

A PUBLIC POLICY ANALYSIS OF EDUCATION REFORM IN FLORIDA

By

JOHN ROBERT MCCLURE III

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Abstract of Dissertation Presented to the Graduate School  
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John Robert McClure III

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Education reform has been an overriding public policy issue of importance since our nation's founding. Over time, the debates have focused primarily on what kinds of reform would be most effective. Most of the rhetoric, however, has traditionally emphasized narrow topics such as the costs or merits of a single program, the effects of teacher training, a statistical evaluation of graduation rates or an analysis of the effects of teacher salaries on education reform. However, much of what constitutes analysis or data collection has traditionally been limited in scope or difficult to validate. In addition, the difficulty of substantive data analysis is often lost, in part, because of the inflammatory passions on the subject of education reform in the form of political bickering, partisan clichés, pandering to voters and media sound bites.

This makes it exceedingly difficult for policymakers in the states and specifically Florida to assess how these programs are established and administered, and whether they are effective remedies to the myriad of problems facing our K-12 school systems. The challenge is to establish reasonable discussions regarding solutions that do not degenerate into the heated politics of the day.

The purpose of this study was to examine the various school-choice programs and other recent reform practices across the country and Florida specifically, with the goal of comprehending where policymakers in Florida obtain their information as they decide on how best to establish education policy. To answer this question, this dissertation examined the contextual history, trends, court decisions and politics concerning K-12 education reform in America in general and more specifically Florida's various school choice programs. As a bellwether state with demographics that essentially reflect the nation as a whole it is important to not only understand the context of education reform historically and in Florida, but to fully comprehend where and how our policymakers receive their information as they make the kinds of decisions that have national implications.

## CHAPTER 1

### INTRODUCTION

In 1998, then candidate Jeb Bush ran for governor making K-12 education reform in Florida a key component of his platform.<sup>1</sup> Consistent with this campaign message, Bush promised to introduce a series of choice and accountability programs into the world of K-12 public education in Florida, saying “Our education proposal would allow vouchers for children in chronically failing schools so that they could attend another public or private school.”<sup>2</sup> His subsequent victory in the governor’s race coupled with a legislature receptive to his ideas on education reform, resulted in several of the most far-reaching school choice and accountability programs, beginning with then Governor Bush’s Opportunity Scholarship Program,<sup>3</sup> to be seen anywhere in the country at that time.

The initial school choice program, introduced in 1999 by then Governor Bush, was known as the “Opportunity Scholarship”<sup>4</sup> (OSP) Program. For the first time in Florida, this piece of legislation allowed “students who attended or who were assigned to attend failing public schools the option to choose a higher performing school or a participating private school.”<sup>5</sup> Three other choice programs would follow over the next six years. Each was a vastly different offering of various school choice options. The McKay

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<sup>1</sup> Letitia Stein, “Voucher Programs in Vulnerable Position,” St. Petersburg Times, 8 May 2006.

<sup>2</sup> Vote-smart 1998 Florida NPAT 2 July 1998, quoted in Jesse Gordon, Ontheissues.org [electronic journal] [cited 21 December 2007].

<sup>3</sup> Fla. Stat. § 229.0537.

<sup>4</sup> Id.

<sup>5</sup> Id.

Scholarships Program for Students with Disabilities pilot program was enacted in 1999<sup>6</sup> in Sarasota County and subsequently expanded statewide in 2000. This program was established “to provide the option to attend a public school other than the one to which assigned, or to provide a scholarship to a private school of choice, for students with disabilities for whom an individual education plan has been written in accordance with rules of the State Board of Education”<sup>7</sup> The Tax Credits for Scholarship Funding Organizations Program was enacted in 2001<sup>8</sup> for the purpose of “encouraging private, voluntary contributions to nonprofit scholarship-funding organizations,” to “expand educational opportunities for children of families that have limited financial resources” and to “enable children in this state to achieve a greater level of excellence in their education.”<sup>9</sup> The Voluntary Pre- Kindergarten Program (VPK) was enacted in 2004, following the passage of a constitutional amendment by the citizens of Florida.<sup>10</sup> This program was designed to provide “a high quality pre-kindergarten learning opportunity in the form of an early childhood development and education program which shall be voluntary, high quality, free, and delivered according to professionally accepted standards.”<sup>11</sup> Each of the four programs passed during the Bush administration allowed a parent, under certain conditions, to use taxpayer dollars in the form of a voucher to

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<sup>6</sup> Fla. Stat. § 1002.39.

<sup>7</sup> Id.

<sup>8</sup> Fla. Stat. § 220.187.

<sup>9</sup> Id.

<sup>10</sup> Am. proposed by Constitution Revision Commission, Revision No. 6, 1998, filed with the Secretary of State May 5, 1998; adopted 1998; Ams. by Initiative Petitions filed with the Secretary of State July 30, 2002, and August 1, 2002; adopted 2002.

<sup>11</sup> Fla. Const, Art IX § 1.

attend other public or nonpublic schools of their choice.

