districts have, who can attend public or private schools—whichever ones have computers and best fit their needs."

"[South Carolinians are] praising a new law signed by Gov. Mark Sanford on May 17 creating the South Carolina Virtual School Program as an occasion for more students ... to access academic courses their schools are unable to provide."

Parental Responsibility

Leaders of South Carolina's homeschooling community offered only a tepid endorsement.

Gale Farrier, a board member of the South Carolina Home Educators Association, is concerned some homeschooling parents will view virtual products created and offered by the public school system as a substitute for parental involvement rather than an instructional aid.

"When you're taking an online public school course, you're turning over your responsibilities as a parent to the public schools," Farrier said.

While she acknowledges "it's a good thing" for parents teaching advanced

"More than 40 percent of participants in Florida's advanced placement online courses are minority students."

courses to high school students who may need help, Farrier said, "there are a number of online, virtual, for-profit schools where you can get the same things without turning over your child's education to the public schools."

However, the cost of some of those products may be prohibitive—especially for parents who already sacrifice one full-time income to homeschool their children while still paying taxes to support the public education system they don't use. Convergemag.com, which covers technology issues in education, reports U.S.-based online tutoring services charge an average of \$40 per session if done electronically and \$100 for face-to-face sessions.

Virtual Growth

According to the Southern Regional Education Board, homeschoolers make up 20 percent of students participating in Florida's virtual school, which began in 1996 as the nation's first public virtual school.

It's also the largest program of its kind. Participation in the Sunshine State's virtual school, which offers courses for students in grades six through 12, grew by more than 63 percent in the past year alone—from more than 33,000 students during the 2005-06 school year to around 54,000 last year.

According to Florida's virtual school officials, the program is defying the concerns of critics who anticipated a lack of participation by low-income and minority students. More than 40 percent of participants in Florida's advanced placement online courses are minority students.

Other states' efforts also address the digital divide. Michigan now requires all students to take "one online learning course" or participate in at least one "online learning experience" in order to receive their high school diplomas. The law took effect in April, and its impact on low-income children remains unknown.

It is estimated more than 700,000 students in K-12 are enrolled in online courses nationwide, and 24 states offer state-led virtual learning programs.

Jim Waters (jwaters@bipps.org) is director of policy and communications at the Bluegrass Institute for Public Policy Solutions in Bowling Green, Kentucky.

Author Seeks to Radicalize Adult Education Programs

**Teaching Defiance:
Stories and Strategies
for Activist Educators**
Michael Newman
San Francisco:
Jossey-Bass, 2006
305 pages, hardcover,
ISBN 0-7878-8556-2; \$35

Review by Michael Coulter

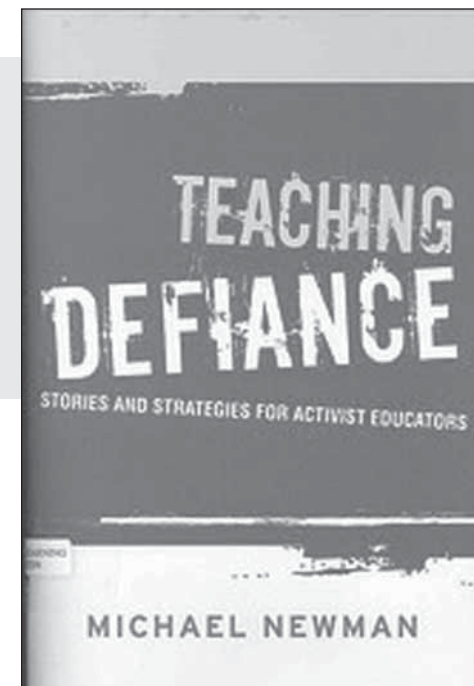
This is a book that seeks to transform adult education—all those courses aiming either to train (computer courses, language skills, etc.) or entertain (e.g., art classes) working adults.

Author Michael Newman has toiled in adult education programs in his native Australia and England for the past few decades. But his influence is not limited to those countries—he has twice won an award for outstanding literature in adult education from the American Association for Adult and Continuing Education.

