

PURPOSE, POLICY, POLITICS AND POWER: ANALYSIS OF THE
PENNSYLVANIA EDUCATIONAL IMPROVEMENT TAX CREDIT PROGRAM

A Dissertation

Submitted to the School of Graduate Studies and Research

in Partial Fulfillment of the

Requirements for the Degree

Doctor of Philosophy

Julie K. Ambrose

Indiana University of Pennsylvania

December 2019

© 2019 Julie K. Ambrose

All Rights Reserved

[This is an excerpt from the full dissertation.]

Policy Recommendations

The ETC shifts money to private schools that would otherwise be collected via business taxes and allocated through the treasury. The policy does not address the underlying issues of underperforming schools, under-resourced schools, and the resulting struggles of underserved students. Pennsylvania would be wise to look at short term interventions and a long-term fix as complementary parts to the whole education picture. This study indicates that school choice tax credit subsidies, as implemented in the ETC, have had little to no positive impact on public school improvement or incentivized student migration from public to private schools after nearly 20 years. Rather, the ETC

reduces the cost of choosing private school for many families who would pay for private school without this program. It redistributes funds away from the majority of students, those enrolled in public schools; and does little, if anything, to improve conditions for students enrolled in low-achieving schools. Without a comprehensive plan for education, legislators content to rely on tax credits supporting privatization must be comfortable with allowing poor student outcomes among those attending low-achieving public schools while they wait for competition to drive improvement, even if improvement never happens.

That is not a reasonable approach. Legislators and other public officials should be forthright about the way the current goals of the ETC align with increasing school choice and supporting faith-based and other private schools. Also, tax credit scholarships, under the current design, will never grow large enough to reach the neediest students, and little is known about private school capacity and the effects of tax credit supported school privatization on real estate prices, public school effectiveness, teacher salaries, costs of private school attendance and related factors, particularly in Pennsylvania. However, modifications to the policy could shed light on the effects of Education Tax Credits and help achieve several goals:

1. Test the theory that increased competition through choice improves all schools in the market, including private and public schools.
2. Direct tax credit scholarships to “those students who would not otherwise be able to attend a school of their choice” as emphasized by Representative Turzai and his co-sponsors of HB 800.

3. Learn whether the availability of focused and significant scholarship funds actually does induce student migration.
4. Begin to assess the academic impact on students using these scholarships to switch schools, and those left behind when that happens.
5. Begin to evaluate the response of private schools as tax credit scholarship awards grow and their enrollments increase – whether existing schools increase their capacity to enroll more students or raise tuition for those already enrolled; or whether new schools enter the market in these communities. (J. Ambrose, personal correspondence, June 6, 2019)

A proposal to achieve these goals presented in the context of modifications to Pennsylvania’s HB 800 of 2019 is available in the personal communication to Senator Pat Browne (Appendix A). Additional modifications are necessary to address the shortcomings of the current policy. First, the following recommendations presented in the Legislative Budget and Finance Committee’s 2010 Final Report on Pennsylvania’s Tax Credit Programs remain relevant:

1. “Due to the confidentiality provision of the Commonwealth’s fiscal code regarding tax filings, which only allows the Department of Revenue to share tax information ‘for official purposes.’ [The General Assembly should] include a mandated reporting requirement ... in any new or reauthorizing legislation pertaining to a tax credit program, thereby promoting transparency and accountability,” (Voras, 2010, p. 5).

2. DCED should sufficiently staff its monitoring unit to “monitor the tax credit programs with the same level of scrutiny as programs that receive direct appropriations,” (Voras, 2010, p. 6).
3. “When the General Assembly creates or reauthorizes a tax credit program, it [should] attempt to articulate the program’s goals, objectives, program elements, and the measures against which the program’s effectiveness can be judged,” (Voras, 2010, p. 6).

In addition to the above, this policy analysis offers 26 sub-recommendations grouped within five recommendation categories: (a) Collect and report accurate data; (b) Increase program stability to benefit students; (c) Improve access for students; (d) Focus funds on communities with the greatest need; and (e) Increase fiscal transparency. These recommendations are designed to extend the educational benefits of the ETC more equitably to students across the Commonwealth and achieve increased educational outcomes, thereby meeting the purported purpose of the policy.