Ultimately, litigation was filed against the initial Opportunity Scholarship Program in 2000 by numerous groups opposing it.<sup>12</sup> In *Bush v. Holmes*, the Florida Supreme Court struck down the Opportunity Scholarship Program, in 2006, as unconstitutional.<sup>13</sup> At this writing, the other three choice programs have yet to be challenged in the Florida courts.

Given the flashpoint nature of school reform in general and the Florida programs in particular, there has been tremendous rhetoric across the country from both sides on the issues of choice and accountability.<sup>14</sup> This study is intended to profile two of the remaining three programs in Florida: McKay<sup>15</sup> and the Corporate Tax Scholarship Programs,<sup>16</sup> as well as the former Opportunity Scholarship Program,<sup>17</sup> while providing a historical context for the school choice movement and the various relevant and important state and federal court decisions that have affected this movement. Moreover, this study examines other state school choice programs similar to Florida's OSP, McKay and Corporate Tax scholarship programs, relevant to the broader discussion taking place across the country on the merits<sup>18</sup> and concerns<sup>19</sup> of school choice in America.

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<sup>12</sup> *Bush v. Holmes*, 767 So. 2d 668 (Fla. Dist. Ct. App. 2000).

<sup>13</sup> *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006).

<sup>14</sup> “The Empire Strikes Back,” The Wall Street Journal, 25 March 2004, sec. A.

<sup>15</sup> Fla. Stat. § 1002.39.

<sup>16</sup> Fla. Stat. § 220.187

<sup>17</sup> Fla. Stat. § 229.0537.

<sup>18</sup> “Nine Lies about School Choice: Proving the Critics Wrong,” The Center for Education Reform. [electronic journal], 1 September 2005. [cited 6 June 2008, available from [www.edreform.com/index.cfm](http://www.edreform.com/index.cfm)].

<sup>19</sup> Sol Stern, “School Choice Isn’t Enough,” City Journal 18, no. 1 (2008).

Finally, it communicates<sup>20</sup> with Florida policymakers to better understand which organizations influence them as they make their decisions regarding many of these reforms.

### **Other State Programs Similar to Florida's**

There are currently twenty-one school choice programs with over 185,000 K-12 students participating, in thirteen states and the District of Columbia.<sup>21</sup> In May of 2008, the Georgia Legislature passed and Governor Perdue signed the nation's twenty-second choice program, but it has yet to be implemented.<sup>22</sup> Of the implemented programs approximately fourteen of them mirror very closely the three programs Florida had in place initially: the former Opportunity Scholarship program, the McKay Scholarship Program for Children with Disabilities, and the Corporate Tax Scholarship Program.<sup>23</sup> Two states and the District of Columbia have in place similar programs to Florida's original Opportunity Scholarship Program, with Ohio having two separate programs: Wisconsin,<sup>24</sup> Ohio,<sup>25</sup> and Washington D.C.<sup>26</sup> Seven states, including Florida, currently offer some form of tax credit choice program. These include: Florida,<sup>27</sup>

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<sup>20</sup> Bob McClure, Communication with Florida Elected Officials, Table 1, 2009.

<sup>21</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition.

<sup>22</sup> Ga. Annotated Code §§ 2A. 20-2A-1 – 20-2A-4 & 48-7-29.13.

<sup>23</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition.

<sup>24</sup> Wis. Stat. § 119.23 (1995-96).

<sup>25</sup> Ohio Rev. Code Ann. § 3313.974 – 3313.979 (Baldwin Supp. 2001)

<sup>26</sup> Washington Revised Code § 28B.10.814.

<sup>27</sup> Fla. Stat. § 220.187.

Arizona,<sup>28</sup> Illinois,<sup>29</sup> Iowa,<sup>30</sup> Minnesota,<sup>31</sup> Pennsylvania,<sup>32</sup> and Rhode Island.<sup>33</sup> Finally, four states, including Florida, provide choice programs for special needs or learning disabled children. These include: Florida,<sup>34</sup> Arizona,<sup>35</sup> Georgia,<sup>36</sup> and Utah.<sup>37</sup>

Four states offer other school choice programs unlike any programs found in Florida; Arizona Foster Child Vouchers,<sup>38</sup> Maine Town Tuitioning,<sup>39</sup> Ohio Autism Vouchers,<sup>40</sup> and Vermont Town Tuitioning.<sup>41</sup> Consequently, they will not be discussed herein.

### **State Voucher Programs**

The twenty-one choice programs in existence today can be broken down primarily into three distinct choice initiatives similar to Florida's initial three programs. There are several choice programs in other states that are very similar to Florida's original OSP program. Apart from general health, safety and fiscal requirements on the part of the

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<sup>28</sup> ARIZ. REV. STAT. § 43 – 1089.

<sup>29</sup> 35 ILCS 5/201 (m).

<sup>30</sup> I.C.A. § 422.12(2).