"[Author Michael] Newman, it appears, would prefer adult education programs to dispense with transmitting 'bourgeois' skills and just make people progressive activists."

Newman does not want adult education programs to teach primarily content, such as computer skills, or craftsmanship, such as learning to practice an art. Those things can be taught, he says, but the teaching must be infused with the aim of turning the "learner" into one who practices "defiance."

Newman, it appears, would prefer adult education programs to dispense with transmitting "bourgeois" skills and just make people progressive activists. He reveals his own activist leanings on the cover page, where he notes the book was "written in war-



time" and irrelevantly laments that there has not been more of an outcry against the war in Iraq.

Potential Harm

Newman suggests teachers should inspire rebelliousness and encourage defiance. He recommends discussing stories and using role-playing in order to change students into social agents.

It's unlikely Newman's manifesto will lead to great change in adult education. Unlike college education, adult education is strongly market-driven. People are most likely to choose courses that directly benefit them either by giving them a skill or bringing them pleasure.

Adults are unlikely to pay to be indoctrinated or goaded into becoming political activists.

The great problem with this book is that it could be used in college education courses to convince future elementary and secondary school teachers it is their job to turn young people into political activists. This would be a great distraction for aspiring teachers, and potentially harmful to a young educator's career.

Fortunately, Newman's model of an "activist educator" will not last in a world of standards and test-driven accountability.

Michael Coulter (mccoulter@gcc.edu) writes from Pennsylvania.

What Can We Learn from the Universal Voucher Law in Utah?

By Nathan Gray, Brent Riffel, and Brian Kisida

Finally, the nation has a universal voucher plan that will answer all the difficult questions about school choice—or will it?

With the passage of the first such voucher plan in Utah, school choice advocates have been quick to praise it, and researchers are waiting with bated breath to calculate its effects.

However, it's important to determine exactly what this program can tell us—and more importantly, what it won't tell us. The ideological debate has largely been settled, yet several research questions remain in terms of vouchers' effects on public schools, racial and class segregation, and whether a universal voucher system such as Utah's will transform K-12 education.

"[G]iven the state's demography and the nature of the plan, it may be difficult to generalize any findings beyond Utah."

Limited Information

Other countries have employed such programs for years. A 2004 study of voucher programs, conducted by Alberto Arenas, evaluated plans in Colombia and Chile. Unfortunately, the Colombian voucher system is a targeted plan that gives vouchers only to poor students.

The Chilean system, on the other hand, is universal. It forces every student to choose a school—making it even more universal than Utah's plan. But as the authors note, their research offers only a "tentative set of guidelines based on inferences" and thus hardly constitutes a template for how vouchers can be effectively implemented.

Such studies offer few insights into what results we can expect to find if Utah's voucher law survives the political and constitutional challenges currently pending against it. The state's unique demographics and the provisions of the proposed plan will make it difficult to draw many firm conclusions from past research or studies conducted abroad.

Unique Plan

If implemented, Utah's voucher plan will be wholly unique. For one, the plan is universal only in regard to opportunity,



Utah students young and old carried placards supporting school choice at a May 15 rally.

since it doesn't force families to make a choice, as Chile's plan does. Families can continue to attend their assigned school as if the voucher program didn't exist.

The Utah plan also has graduated voucher amounts, ranging from \$500 for the wealthiest individuals to \$3,000 for the most disadvantaged. Vouchers are available only for use in private schools, so only children of families interested in private school, dismayed enough with their current public school, and financially secure enough to make up any difference between the voucher and tuition costs, will use it.

This scenario by no means describes a market-based K-12 education system.

Public Schools' Quality

Martin Carnoy's 1998 study of Sweden and Chile's national voucher programs analyzed the effects they had on traditional public schools. In Sweden, the

research suggests, the voucher program "hardly touched public education," because public schools are generally held in high regard. In Chile, however, private schools were deemed to be better than public schools, and vouchers caused a "flight from public education."

