PSBA a**closer**LOOK

ESA vouchers give public money to private schools

Education Savings Accounts (ESA) are vouchers that take state tax money out of neighborhood public schools for use at private schools.

ESA voucher proposals are being pushed in other states as foot-in-the-door schemes for greater taxpayer support for private schools and vendors. Repackaged under different names, or with slightly different requirements, the general concept of the ESA voucher is the same. To date, six states have enacted such legislation, including Arizona, Florida, Tennessee, Mississippi, Nevada and North Carolina, although Nevada's ESA program was defunded in 2017 and replaced with a tax credit scholarship plan.

Whereas traditional public education entities have strict requirements for public meetings, transparency, governance, academic achievement, testing/reporting and financial accountability, such requirements don't exist and wouldn't exist for entities receiving tax dollars from ESAs.

In Pennsylvania, an ESA voucher proposal has been introduced as Senate Bill 2, a plan that takes money away from a school district's state subsidy funding to be used at private and religious schools, private companies, tutors and even higher education expenses and a vague category of other "qualified education expenses." The impact of Senate Bill 2 has been estimated to siphon more than $500 million dollars from school districts, many that are already under-resourced, to benefit private schools. The state cannot afford to fund public and private school systems.

ESA vouchers under Senate Bill 2

Under Senate Bill 2, parents of students in low-achieving schools can receive funds in the form of ESAs. Low-achieving is defined as the lowest-performing 15% of elementary and secondary public schools based on PSSA and Keystone Exam scores. Under the ESA voucher program, a student who resides within the attendance boundary of a low-achieving public school is eligible for an ESA voucher, but there is no minimum time requirement or even a stipulation that the child should ever have attended a low-performing school. This loophole will may result in attempts to game the system.

Those affected school districts would see their basic education, special education and other state subsidies reduced by the amount calculated for each participating student, with that money put into an ESA account set up by the state Treasury for parents to use. Further, special education students receive additional ESA money based on the school district's categorization of the student -- even though the school district has no ability to confirm the special education needs or costs of a student at a nonpublic school or evaluate whether services are even provided.

WE SHOULD FOCUS ON FIXING PUBLIC SCHOOLS – **WHERE 90% OF CHILDREN GO** – NOT TAKING MONEY AWAY FROM THEM FOR THE 10% WHO CHOOSE NOT TO ATTEND PUBLIC SCHOOLS.

Impact of ESA vouchers will expand

The ESA voucher program under Senate Bill 2 could potentially impact *any* school district, not just districts with low-performing schools. When students with ESA vouchers move out of the low-performing school district that initially qualified them for the program, they remain eligible as long as they participated in the program in the prior year. This eligibility remains effective regardless of whether the students still live within the attendance boundary of a low-performing school. This provision would result in the student's new school district picking up the tab for the ESA voucher.

ESA vouchers will expand over time, affecting more students and more public schools. The bottom 15% of performing schools is not a stable list. We know this by looking at the schools identified for the Opportunity Scholarship Tax Credit (OSTC) program. (The OSTC program is a scholarship program discussed later in this report.) There are around 290 schools that were at one time identified for the OSTC list since 2014-15, but as of 2017-18 are no longer identified. The number of schools on the "no longer in the bottom 15%" list has grown from 82 in 2014-15 to roughly 290 in 2017-18. On average, there have been 43 new schools added to the list and another 78 schools continually coming onto or going off the list each year.

Subsidizing private schools doesn't help the 90% of children who attend public schools

ESA vouchers will benefit families with the financial means to send their children to private schools. Despite what proponents say, there are no guarantees ESAs will help or even prioritize children from economically disadvantaged families. There are no income limits for families to receive the ESA vouchers. ESA vouchers will also benefit families of students already enrolled in private school who can afford to pay high tuition rates by incentivizing them to take action to receive an ESA voucher. Further, ESA vouchers may fail to support economically disadvantaged students and families when the amount does not cover all tuition and expenses of a private school.

The local public school is the cornerstone of the community. Public school districts accept and educate all children who come to their doors, as opposed to those institutions that can reject applicants based on any number of factors. ESA vouchers take scarce funding away from already struggling public schools and give it to private schools which are unaccountable to taxpayers and the public. We should focus on fixing public schools – where 90% of children go – not taking money away from them for the 10% who choose not to attend public schools.

ESA vouchers divert attention from the current needs of students and responsibilities of policymakers to support those students. The debate over vouchers keeps legislators, parents and public schools from addressing programs and initiatives that can improve struggling schools while we debate a failed educational ideology.

ESA vouchers don't save money

Voucher proponents contend that the money taken from districts to be used for ESA vouchers could actually represent savings for the public schools because they no longer have to educate the students who take ESA vouchers. This argument makes little sense. No one can disagree with the fact that a voucher plan will financially impact both state and local school district funding. The costs are in two parts: first is the direct reduction in state subsidy, second is the fixed costs that remain with the district, no matter the number of students who are there. Fixed costs include things such as building operations/maintenance, food service, utilities, technology, and salaries and benefits to the degree that staffing levels must remain adequate to meet the needs of students remaining in a school district. In addition, the school district of residence of a voucher student must provide transportation, thus ensuring an explosion of increased nonpublic transportation costs.