<sup>31</sup> Minn. Stat. § 290.0674

<sup>32</sup> 24 P.S. §§ 20 – 20005 – B, & 20-2007B

<sup>33</sup> R.I. Gen. Laws § 44-62-1

<sup>34</sup> Fla. Stat. § 229.0537

<sup>35</sup> ARIZ. REV. STAT. § 15 - 891

<sup>36</sup> Ga. Annotated Code § 20-2-2110 – 20-2-2118

<sup>37</sup> Ut. Annotated Code §§ 53A-3-410 & 53A-1A-701 – 53A-1a-710

<sup>38</sup> ARIZ. REV. STAT. § 15-817

<sup>39</sup> 20-A- M.R.S. §§2951-2955; 20-A- M.R.S. §5204; 20-A- M.R.S. §5801; 20-A- M.R.S. §5806

<sup>40</sup> ORC § 3310.41

<sup>41</sup> 16 V.S.A. Ch. 3 §166; V.S.A. Ch. 21 § 821-833 (§830-833 repealed)

participating schools, these programs simply provide vouchers for children with very few restrictions apart from family income, status of current school (failing, or in a state of emergency), or some level of demographic restriction.<sup>42</sup>

The Milwaukee Parental Choice Program (MPCP) was one of the nation's first voucher programs.<sup>43</sup> Families with incomes below 175 of the federal poverty guidelines may participate. These families are allowed to use tax dollars in the form of a voucher to attend either private or religious schools,<sup>44</sup> though parents may request to opt out of school religious activities.<sup>45</sup> In 2006, the cap for eligible students was raised from a flat 15 percent of Milwaukee's public school population to a hard cap of 22,500 students.<sup>46</sup> The voucher's maximum dollar value is equal to the approximate amount the state would have spent on that child.<sup>47</sup> Moreover, apart from general health and safety regulations, schools must be accredited by one of several accrediting organizations, hire teachers with at least a high school diploma or an alternative teaching certificate<sup>48</sup> and beginning in 2006-07 give nationally-normed tests in fourth, eighth and tenth grade.<sup>49</sup> The state provides the funding in the form of a check to the parent which is

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<sup>42</sup> Id.

<sup>43</sup> Wis. Stat. § 119.23

<sup>44</sup> Wis. Stat. Ann. § 119.23 (2001)

<sup>45</sup> Id.

<sup>46</sup> Id.

<sup>47</sup> Id.

<sup>48</sup> Id.

<sup>49</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition.

then simply endorsed over to the school and students are admitted by lottery.<sup>50</sup>

In 1995, the Ohio Legislature passed the Ohio Pilot Project Scholarship Program,<sup>51</sup> better known as the Cleveland Voucher program, because at the time of passage the Cleveland Municipal School District was the only district in Ohio that qualified. Eligible families must live in a school district where a federal court order allows the state superintendent of public instruction total administrative control of the district.<sup>52</sup> Students in grades K-8, in public or private schools, are eligible to receive a voucher in an amount up to \$3,450 at or below 200 percent of the federal poverty guideline.<sup>53</sup> Participating students may continue to receive a voucher for high school though all students must reapply every year.<sup>54</sup> Moreover, participating schools must agree not to teach “hatred”.<sup>55</sup>

In 2005, the state Legislature of Ohio also put into place a voucher program for students in chronically failing schools.<sup>56</sup> Students are eligible for this program if they attend or live in the district of a school that has been designated as being on “academic watch” or in a state of “academic emergency” for three consecutive years.<sup>57</sup> It is also

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<sup>50</sup> Wis. Stat. § 119.23

<sup>51</sup> Ohio Rev. Code Ann. §§ 3313.974 – 3313.979.

<sup>52</sup> Ohio Rev. Code § 3313.975.

<sup>53</sup> Id.

<sup>54</sup> Ohio Rev. Code § 3313.979

<sup>55</sup> Id.

<sup>56</sup> Ohio Rev. Code § 3310.02

<sup>57</sup> Id.

currently capped at a participation rate of 14,000 students.<sup>58</sup> The voucher is worth \$4,250 for children in grades K-8 and \$5,000 for children in grades 9-12.<sup>59</sup> In an odd twist, families who earn less than 200 percent of the federal poverty level are forbidden to supplement the voucher while families that are at or above the 200 percent of the poverty level are allowed to do so.<sup>60</sup>

The fourth program that somewhat mirrors Florida's initial Opportunity Scholarship Program is the Washington D.C. Opportunity Scholarship program.<sup>61</sup> Only families with incomes 185 percent below the federal poverty rate are eligible.<sup>62</sup> A program that must be appropriated annually by Congress, the current voucher is worth up to \$7,500.<sup>63</sup> Students are admitted via lottery only and must take the Standard-9 test.<sup>64</sup>

There are also currently three state programs across the country that closely resemble Florida's McKay Scholarship Program for Students with Disabilities.<sup>65</sup> Each while somewhat different share many of the same qualifications and goals.

The Arizona Scholarships for Pupils with Disabilities was put into place in 2006.<sup>66</sup> It has since been found in violation of Arizona's constitution by providing public funds to

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<sup>58</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition.

<sup>59</sup> Id.

<sup>60</sup> Ohio Rev. Code § 3310.02

<sup>61</sup> Washington Revised Code § 28B.10.814.