Collect and Report Accurate Data

The ETC is funded through pre-collection tax money in the form of tax credits for businesses. These funds are owed to the state as part of the business’s tax obligation. The business is given dollar-for-dollar credit for making contributions through the ETC at a 75% or 90% rate. By diverting these pre-collected public tax dollars, the state does not forego its responsibility to provide public accountability and transparency for the use of these funds. Private and non-profit organizations that choose to participate in the ETC, by accepting the pre-collection tax dollars, should comply with reasonable reporting as a condition of participation.

Data are only useful when it can be interpreted and used for decision making. Under the current program, data reporting is often inconsistent and inaccurate rendering it impractical for decision making. Further, economists and legislators have debated the impact of tax credit scholarships theoretically, but they need accurate implementation data to verify the effects. Accurate data will help to show whether tax credit scholarships actually incentivize student migration; which students migrate and which do not; the response of private and public schools in high and low demand markets; the effects on school capacity; whether competition drives schools to improve or close; the effects on housing markets and whether reinvestment in the urban cores is promoted through increased choice combined with shifts in school tax patterns; and perhaps most importantly, whether student outcomes improve for those using the tax credit scholarships and/or those who are not. Based on the findings acquired from this policy analysis, I recommend the following:

- Recommendation 1: Require all BF donations to be made at least 60 days before the end of the ETC fiscal year to ensure that all tax credits are approved and awarded within the same fiscal year. This would ensure that business firms' annual reports of contributions to nonprofits would exactly match the nonprofits' annual reports of receipts. Aligned reporting will facilitate monitoring and reduce the potential for fraud.
- Recommendation 2: Establish one format for reporting scholarship application fees. Currently the law calls on SOs and OSOs to report,“(VIII) THE TOTAL NUMBER OF SCHOLARSHIP APPLICATIONS PROCESSED, THE AMOUNTS OF ANY APPLICATION FEES

CHARGED, EITHER PER SCHOLARSHIP APPLICATION OR IN THE AGGREGATE THROUGH A THIRD-PARTY PROCESSOR.”

(Commonwealth of Pennsylvania, 2012, Page 62, lines 9-12).

The law should not permit both, because it prevents calculations and comparisons across organizations and obscures the information. The law should be modified to collect the total number of scholarship applications processed, the amount of application fees charged per student, and the number of students that paid the application fee. This would add transparency and allow for tallies and comparisons.

- Recommendation 3: Process flow documentation should be created and followed to ensure consistent treatment of data across time and program categories regardless of DCED staffing. Including the use EINs or another unique identifier, would eliminate problems like those existing among different reports (e.g. program years 2010-11 and 2011-12; variation of an organization’s name; change of an organization’s address).
- Recommendation 4: The DCED should produce directions for filing the annual reports accurately and specify what to report and how to record the information for each line on all report forms. This will reduce the number of nonprofits that make mistakes in reporting and enhance reliable and valid data.
- Recommendation 5: Business firms and nonprofits should receive sanctions if reporting is incorrect after being counseled and permitted to correct the reports one time. Accuracy and accountability are too critical to monitoring and assessment to allow for mistakes in reporting.

Every organization participating in the program should provide the relevant data needed to assess the program, including the schools. Without information on schools and students, this program cannot claim a school improvement effort.

- Recommendation 6: Add reporting related to enrolled students such as: public school of residence and school of choice, educational history (time spent in public schools and schools of choice), grade to grade progression, graduation, grade point average, family income, and post k-12 education.
- Recommendation 7: Add reporting related to school participation such as: number enrolled with and without use of a tax credit scholarship; scholarship amounts reported in comparable increments by all schools (e.g. <\$500; \$501-\$1000; \$1001-2500; ... \$8501-\$15000; >\$15,000); aggregate student achievement reported by scholarship status; graduation rates; tuition and fees; and post k-12 education.
- Recommendation 8: Establish performance measures for all participating schools. Develop a menu of measures including, but not limited to, the Pennsylvania System of School Assessment (PSSA) that schools may select; require all schools to post their performance results on their website.

