



Private school tax credits in Georgia attract abuse, critics say, but Alabama has stronger controls in place

By: Robert McClendon - March 8, 2013

The Alabama Accountability Act's ability to divert up to \$25 million of the education budget to private schools through nonprofits is substantially more cautious than similar plans in place in other states, an AL.com review of such plans shows.

"I don't typically look to Alabama for a model of how to develop thoughtful legislation, but this is, in my view, substantially better and more carefully crafted than Georgia's provision and some other states too," said Hillel Levin, a law professor at the University of Georgia who is studying school choice tax credits.

The legal future of the bill, which has been approved in both houses of the state Legislature, is murky, but if it becomes law, Alabama will become the 12th state in the country to have some kind of scholarship tax credit system. The history of such systems has been checkered, though, with some high-profile investigations finding fraud and other abuses.

Advocates, though, say that a properly designed and implemented program can create a pathway for students to find the school that is right for them, not just the school that happens to be down the street.

It's all in the fine print, critics say

Programs vary state by state, but they all share the same basic structure: The state offers tax credits to either individuals or businesses that donate to special scholarship granting organizations that then use the money to pay tuition at private schools for qualifying students.

When it comes to structuring the programs, though, the fine print can mean the difference between a program that gives poor children a way out of chronically failing schools and a program that acts as a tax-avoidance scheme for the wealthy, Levin said. "The devil, as they say, is in the details. How you set up those details. How you enforce those details. It makes a radical difference in how these things function," he said.

Georgia's system provides a lesson in what not to do, according to the Southern Education Foundation, an advocacy group based in Atlanta, which has called the tax credit program there "a failed experiment."

Katherine Dunn, an analyst with the foundation, said that her organization is not opposed to such plans in principle. The foundation even considered creating a scholarship fund when the

system was first introduced in 2008, she said, but it soon became clear that state's program was flawed and ripe for abuse.

The devil, as they say, is in the details -- Hillel Levin

The program has no income limit for participating students nor is it limited to children in failing school systems.

As a result, Dunn said, affluent parents whose children were already going to private school simply used it as a way to get the state to pick up the tab for some of their tuition.

Here's how it works, according to Dunn: Private schools create affiliated scholarship organizations that solicit money from the parents at the schools. Those parents then make donations to the organization with the understanding that their child will receive a scholarship. Friends and family of the child are welcome to donate too.

So long as the donations stay below the prescribed cap -- \$1,000 for individuals and \$2,500 for couples filing jointly -- it's a cost free way to reduce the price of tuition.

Technically this behavior, "scholarship designating," was barred by the revenue department, Dunn said, but there is little to no enforcement.

A New York Times investigation caught on tape school administrators and scholarship organizers openly pitching such schemes.

Alabama's law has strict geographic and income restrictions

Part of the reason there is no enforcement is because Georgia's law requires little to no information from the scholarship organizations on who is donating the money and who is getting it, according to Dunn.

Similar shenanigans would be difficult under Alabama's law.

Wealthy families are not eligible to receive scholarships, according to Alabama's proposed law, which caps income for eligible families at "150 percent of the median household income," which works out to about \$64,000 per family.

Furthermore, the only children eligible to receive a scholarship are those zoned for "failing public schools."

However, the law does nothing to preclude donors from dedicating their money for individual students of their choosing.

State Rep. Chad Fincher, R-Semmes, acknowledged that the door would be open for that kind of abuse, but he said the income restrictions will keep the wealthy from channeling money to their own children. He also said that the bill leaves room for the state to police such activity, even if it's not explicitly outlawed by statute.

He said that the law intentionally leaves the door open for schools to create their own scholarship organizations, which would create a mechanism to recruit poor children.

Levin, the Georgia law professor, said this provides an incentive for wealthy people with children in private school to donate.

Many private schools, particularly Catholic and Jewish ones, take students who can't pay full tuition. That means that the students who pay full tuition end up subsidizing the poorer ones through higher tuition, Levin said.

By creating a scholarship organization, though, the parents can effectively provide the subsidy at no cost thanks to the tax credits.

Alabama's law would also require far more transparency and reporting than in Georgia.

Schools that accept tax-payer funded scholarships would be required to administer standardized tests and report those scores to the state. Demographic information on the students, including race and income level would also have to be reported.

For skeptics of freewheeling systems like the one in Georgia, Alabama's proposed law has much to recommend itself.

For some school-choice advocates, though, Alabama's system seems too restrictive.

Jason Bedrick, an analyst for the Cato Institute, a libertarian think tank, in a recent blog post criticized the program for restricting student eligibility to those zoned for failing schools.

"It will be the only (scholarship tax credit) program yet enacted that is limited entirely to students in failing government schools. While a good start, students in non-failing schools would also benefit from more educational options. No school can best meet the needs of every single child who happens to live nearby," he said.