



## Next up: Combining tax-credit scholarships and ESAs

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Missouri lawmakers are toying with the idea of combining two bulwarks of the school choice movement – tax credit scholarships and education savings accounts – in an effort to overcome legal obstacles to expanding choice.

HB 1589, sponsored by state Rep. Andrew Koenig, was designed to create an education savings account (ESA) program for children in foster care, funded with voluntary donations by businesses and individuals who would then receive a tax credit. With a minimum donation of \$100 and a maximum donation of \$50,000, businesses and individuals would receive a 50 percent tax credit if they have a tax liability. The money would then go into an ESA to be used for a child in foster care to receive a variety of educational options, including attending a private school, tutoring, therapies and other state-approved educational resources.

Koenig, a Republican from St. Louis County, said his bill, which was combined with another ESA measure, HB 2307, was not brought up during executive session as scheduled on Tuesday.

“Trying to pass any type of education reform is very difficult,” Koenig told Watchdog.org. “There are a lot of opponents to it. The education lobbyists are very strong in Missouri.”

A slim chance remains that the bill could be revived this session. If not, Koenig says he’ll be back.

“The fact that we were able to get it to the floor, I consider it a huge success,” said Koenig. “It will help us next year. We will try again next year.”

Underpinning Koenig’s effort is research conducted by a trio of stalwarts in the school choice field: Jason Bedrick, a policy analyst with the Cato Institute’s Center for Educational Freedom; Jonathan Butcher, education director for the Goldwater Institute; and Clint Bolick, who contributed to the paper while serving as vice president for litigation at the Goldwater Institute (Bolick has since been appointed to the Arizona Supreme Court).

“We were thinking about what we want parental choice in education to look like in the future, 20 years from now,” Butcher told Watchdog.org. “We were trying to create a package for a state with a really difficult state constitution.”

The paper explains how legislators can design an ESA that is privately funded through tax-credit-eligible contributions from taxpayers, similar to tax-credit scholarship programs around the country.

According to the paper: “Tax-credit-funded ESAs would empower families with more educational options while enhancing accountability and refraining from coercing anyone into financially supporting ideas they oppose. Because they are funded through voluntary contributions rather than public funds, tax-credit scholarships have a perfect record of constitutionality at the U.S. Supreme Court and at every state supreme court that has considered the issue. In Blaine amendment states, tax-credit ESAs could be a lifeline to families in need.”

Although a program in New Hampshire shares similarities with the concept, Bedrick and Butcher say what they describe in their paper has yet to be tried on the state level.

“As we describe in the paper, New Hampshire’s tax-credit scholarship program allows homeschoolers to use their scholarship funds for a wide variety of educational expenses, similar to ESAs,” Bedrick said. “The major difference in New Hampshire is that families can use the scholarship funds either for private school tuition or homeschool expenses, whereas ESA programs allow ESA holders to use the funds on both simultaneously.”

States with Blaine amendments or very active teachers unions and other groups who often challenge school choice programs would benefit from considering such a model, according to Bedrick and Butcher.

“Tax-credit ESAs would be most useful in states where courts have adopted highly restrictive interpretations of the Blaine Amendments in their state constitutions, forbidding the use of public funds at religiously affiliated schools,” said Bedrick. “Like tax-credit scholarship laws, tax-credit ESAs are on solid constitutional ground because the ESAs rely on voluntary, private donations rather than tax revenue. As the U.S. Supreme Court and several state supreme courts have ruled, private money does not become public money until it has reached the tax collector’s hands.”

Bedrick told Watchdog.org that combining tax credits and ESAs is a natural progression.

“Publicly funded vouchers and privately funded tax-credit scholarships have been the two primary types of private school choice programs for more than a decade, and each has some features that are superior to the other,” said Bedrick. “In some ways, ESAs were the logical extension of vouchers, moving from ‘school choice’ to ‘educational choice.’ In the same sense, a tax-credit funded ESA was the logical extension of the tax-credit scholarship model.”

“Just as publicly funded ESAs were a refinement of the voucher idea, tax-credit ESAs are a refinement of the tax-credit scholarship idea,” Bedrick explained.

“We were thinking about how can we make a parental option available that gives parents multiple choices,” said Butcher. “We thought, let’s fund it with a mechanism that states with tax credit scholarships will be more familiar with. We’re hoping with ESAs becoming more familiar and tax credits already familiar, we could combine the two and offer parents multiple choices.”