Increase Program Stability to Benefit Students

Inconsistent funding leads to inconsistent programming for students. Through Act 39 of 2018, the legislature established that firms committing to a two-year contribution must do so in the same program type (e.g. EIO vs. SO or OSO) (Public School Code of 1949, 2018). This is a promising first step. Given this stipulation, I present the following recommendations for consideration:

- Recommendation 9: Require the funds from a two-year commitment to be awarded to the same recipient organization. Ensuring the nonprofits have stable funding would serve students and the schools they attend with better reliability. This would further assist with monitoring, as nonprofits could report contribution lapses.
- Recommendation 10: Reduce the amount that nonprofit organizations may keep for operating expenses from 20% to 10% and use the other 10% to increase program promotion in high-need communities and increase compliance monitoring. Currently there are no established mechanisms to inform families or nonprofits how to access this program. Lack of program monitoring contributes to funding losses through accidental and intentional misuse. Directing funds to both problems will increase program stability for students.
- Recommendation 11: Create a list of defined and approved EIO program categories for enrichment. Ask EIOs to select the program category(ies) that match the enrichment program. This will help ensure programming matches student needs allowing for comparative analysis among programs offered.

Improve Access for Students

The current policy has barriers to entry for low-income students and those not already enrolled in private schools. The following recommendations are intended to improve access for students experiencing barriers:

- Recommendation 12: Reduce the family income eligibility limit for incrementally increasing portions of both scholarship programs. Universal

and near-universal eligibility prioritizes upper-income families. By reducing the family income eligibility, the policy will increase the number of lower-middle and low-income families that gain access to scholarships.

- Recommendation 13: Create and promote a common application process for families and reduce barriers to equal access to private schools. Require participating schools to publicize the process and associated deadlines. Encourage schools to apply best practices for equity such as using a lottery system to enroll students, at least for a portion of their available spots each year, or developing a set of approved guidelines.
- Recommendation 14: Publish clear links between the Scholarship and Opportunity Scholarship Organizations and the schools that receive scholarship award students. Require both schools and scholarship organizations to make this information available on their websites, including the number of scholarships they award per school and the average scholarship amount per school each year. This will help families assess the likelihood of obtaining a scholarship and the likelihood that the scholarship amount will make enrollment a possibility for their student.
- Recommendation 15: Designate a student advocate in each school to help those who lack the family support to navigate this system.
- Recommendation 16: Require all participating organizations to notify families of their scholarship awards by August 1 for the year in which the scholarships would be used. This would allow families to know the true cost of attending and make an informed decision whether to accept.

- Recommendation 17: Phase in a Full Tuition and Fees Scholarship requirement for all participating private schools to encourage migration of students with household incomes less than or equal to 185% of the federal poverty level. The number of Full Scholarships for switchers meeting income guidelines should be determined by the school's total enrollment.
- Recommendation 18: Pilot test a Full Scholarship and Fees option for truly low-income students to enroll in residential private schools that exceed the scholarship limit. Keep the maximum scholarship limits that exist (\$8500; \$15,000), but allow for exceptions through the pilot program where a student with household income not exceeding 185% of the federal poverty level is offered a full scholarship by a private school. This would allow schools to diversify their student body and offer a truly transformative experience to the most needy students. Apply additional accountability and student outcome measures to schools seeking a maximum scholarship exception.

Focus Funds on Communities With the Greatest Need

The first-come, first-served model for allocating tax credits to business firms is popular among businesses and nonprofits that control the majority of the funds through this program. Past attempts to change to a system that pro-rates the tax credits among all applicants on a certain date were unsuccessful. That remains a recommendation that would increase equity of access; however, it would be at a loss to the organizations benefitting from the current system.

- Recommendation 19: Designate a portion of the OSTC-EITC and EIO tax credits to be allocated on a pro-rated basis, on a designated day, to business

firms located near schools on the low-achieving schools list. This will enable business firms to invest in their local communities and will encourage partnerships with nonprofits working with public schools to support programs that are most needed.