Carnoy found the effects of vouchers depend on the public's perceptions of traditional public schools. Public schools in Utah are generally held in high regard, and it appears likely that few Utahns would flee the public school system. Hence, if Carnoy's findings are credible, it may be difficult for researchers to ascertain vouchers' possible effects on public schools elsewhere.

As to whether a universal voucher program would lead to stratification among classes and races, Arenas' Chilean study found racial segregation increased after the program was instituted. This finding may not be applied to Utah easily, how-

ever, because it's a highly homogeneous state. Ninety-four percent of Utahns are white, with a majority of the population practicing Mormonism.

The homogeneity of the state will limit researchers' ability to determine the degree of stratification stemming from vouchers. Any class stratification has likely already taken place, as families essentially choose their schools when they choose their residences.

Choice Conclusions

The success of any program depends on its ultimate goal. If the goal of the voucher program is simply to provide families with an opportunity to choose a private school, then the Utah plan will certainly shed light on who chooses to take a voucher. Researchers will be able to classify users and non-users and evaluate characteristics of those families.

However, if the voucher amount is too low, then results from studies may be clouded, because the amount limits who chooses. Researchers who want to judge the program's effect as a catalyst for a market-based K-12 education system will likely be disappointed, since this program will tell us only who chooses based on a set of variables wholly unique to Utah and this plan.

Advocates have been eager to praise the Utah voucher law, and it's certainly a step in introducing school choice. However, given the state's demography and the nature of the plan, it may be difficult to generalize any findings beyond Utah.

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INTERNET INFO

Two studies cited in this article are available through *PolicyBot™*, The Heartland Institute's free online research database. Point your Web browser to <http://www.policybot.org> and search for the document numbers indicated below.

"Privatization and Vouchers in Colombia and Chile" by Alberto Arenas, 2004, document #21766

"National Voucher Plans in Chile and Sweden: Did Privatization Reforms Make for Better Education?" by Martin Carnoy, 1998, document #21767.

photo credit: Kathy Tenney

Vouchers Subsidize Kids, Parents, Not Schools



More than 1,200 students, parents, and teachers rallied in favor of school choice at the Utah State Capitol in Salt Lake City on May 15.

By Paul T. Mero

I live in a white-bread, middle-income, predominantly Mormon suburb of Salt Lake City.

One of my neighbors is another Mormon Stepford-clone like me. We are the same socioeconomic creature. We go to church together, our families hang out together, we're guided by the same values, and there is very little on which we disagree. Except when it comes to school vouchers—he hates them; I love them.

My neighbor has six children, and all of them have attended public schools. I have six children and all of them have been homeschooled.

All 12 of them are fairly indistinguishable, except that some of them walk with a public school limp and some with a homeschool limp (and, of course, mine play basketball better).

This introduction is important and relevant because the November referendum on school vouchers will be decided by our particular brand of citizen-species—white, fairly well-to-do Mormons who vote. Like it or not, we are the swing vote.

Better Neighbor?

Clearly, my neighbor has been extremely pleased with his local public school. He has the means to send his children to private schools, but he and his wife have consciously chosen to use public schools. He honestly believes he is the better citizen for having his children attend public school.

My neighbor hates school vouchers

because he does not believe that taxpayers should subsidize families choosing to send their children to private schools. He often says, "Utah families already have school choice. They can send their kids to public, private, or homeschools. Why should I pay for the personal choices of families to send their children to private schools?"

To which I respond that my wife and I pay large amounts of state income taxes each year to subsidize the education of neighbor children even though we homeschool our own.

"[T]he November referendum on school vouchers [in Utah] will be decided by ... white, fairly well-to-do Mormons who vote. Like it or not, we are the swing vote."

"Yes, but that's your choice," he replies. Well, no, that's not my choice alone. By law my taxes go to support public education, not homeschools. When you think about it, neighbor, my wife and I are actually the better education citizens—we don't burden taxpayers with our children's education, and we willingly pay for the public education of children in other families.

"Fine. But I don't think that we should subsidize private school educa-

tion," he retorts. But it's OK to subsidize public school education? "That's different!" How? "We have an obligation to give every child a good education. And, besides, paying for public education is not a subsidy."