ESA VOUCHERS WEAKEN THE RIGHTS OF STUDENTS WITH DISABILITIES BECAUSE PRIVATE SCHOOLS ARE NOT SUBJECT TO FEDERAL SPECIAL EDUCATION LAWS AND CAN DENY SERVICES TO STUDENTS.

The simplistic notion that ESA vouchers will save school districts money defies the realities of voucher programs and mandatory public school expenditures. Money leaves the district as the result of vouchers under the Senate Bill 2 calculation, but the fixed costs that were supported by the subsidy dollars will remain.

ESA vouchers don't address poverty, are unfair to students

ESA vouchers are unresponsive to the issue of poverty and are unfair to students. Many of the lowest-performing schools are in high-poverty school districts that are already struggling financially and cannot afford to receive less funding, nor can they ever hope to improve if they are stripped of resources. By diverting state subsidies from these school districts, ESA vouchers reduce fair access to educational opportunities for the students choosing to remain in the school district. This loss of funding would result in further impediments to the ability of these schools and school districts to improve in the future and will instead result in the reduction of student programs and supports. ESA vouchers divert scarce resources from public schools that serve all students to pay for private schools for a few.

While public schools must enroll every student who shows up at the door and are required to provide them with the best education and services possible, private schools can accept who they wish and reject those who, for whatever reason, do not fit in their schools. This can include children with special needs, English learners and others.

The legal requirements applicable to private schools are fundamentally different than those for public schools. For example, while private schools must teach certain courses, they are not required to teach as broad a curriculum as public schools and they are not required to ensure that students are taught to state-established academic standards. And under the ESA voucher proposal, no participating entity can be required to alter its creed, practices, admissions policy or curriculum to accept ESA voucher students. There is no prohibition against ESA voucher money being used for religious purposes, and participating schools can force voucher students to adhere to their religious practices and beliefs.

ESA vouchers do nothing to improve the education of *all* students. Creating a separate education system does nothing to address inadequacies or issues with existing public school systems.

ESA vouchers lack protections for students with disabilities

ESA vouchers weaken the rights of students with disabilities because private schools are not subject to federal special education laws and can deny services to students. In public schools, parents are required to be part of the team developing a student's individualized education program. If parents are dissatisfied, there are established legal protections and processes for them to pursue. Students in public school are entitled to a Free and Appropriate Public Education. They have protections related to discipline and mandated help for behavioral issues. None of these protections are applicable to private school students. Students with disabilities and their families must waive hard-won legal protections by enrolling in anything other than a public school. Additionally, public schools have strict guidelines for special education teachers, whereas private schools do not have mandated different hiring standards.

ESA vouchers lack academic, financial accountability

ESA vouchers provide little or no transparency, and no meaningful accountability for programs and outcomes. Private schools are not required to use the same standard assessments and reporting requirements as public schools. Further, their budgets, meetings and records are private. Their test results are private. Their self-improvement efforts, if any, are private.

Senate Bill 2 lacks academic accountability for students with ESA vouchers due to shallow, inconsistent, and vague testing and reporting requirements by allowing various assessments to be used. It is difficult, if not impossible, to compare the academic performance and progress of ESA voucher students to students in other schools, both public and private, including other ESA voucher students. It is also difficult, if not impossible, to compare the results of the same students year over year if they do not continue to use the same assessments. Beyond this, Senate Bill 2 lacks any further accountability measures.

Senate Bill 2 also lacks specific financial accountability measures. Language in the bill regarding audits and penalties is very weak. Audits are not mandatory, and the Treasury can decide to do one "if it determines necessary." What is the criteria for that determination? And, why are penalties just a "may" provision and not required if the Treasury believes that money may have been misspent? Again, the bill lacks any further financial accountability measures.

Public schools are accountable on numerous levels for compliance with state and federal laws and regulations, and are held to strict standards that measure student achievement and academic progress. Pennsylvania's Sunshine Act and Right-to-Know laws promote transparency in government and the laws apply to public schools who must make available information regarding finances, operations and academic performance.

WHEN PUBLIC DOLLARS ARE INVOLVED, THERE MUST ALWAYS BE ACCOUNTABILITY TO THE PUBLIC, WHO IS ULTIMATELY PAYING THE BILL.

When public dollars are involved, there must always be accountability to the public, who is ultimately paying the bill.

ESA vouchers set the stage for fraud, misuse of taxpayer dollars

ESA voucher plans present ample opportunities for fraud and abuse, as seen in other states which have implemented ESA voucher programs. Because Senate Bill 2 lacks specific and rigorous financial accountability measures, misuse of public dollars is likely. Checks and balances need to be firmly in place to ensure that any voucher money is being spent appropriately.