- **Recommendation 20: Develop Public-Private Partnerships for Education (ePPPs) for Sustainable Impact.** The EIO component in particular has the potential to become more intentional about the programming offered and outcomes pursued. This modification could provide the foundation for meaningful partnerships between businesses, EIOs and schools to look collectively at areas of need and form collaborative plans to address them over time. The tripartite approach would lend itself to targeted investment, collaborative goal setting and interventions, and measured progress; rather than the haphazard approach that is our current system driven by the interests of businesses that give money without investing in sustainable change. Legislators might consider a pilot program whereby the EIO tax credits are awarded to partnerships based on program proposals.

Increase Fiscal Transparency

The DCED maintains records of the tax credits awarded to business firms and business firm contributions to nonprofits. The DCED also maintains records of nonprofit receipts from business firms, but does not adequately track spending to ensure the efficient use of funds and prevent fraud. While the mission of the DCED is to support business firms, the legislature determined that the DCED administer the ETC and

reasonable fiscal monitoring is expected for every state program. I offer the following recommendations to increase fiscal transparency:

- Recommendation 21: The EIO Annual Report should require EIOs to indicate the amount of contributions retained to avoid ambiguity regarding spending. Donors would also benefit from increased transparency around the amount of contributions spent on programming.
- Recommendation 22: Prohibit participating EIOs, SOs, and OSOs from giving tax credit dollars to another EIO, SO or OSO. Second level contributions obscure the flow of funds, contribute to over reporting scholarship awards, and create a significant opportunity for the misuse of funds. Nonprofits that are unable to allocate all of the funding they receive should be required to relinquish those funds at the end of the second year.
- Recommendation 23: Eliminate Tuition Reduction Grants and similarly functioning initiatives that raise funds for schoolwide distribution rather than individual student scholarships. Using an organizational SPE to provide a lump sum donation to a school for the purpose of lowering tuition for all students is counter to the program aim to provide scholarships to disadvantaged students, obscures transparency, and allows funds to be directed to students who may not qualify for the grants. Conversely, if the legislature opts to subsidize private school tuitions rather than offer individual student scholarships, the law should be rewritten to do so equitably across the Commonwealth to address the disparity in access evident particularly in the Northern Tier, Central and North Central regions that receive little funding.

- Recommendation 24: Prohibit businesses and nonprofit organizations based outside Pennsylvania from participating in the ETC. Each year business firms compete for tax credits and some firms located within the state do not get tax credits while firms located outside the state do. Similarly, nonprofit organizations compete for donations, and PA tax credit funds should not be given nonprofit organizations based outside the state.
- Recommendation 25: Each component of the program should be audited periodically for fiscal, programming, and reporting compliance. New stakeholders should be audited for compliance for at least the first two years, then according to the audit schedule, to ensure appropriate engagement, use of funds, and annual reporting.
- Recommendation 26: Extend the period of time for record retention from three to seven years. The potential to investigate fraudulent activity and inappropriate use of funds is hindered because nonprofit organizations may discard or destroy program records after three years. This timeframe does not allow the public or auditing bodies enough time to request, retrieve and review documents from the DCED that might lead to questions dependent upon such documents for investigation and clarification.

Recommendations Summary

The above 26 policy recommendations are meant as a compromise, a way forward that bridges the interests of those espousing conservative and progressive ideologies, with the goal of reducing the link between wealth and educational access for students in Pennsylvania. Strong coalitions of school choice and privatization supporters seem

poised to push for further expansion of the ETC. These policy recommendations are designed to promote social cohesion and reduce practices that extend the educational, experiential, and social divides that exist when access to schools is based on family and community wealth.

The problem underlying the ETC rests with insufficient funding to educate all children in the state. Tapping motivated businesses has long been one method to raise money for education, and the tax credits, functioning as vouchers, are the latest iteration. Pennsylvania's ETC program is popular among businesses, scholarship organizations, schools, and middle- and upper-income families; but it lacks the transparency and controls to measure fiscal effects or educational outcomes (efficiency and effectiveness). The program does not appear to achieve the claims by proponents - to enable low-income students to enroll in a school of choice that they otherwise couldn't afford, and to increase access to educational enrichment for all students. Instead, it reinforces barriers to access for low-income families, appears to concentrate wealth in more advantaged organizations and families, and reduces the state's ability to directly fund education or other public priorities.

[End of excerpt from full dissertation. Contact the author at:
J.K.Ambrose2@live.iup.edu]