<sup>62</sup> Id.

<sup>63</sup> Id.

<sup>64</sup> Id.

<sup>65</sup> Fla. Stat. § 220.187.

<sup>66</sup> ARIZ. REV. STAT. § 15 – 891

“aid...private or sectarian schools.”<sup>67</sup> When passed by the Legislature in 2006, however, it provided a voucher for disabled children equal to the value of “funding that student would have generated if he or she would have remained in public school.”<sup>68</sup> Likewise, apart from general health, safety and general accounting requirements this program imposed very few other regulations regarding accreditation, testing or teacher qualifications.<sup>69</sup>

Another state choice program focused on children with special needs is the Georgia Special Needs Scholarship Program.<sup>70</sup> Modeled on the McKay Scholarship program,<sup>71</sup> the voucher is “worth up to the cost of the educational program the student would have received in public school”<sup>72</sup> which today can be as much as \$9,000.<sup>73</sup> Apart from general health, safety and accounting requirements, this program requires private schools to be accredited or applying for accreditation.<sup>74</sup> Teachers must have college degrees or three years of teaching experience and there are no admission or testing restrictions.<sup>75</sup>

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<sup>67</sup> *Caine et al v. Horne et al*, No. 08 -0189 (Ariz. March, 2009).

<sup>68</sup> ARIZ. REV. STAT. § 15 – 1204

<sup>69</sup> ARIZ. REV. STAT. § 15 – 1184

<sup>70</sup> Ga. Annotated Code § 20-2-2110 – 20-2-2118

<sup>71</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition.

<sup>72</sup> Ga. Annotated Code § 20-2-2115

<sup>73</sup> Id.

<sup>74</sup> Ga. Annotated Code § 20-2-2116

<sup>75</sup> Id.

The third program that attempts to offer choice to special needs students is called the Utah Carson Smith Special Needs Scholarship.<sup>76</sup> It, too, was modeled on the McKay Scholarship Program.<sup>77</sup> This program “offers a voucher to every disabled student in public schools, as well as students with disabilities in private schools that served disabled students prior to participating in the program.”<sup>78</sup> The amount of the voucher can be dependent on several variables, including whether the student uses more or less than three hours of special services per school day.<sup>79</sup> Those who receive more than three hours of services receive “2.5 times the state’s pupil funding amount”<sup>80</sup> which is set every year by the legislature. Those who receive less than three hours worth of services receive “1.5 times the per pupil funding.”<sup>81</sup> The amounts in 2005-06 were \$5,700 and \$3,420, respectively.<sup>82</sup> Teachers must have a bachelor’s degree, three years experience or other disability-specific qualifications.<sup>83</sup> It also requires an “assessment” but does not define what constitutes the definition of an “assessment.”<sup>84</sup>

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<sup>76</sup> Ut. Annotated Code §§ 53A-3-410 & 53A-1A-701 – 53A-1a-710

<sup>77</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition.

<sup>78</sup> Id.

<sup>79</sup> Ut. Annotated Code § 53A-3-410

<sup>80</sup> Id.

<sup>81</sup> Id.

<sup>82</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition.

<sup>83</sup> Id.

<sup>84</sup> Ut. Annotated Code § 53A-1a-705

Finally, there are currently eight state Legislative programs<sup>85</sup> across the country that are similar in nature to Florida's Corporate Tax Scholarship Program, though some differ slightly in terms of requirements, expectations or benefits. Arizona currently has two tax credit scholarship programs: one for corporate tax credits<sup>86</sup> and one for personal tax credits.<sup>87</sup> The Arizona Personal Tax Credit Scholarship Program<sup>88</sup> was enacted in 1997 and gives Arizona residents a tax credit if they donate to private organizations, called School Tuition Organizations, who then give scholarships to private schools. The current limit for giving is \$500 for individuals and \$1,000 for married couples.<sup>89</sup> Unlike Florida's program, there are no fixed limits on the number of students who may participate or the size of the program in terms of dollars.<sup>90</sup> Currently, the program serves 24,678 children at an average scholarship of \$1,643.<sup>91</sup>

The Arizona Corporate Tax Program<sup>92</sup> is slightly different from its sister program. Corporations, not individuals, may donate to School Tuition Organizations that then give scholarships to private schools.<sup>93</sup> It is also capped at a total of \$10 million per year,<sup>94</sup>

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<sup>85</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition.

<sup>86</sup> ARIZ. REV. STAT. § 43 – 1183.

<sup>87</sup> ARIZ. REV. STAT. § 43 – 1089.

<sup>88</sup> Id.

<sup>89</sup> ARIZ. REV. STAT. § 43 – 1089 (2005).

<sup>90</sup> ARIZ. REV. STAT. § 43 – 1089.

<sup>91</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition.

<sup>92</sup> ARIZ. REV. STAT. § 43 – 1183.

<sup>93</sup> Id.