Case study: Arizona

Numerous examples of fraud are found in Arizona, which enacted its ESA voucher plan in 2011. The resulting financial fraud and state administrative problems that have occurred are eye-opening and offer critical lessons for Pennsylvania. A June 2016 report of a performance audit of the Arizona Department of Education's administration of its ESA program identified numerous instances of fraud, misspending or unverifiable expenditures, including:

- Spending of program funds by parents of students identified as being enrolled in public school in violation of program requirements;

- Parents purchasing books and curriculum materials from a bookstore using program debit cards, then returning the items for store gift cards and subsequently using the gift cards to purchase toys and other non-educational items;
- The use of a program debit card to spend money at a grocery store and to pay a telecommunications company;
- Instances of parents using third-party payment services such as PayPal and Square to pay undisclosed merchants and not submitting appropriate supporting documentation and not responding to requests for additional information;
- Parents with children enrolled in the program benefiting financially from the program by receiving tuition payments for their child and others at private schools they operated, including one parent operating a private school that received more than $330,000 in payments; and
- Children receiving program funds while simultaneously benefiting from funds provided by tax credit scholarships in violation of program requirements.[1]

A public records request in Arizona resulted in a finding that the tracking of ESA vouchers funds "is opaque, incomplete and riddled with errors." One supporter of the Arizona program even admitted the lack of oversight. "We don't know where it's (the money) going to," said Rep. Regina Cobb, R-Kingman, who cast one of the deciding votes in favor of expanding the program. "We have nothing. How do we make decisions as lawmakers, as far as funding a program, when we don't even know if it's working?"[2]

Other options are already available

In Pennsylvania, there are two tax credit scholarship programs for student use. The Educational Improvement Tax Credit (EITC) program is authorized at $87.5 million for scholarships, and the Opportunity Scholarship Tax Credit (OSTC) program is currently authorized at $50 million for scholarships. Senate Bill 2 provokes the question of why a new ESA voucher program is being promoted to target the exact same schools and student populations already targeted by the OSTC program, not to mention the more broadly available EITC program.

Under Senate Bill 2, there is no accountability mechanism proposed to ensure that families are not double-dipping from state funds available through the EITC and OSTC scholarship programs. Although parents are required to sign an agreement saying that they won't accept EITC or OSTC funds, there is nothing to guarantee that it doesn't happen or consequences for noncompliance. There's mention of audits to make sure that parents spend ESA dollars on qualifying expenses and a determination process for ensuring participating private schools meet certain contractual obligations but no explanation of how the state will make sure families don't double-dip and that all obligations are met.

ESA VOUCHERS DO NOTHING TO ADDRESS INADEQUACIES, ACADEMIC NEEDS, ISSUES OF POVERTY AND VARIOUS OTHER CONCERNS PRESENT IN OUR LOW-ACHIEVING PUBLIC SCHOOLS.

Senate Bill 2 also creates an incentive for parents to use vouchers as a college savings account by allowing them to save school district money and use it for higher education expenses for up to two years after the student graduates from high school. That is not how funding specifically appropriated by the General Assembly for K-12 education purposes should be used. Moreover, this is a duplicative program. States already have 529 plans for college savings accounts. At the national level, the new tax code bill recently passed by the U.S. Congress and signed into law expands 529 plans to allow money to be used to cover private elementary and secondary school costs. It is ironic that policymakers want to create yet another government program that does the same thing.

Conclusion

ESA vouchers do nothing to address inadequacies, academic needs, issues of poverty and various

other concerns present in our low-achieving public schools. They represent bad public policy that will have negative consequences for students, schools, taxpayers and communities.

ESA vouchers widely miss the mark on making any type of meaningful education reform. They do not provide any real academic accountability to students or parents, nor do they provide any fiscal accountability to the taxpaying public that will be footing the bill. Sending tax dollars to schools that lack local supervision is not an appropriate use of taxpayer funds.

ESA voucher proponents seek to create a false sense of momentum around these programs. There are more pressing problems within public education that deserve the attention of policymakers. There are more important ways to improve education. Ignoring our public schools in favor of throwing tax dollars to private schools weakens educational opportunities for all children and will only serve to chip away at Pennsylvania's public education system. Instead, the state should focus on working on programs and initiatives to improve schools for our current and future students.

(Endnotes)

[1] Raise Your Hand Texas. (May 2017) Education Savings Accounts: A Critical Analysis. https://www.raiseyourhandtexas.org/wp-content/uploads/2017/05/Education-Savings-Account-Policy-Brief.pdf

[2] Morgan, Amanda. Las Vegas Review-Journal, May 6, 2017 "Commentary: School voucher plans fraught with problems." https://www.reviewjournal.com/opinion/commentary-school-voucher-plans-fraught-with-problems/