[M]y family has saved taxpayers \$360,000 and has benefited the public school system by another \$100,000 in taxes.

Better for Citizens

Well, my friend, it is a subsidy, no different than what a school voucher would provide. Your six children, combined, cost taxpayers \$360,000 to attend public school an average of 12 years.

While you make very good money, your state tax liability is about \$5,000 per year. Over 20 years, the lifespan of

your family's public school years, that's about \$100,000. So your neighbors have subsidized your six children's public education to the tune of \$260,000.

By contrast, my family has saved taxpayers \$360,000 and has benefited the public school system by another \$100,000 in taxes. We agree that we want every child to receive a good education. That's why I support school vouchers: If we are going to subsidize every child's education anyway, then why not let parents choose what is best for their own children?

What's the difference as long as it makes Utah's families happy, empowered, and involved in the education of their children, especially struggling and impoverished ones? That's the attitude of a good citizen.

Paul T. Mero (pmero@sutherlandinstitute.org) is president of the Sutherland Institute, a conservative public policy think tank in Salt Lake City. This op-ed originally ran in The Salt Lake Tribune on July 15.

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ANALYSIS

Lottery Money Hurts School Funding

North Carolina court battle challenges constitutionality

By Richard G. Neal

Prior to the adoption of the North Carolina state-run lottery in 2005 by a controversial, razor-thin vote margin (two senators were conveniently absent at the final vote), supporters loudly proclaimed the many merits of a government-sponsored numbers game—especially financial help for public schools.

They emphasized that prior to the gaming law, hundreds of millions of North Carolina taxpayers' dollars were being gambled away in neighboring states—money that could be kept at home through the adoption of its own state lottery.

That vision sounds good, but the reality is different. Lottery money ends up hurting education funding over time.

Big Business

For many years I served as a consultant to local school boards as they developed their policy manuals. Each contains a policy prohibiting gambling and other games of chance to raise money for schools—but under a lottery, the state can do what oth-

ers can't.

Forty years ago, New Hampshire introduced the nation to a plan for generating revenue for education, allegedly to avoid a tax increase. Since then, 40 other states and the District of Columbia have approved state-run lotteries—and more are in the works.

Twenty-three of these states earmark portions of the lottery earnings for public school spending. States including Michigan, Missouri, New York, and Vermont claim to plow 100 percent of their lottery gains back into public education.

State-sponsored gambling is a big business. The 40 state lotteries combined bring in an excess of \$14 billion per year (fiscal year 2002).

Bad Idea

One would think the 23 states that use lottery profits for education would enjoy a school funding advantage over states that do not give gaming money to schools. Such is not the case, however. According to a 2005 *USA Today* article, when states

first pass lotteries, there is an initial surge in spending for schools, but after that the benefit declines sharply.

"In a few years, the initial flush of lottery funds into the state's education programs had been eaten up, and the states lagged those that didn't rely on lottery-generated funds," the *USA Today* authors wrote.

How could this happen? According to the article, "The problem is not that lotteries are going belly-up. In most states, lottery-generated revenue has continued to grow. But the politicians can't resist using lottery funds to replace rather than add to existing sources of education funding. Governors and legislators then use money that once had been earmarked for education on tax cuts, new programs or debt reduction—but not for schools."

"Nothing prevents state funds previously earmarked for education from being reduced by the amount made available from lotteries."

Pending Deal

North Carolina is headed in the same direction. Already, the formula for distribution of lottery funds is being manipulated, and politicians are looking for ways to tap education lottery funds for other special interests. When Republican legislators unveiled their \$2 billion bond package for roads, universities, and other infrastructure needs in June, they presented an attractive price tag: No new taxes needed!

However, unknown to the average taxpayer, the complicated plan involves reducing the general fund (from which school funds are distributed) to pay for roads. Although lottery income would still go to the schools, it would be offset by reductions in the general fund, resulting in a wash for the schools.

This same trick has been played out many times in other states with "education" lotteries.

Nothing prevents state funds previously earmarked for education from being reduced by the amount made available from lotteries. According to a 2006 article in the *Journal of Economic Issues*, in some instances as lottery revenues rose total state spending on education fell.