<sup>94</sup> ARIZ. REV. STAT. ANN. § 43 - 1183 (2006).

with the average scholarship being \$1,411.<sup>95</sup> Participating families are limited to incomes 185 percent below the poverty line.<sup>96</sup>

The state of Illinois provides some assistance through its Illinois Personal Tax Credit Program for educational expenses.<sup>97</sup> Families may receive a credit “equal to 25 percent of qualified expenses” after paying the first \$250, but the total credit may not exceed \$500.<sup>98</sup> Though there are minimal restrictions for schools or families to participate, families must make enough taxable income to pay state income tax in order to take advantage of the program.<sup>99</sup>

Iowa, like Arizona, has two tax credit programs in place: one that allows for a personal tax credit to defray “educational expenses”<sup>100</sup> and one that allows families to donate to School Tuition Organizations that can then give scholarships to private schools.<sup>101</sup> The Iowa tax credit program is designed to help defray educational expenses similar to that found in Illinois. It provides a credit of 25 percent of expenses up to a maximum of \$250 though not for religious “tenets<sup>102</sup> or literature. Unlike Illinois, however, this tax credit can be used “for each dependent in grades kindergarten

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<sup>95</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition.

<sup>96</sup> ARIZ. REV. STAT. § 43 – 1183.

<sup>97</sup> 35 ILCS § 201.

<sup>98</sup> Id.

<sup>99</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition.

<sup>100</sup> IA. Code § 422.12.

<sup>101</sup> IA. Code § 422.11.

<sup>102</sup> IA. Code § 422.12.

through twelve”<sup>103</sup> as opposed to a one time credit of up to \$500 for the Illinois program.<sup>104</sup>

The second Iowa program allows for a tax credit for “individual income tax equal to 65 percent of the amount of the voluntary cash contribution made by the taxpayer to a school tuition organization and the program is capped at \$5 million.<sup>105</sup> The average scholarship is \$213 and the program in 2007 served approximately 35,000 students.<sup>106</sup> Students who take advantage of this program must have family incomes 300 percent below the federal poverty guidelines.<sup>107</sup>

The Minnesota Personal Tax Deduction and Credit for educational expenses provides for both a personal tax deduction as well as a personal tax credit.<sup>108</sup> Parents may receive a tax deduction for “tuition, textbooks and transportation” of up to \$1,625 in grades kindergarten through six and a \$2,500 deduction in grades seven through twelve.<sup>109</sup> Books for the teaching of “religious tenets” do not qualify for the credit.<sup>110</sup>

The Minnesota tax credit is for educational expenses apart from tuition.<sup>111</sup> Families may receive a credit of up to \$1,000 per child per family.<sup>112</sup> The amount of the credit is

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<sup>103</sup> Id.

<sup>104</sup> 35 ILCS § 201.

<sup>105</sup> IA. Code § 422.11.

<sup>106</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition.

<sup>107</sup> IA. Code § 422.11.

<sup>108</sup> Minn. Stat. §§ 290.01 & 290.0674

<sup>109</sup> Minn. Sta. § 290.01

<sup>110</sup> Id.

<sup>111</sup> Minn. Stat. § 290.0674

<sup>112</sup> Id.

reduced for families making more than \$33,500 and becomes zero for families making over \$37,500.<sup>113</sup>

Pennsylvania's Tax Credit Scholarship Program<sup>114</sup> for corporations also closely resembles other state tax credit programs. Families who participate must have incomes below \$50,000 and the scale is graduated \$10,000 per child or dependent in the household.<sup>115</sup> The total cap for the tax credit program currently stands at \$44.7 million with the average scholarship approximately worth \$1,085 permitting roughly 42,000 students to participate.<sup>116</sup>

The final tax credit program in existence exists in the state of Rhode Island.<sup>117</sup> This program allows corporations to donate to scholarship organizations who then give out scholarships to private schools.<sup>118</sup> Moreover, family incomes for participation must be 250 percent below the federal poverty guidelines and the tax credit donations are capped as a whole at 1,000,000.<sup>119</sup> Scholarship amounts per child are not currently available but the best estimates approximate the figure at \$1,088 per child.<sup>120</sup>

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<sup>113</sup> Id.

<sup>114</sup> 24 P.S. §§ 2001 – 20005 – B, & 20-2007B

<sup>115</sup> 24 P.S. § 2005 – B.

<sup>116</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition.

<sup>117</sup> R.I. Gen. Laws Article 24 § 44 – 62.

<sup>118</sup> R.I. Gen. Laws Article 24 § 44 – 62 – 2.

<sup>119</sup> R.I. Gen. Laws Article 24 §§ 44 – 62 – 2 & 44 – 62 – 3.

<sup>120</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition.

## **Statement of the Problem**

Much has been written as to the pros and cons of specific aspects related to school choice and its affects on K-12 education. However, most of the rhetoric on the subject focuses on narrowly defined discussions, even simple sound bites, such as the costs or merits of a single choice program, the effects of a specific lawsuit, a statistical evaluation of test scores or an analysis of student drop out rates of various choice programs. Moreover, empirical and statistical data are either highly limited, given the newness of the majority of these state programs, or highly segmented.<sup>121</sup> Apart from the difficulty of substantive data analysis, in many ways, any reasonable discussion pro or con regarding these choice programs is often lost in the din of political bickering, partisan clichés, pandering to voters and media sound bites.

All of this makes it difficult for policymakers in various states and specifically Florida to assess honestly how these programs are set up, administered and whether they are effective remedies to the myriad of problems facing our K-12 school systems as supporters say, or harmful to the fundamental tenets of public education as their detractors contend. The heated rhetoric shows no signs of subsiding as both sides continue to battle in state legislatures,<sup>122</sup> in the courts,<sup>123</sup> through the media<sup>124</sup> and at the ballot box.<sup>125</sup> Moving forward, this appears to be a state by state struggle for the future of K-12 education. The fear is that reasonable discussions regarding solutions

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<sup>121</sup> R. Craig Wood, telephone interview, 20 June 2008.

<sup>122</sup> John Fund, "He's Throwing Away My Dream," *The Wall Street Journal*, 16 January 2006.

<sup>123</sup> *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006).

<sup>124</sup> John Fund, "He's Throwing Away My Dream," *The Wall Street Journal*, 16 January 2006.

<sup>125</sup> Shannon Colavecchio-Van Sickler, "Jeb Campaigns for Education, not Office," *St. Petersburg Times*, 15 June 2008.

may be dismissed in favor of simply extending another educational political campaign to the next state.

### **The Purpose of the Study; The Research Question**

The purpose of this study is to obtain relevant research concerning school-choice programs and other recent reform practices, with the goal of understanding where policymakers in Florida obtain their information as they make important decisions regarding education policy. With a highly volatile subject such as education policy, where strong opinions exist on each side, which groups at the state and national level are the most influential on the decision-makers who directly and immediately affect public policy in this state. To fully comprehend this question, this dissertation will examine the pertinent history, political trends, and research data concerning K-12 education reform in America in general and more specifically Florida's various school choice programs. To provide an important context, it is also essential to review the political trends in other states to understand more fully how and why each side of the school reform debate supports or opposes these policies.

The research question to be answered is which organizations, regardless of where they stand on education policy, truly influence state policymakers in Florida when those policymakers begin searching for information on education issues specifically related to reform and school choice? What organizations do legislators and staff listen to on a regular basis and whom do they respect as they make decisions on the great debates taking place in a bellwether state such as Florida? Can a study be designed that circumvents the rhetorical arguments, neutrally examines data gleaned and provides useful findings and conclusions that answer this research question? To do so, one must supply sufficient historical context to understand the two opposing sides of the school-

choice debate, what those two sides believe, and the origins of their respective viewpoints. Answering the research question will help break through the rhetoric and honestly assess which organizations at either the state or national level influence education policy in Florida, a bellwether state in education reform on numerous fronts, while providing a better understanding of how policy is formed at the state level.

In order to provide a positive answer to the research question previously outlined, this dissertation offers a body of research in one place to gain a greater understanding of which groups influence policymakers the most. The focus of this dissertation is less on education reform or school choice per se, but rather on using those issues as a vehicle for examining the efficacy of researching a public policy research question. Given the limited research data available thus far, the volatile nature of education policy and the strong opinions held by both sides, it is important to answer the research question.

The challenge is in separating out the facts from the rhetoric. To do so one first has to understand the nature of the twenty-one, soon to be twenty-two, programs currently in existence,<sup>126</sup> and how similar in terms of public policy most of them are.<sup>127</sup> Secondly, this research seeks to understand the history, politics, effects and current realities of Florida's three initial choice programs and the effects of the subsequent *Bush v. Holmes* decision which declared the Opportunity Scholarship Program to be unconstitutional.<sup>128</sup> Third, one must understand a historical perspective of K-12

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<sup>126</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition.

<sup>127</sup> Id.

<sup>128</sup> *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006).

education from the founding to the present which provides context for any policy decision, as well as the defining court decisions related to education reform and the emerging trends and political struggles taking place in those courts. Fourth, this dissertation communicated with the Florida Legislature and asked them which organizations they trusted as a source for good education policy and then profiled in depth each of the organizations cited. Finally this research offers conclusions and implications of education and choice initiatives at the K-12 level as a public policy issue, while understanding the influence certain state and national organizations have in the process of establishing public policy.

### **Significance of Study**

Education and education reform are regularly at the top of most voter lists' when asked which public policy issues are most important to them.<sup>129</sup> Moreover, elected officials across the country routinely talk about "fixing" education. This study will enable decision makers to separate fact from fiction in evaluating the Florida programs, identify the genesis and the influences of the political rhetoric coming from both sides, for the purposes of clarity, and then fully comprehend the body of data so that policymakers will be able to make better decisions regarding K-12 education.