In North Carolina, the problem is exacerbated by the fact that income from the state lottery is lower than expected.

Some are predicting a \$75 million shortfall. Because of this, the state will likely break its promise to limit the amount of lottery income devoted to advertisements designed to seduce citizens to gamble.

Not a Tax?

Beginning in the 1960s, financially pinched states, always on the lookout for new sources of revenue and unwilling to raise taxes, camouflaged the fact that state lotteries are in essence just another excise tax.

In an attempt to make this point, a group represented by the North Carolina Institute for Constitutional Law sued the state in December 2005, asking a judge to block the lottery, arguing it is partly a tax and that the legislature breached the state's constitutional requirement to pass tax legislation in both chambers on three separate days. In March 2006, a judge ruled the lottery is not a tax and the bill was constitutional.

The case was appealed, and arguments before the court of appeals started on May 21 of last year. One of the factors the judges may take into consideration is an amicus curiae brief submitted by the Tax Foundation in January of this year arguing lottery profits are tax revenue.

The Tax Foundation's amicus brief notes, "The 35 percent assessment collected from the sale of each lottery ticket is a tax, because it is mandatory payment imposed by the General Assembly to raise revenue for the education of all school children in North Carolina. Because the Wake County Superior Court improperly focused on the issue of voluntariness and neglected to consider the primary purpose of the assessment, which is to raise revenue, it did not conduct a proper balancing analysis."

Uncertain Prospects

If the court rules North Carolina lottery profits constitute a tax, it will not necessarily spell the end of lotteries in the state. However, the lottery would have to make its way through the legislature again, this time explicitly as a tax bill.

Some close to the issue think a lottery would not pass under those conditions.

Richard G. Neal (rneal1@triad.rr.com) writes from North Carolina.

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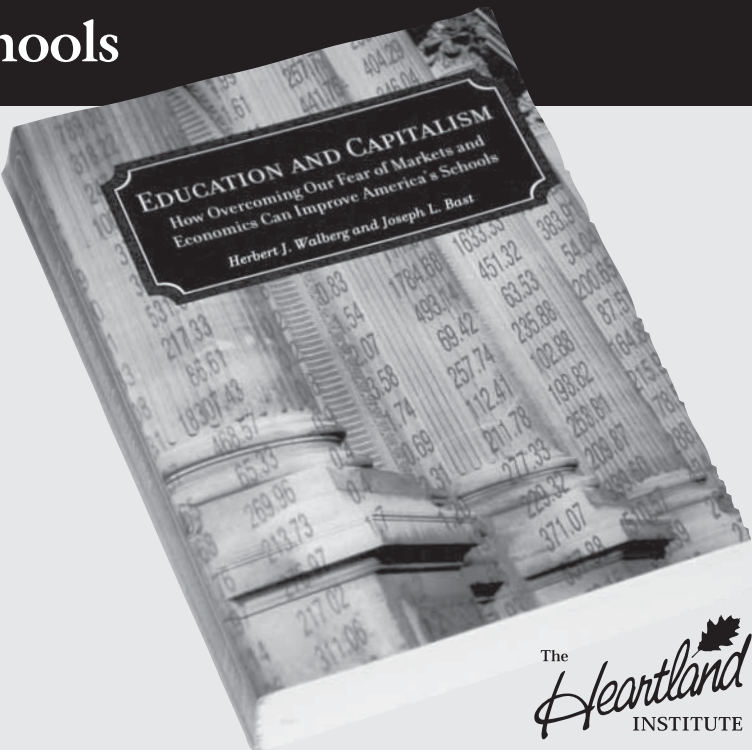
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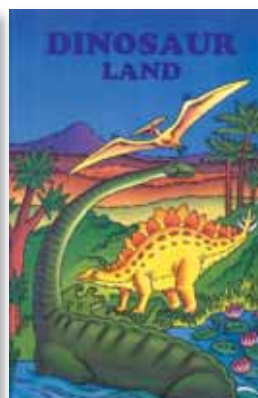


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