### **Method of Study**

To fully understand the nature of the three Florida programs as well as others across the country similar in nature, it was important to examine the actual statutes. Therefore researching and reading these statutes while commenting, understanding

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<sup>129</sup> Jeffery Jones, "Terrorism Tops List of Key 2004 Election Issues: education, Iraq and economy also prominent" *Gallup News Service*, 29 December 2003. & Jeffery Jones, "Terrorism, Economy Rank as Top Election Issues" *Gallup News Service*, 27 October 2004.

and confirming the official language from journals, elected officials, members of the media, and other credible sources was paramount.

Moreover, it is important to understand the history of these reforms in Florida as well as the political rhetoric that accompanied the institution of the initial programs. Policymakers must be able to break through the sound bites, clichés and other incendiary language that do not contribute to any thoughtful discussion about education reform. This study, while providing the background and source of much of the rhetoric also provides a clear view of the current realities of these programs so that elected officials can make their own decisions. A review and analysis of the relevant court cases that have influenced education reform, for good or for ill, will also provide decision makers with important background information as they grapple with these issues.

An historical perspective of K-12 education from the founding to the present provides context for any policy decision while providing one more piece of information for the decision maker. Finally, an in-depth profile of the most influential organizations in the state on education policy provides the answer to the research question to help better understand just how the making of public policy is affected.

### **The Limitations of this Study**

The scope of this study focuses on understanding both the factual nature of Florida's three initial choice programs while establishing a greater understanding of similarly modeled programs across the country. This study also attempts to understand the history, politics, effects, and current realities of Florida's three initial choice programs and the effects of the subsequent *Bush v. Holmes* decision which declared

the Opportunity Scholarship Program to be unconstitutional.<sup>130</sup> It also seeks to understand which organizations most influence the Florida Legislature as they make decisions regarding public policy.

The study was not designed to be an empirically data driven effort to either justify or condemn the particular choice programs, associations or interest groups. Consequently, the empirical data were limited. Moreover, there are many works that seek to support, pro or con, the specific choice programs. This effort was limited to offering research surrounding the facts of these programs and the political beginnings and current realities so that policymakers can then make their own decisions regarding reform. Given limited data, policymakers were presented with relevant information regarding education policy, free of judgment, so that they, then, will be able to decide for themselves.

### **Organization of the Study**

The opening chapter provided background information surrounding the beginnings of Florida's three initial choice programs: the "Opportunity Scholarship"<sup>131</sup> (OSP) Program, McKay Scholarships Program for Students with Disabilities,<sup>132</sup> and the Tax Credits for Scholarship Funding Organizations.<sup>133</sup> It also profiled the other twenty-one programs,<sup>134</sup> soon to be twenty-two,<sup>135</sup> that are similar in nature to the three Florida

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<sup>130</sup> *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006).

<sup>131</sup> Fla. Stat. § 229.0537

<sup>132</sup> Fla. Stat. § 1002.39

<sup>133</sup> Fla. Stat. § 220.187

<sup>134</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition.

<sup>135</sup> Ga. Annotated Code §§ 2A. 20-2A-1 – 20-2A-4 & 48-7-29.13

programs. It provided decision makers contextual information on these choice initiatives as a baseline for a more in-depth research study. Chapter Two examined the history and politics related to the inception of OSP, McKay and the Corporate Tax programs and the subsequent effects of the *Bush vs. Holmes* decision.<sup>136</sup> It also examined current realities related to both the factual data surrounding these programs as well as the current political landscape in Florida. Chapter Three examined other important state and national court decisions that have affected school reform and the brief history thereof while providing a historical perspective of K-12 education from the founding to the present, allowing policymakers to fully understand how we as a nation have gotten to where we are in this important discussion. Chapter Four communicated with legislative officials asking them which groups they turned to for information and those groups were profiled in-depth. Chapter Five offered conclusions, possible implications, and recommendations for policymakers as they consider, in general, the future of education reform in America while understanding how decisions are made and which groups provide the greatest influence. Finally, Chapter Five also reminded decision makers that this study is an analysis of public policy and those groups associated with public policy, as opposed to a general study on education reform as a whole.

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<sup>136</sup> *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006).

## CHAPTER 2

### PROFILE AND ORIGIN OF FLORIDA'S THREE INITIAL PROGRAMS

#### **Opportunity Scholarship Program**

Having won by running on a platform of education reform in 1998, the new Governor, Jeb Bush, wasted no time acting on his promises. In his 1999 State of the State Address Governor Bush remarked,

Together, let's send an unmistakable message for our children – in Florida, failure is no longer an option. Education will remain my top priority until we can honestly say that our system no longer leaves any child behind. I will never waver in my dedication to transforming our public schools into centers of excellence.<sup>1</sup>

Coupled with a state constitutional amendment passed the same year by Florida voters which called for education to be a “paramount duty of the state” by making “adequate provision for all children residing within its borders,”<sup>2</sup> the Republican dominated legislature moved quickly. Citing the responsibility found in that amendment,<sup>3</sup> they worked to pass the Opportunity Scholarship Program (OSP)<sup>4</sup> before the end of Governor Bush’s first legislative session, as part of a larger education reform package called the A+ Education Plan.<sup>5</sup> The A+ Plan was designed “to provide enhanced opportunity for students to gain the knowledge and skills necessary for postsecondary education, a career education or the world at work.”<sup>6</sup> OSP, as part of A+, allowed “students who attended or who were assigned to attend failing public schools the option

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<sup>1</sup> “Highlights from the text of Gov. Jeb Bush’s State of the State Address,” Associated Press, 2 March 1999.

<sup>2</sup> Fla. Const, Art IX § 1.

<sup>3</sup> Patricia Levesque, 2008. Interview by author. Tallahassee, Fla. 10 December.

<sup>4</sup> Fla. Stat. § 229.0537(1) (1999).

<sup>5</sup> Florida House. 1999. *A+ Plan*. Florida Legislative Session., H.R. 751, 753, 755.

<sup>6</sup> Id.

to choose a higher performing school or a participating private school.”<sup>7</sup> A failing school was defined by the state as having received two grades of “F” in any four-year period.<sup>8</sup> The entire bill itself was not simply a “voucher” bill.<sup>9</sup> In a 130-page bill that dealt with issues such as school safety and teacher quality,<sup>10</sup> only eight pages dealt with the Opportunity Scholarship Program.<sup>11</sup>

Governor Bush and his allies argued that injecting parental choice and allowing those parents the opportunity to choose a different school in the K-12 education system would improve both quality and accountability.<sup>12</sup> Moreover, House Chair for the K-12 Education Committee Alex Diaz de la Portilla spoke for many who supported OSP when he stated,

We are establishing student learning as the most important measure of performance. We are establishing a covenant between parents and the state that all children have the opportunity to attend schools that can meet their educational needs...we want all children to succeed and all schools to succeed and we want to reward that success.<sup>13</sup>

Arguing that vouchers would ruin the public school system<sup>14</sup> and chanting in the Capitol “Vicious, Venomous Vouchers,”<sup>15</sup> members of the Democratic Party and their allies including state and national teachers’ unions, the Florida School Board

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<sup>7</sup> Id.

<sup>8</sup> Fla. Stat., Title XLVIII, Chapter 1008.33.

<sup>9</sup> Id.

<sup>10</sup> Florida House. 1999. *A+ Plan*. Florida Legislative Session., H.R. 751, 753, 755.

<sup>11</sup> Id.

<sup>12</sup> Patricia Levesque, 2008. Interview by author. Tallahassee, Fla. 10 December.

<sup>13</sup> Highlights of speech by Chair Alex Diaz de la Portilla to the Florida House of Representatives, K-12 Education Committee, 1999.

<sup>14</sup> Patricia Levesque, 2008. Interview by author. Tallahassee, Fla. 10 December.

<sup>15</sup> Id.

Association, the Florida Superintendent's Association, Americans United for the Separation of Church and State, the American Civil Liberties Union and numerous Florida PTA groups and most of the print media at that time<sup>16</sup> worked to halt the bill. Their concerns centered on a number of issues all connected to the passage of any bill containing the Opportunity Scholarship language: a resultant decrease in adequate funding for public education, the taking of only the "best" students from public schools called the "the Creaming Objection," the ability of private schools to adequately serve voucher students, concerns over a lack of oversight of private schools, possible fraud due to this lack of oversight, and the use of state money in religious schools that would bring Florida in conflict with both the First Amendment of the U.S. Constitution as well as the so-called Blaine Amendment found in the Florida State Constitution.<sup>17</sup>

With sides chosen, the debate over what was called the "social justice issue"<sup>18</sup> of our time began in the 1999 Florida Session. The House K-12 Education Committee, chaired by Alex Diaz de la Portilla, was charged with primarily carrying the bill.<sup>19</sup> In the Senate, the bill was carried primarily through its education committee chaired by Senator Anna Cowin.<sup>20</sup> Jackie Halifax, a reporter for the Associated Press, encapsulated the entire debate when she wrote on the second day of the session,

"Imagine a child trapped in a school so bad that many students aren't learning how to

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<sup>16</sup> Id.

<sup>17</sup> Patrick Heffernan to the Florida House of Representatives, K-12 Education Committee, memorandum, February 1999.

<sup>18</sup> Highlights of testimony by Larry Keogh, Florida Catholic Conference, to the Florida House of Representatives, K-12 Education Committee, 1999.

<sup>19</sup> John B. Phelps, Clerk of the House, ed., Clerk's Manual (compiled and published on a desktop publishing system in conjunction with the Office of the Secretary of the Senate, 1998), 20.

<sup>20</sup> Id., 169.

read and write or add and subtract...Imagine that child is your child...Now decide whether you support diverting tax dollars from public schools to help your child transfer to a private school.”<sup>21</sup>

On the opening day of Session Governor Bush stated, “A student in a failing school deserves a quality education as much as a student in a successful school. It’s time we give these students the educational opportunity they desperately need.”<sup>22</sup> Critics were quick to respond saying that “vouchers will undercut the foundation of public education and drain money away from the very schools that need the most help.”<sup>23</sup> Members of the American Civil Liberties Union argued “that allowing vouchers for religious schools violates both the state and federal constitutions.”<sup>24</sup>

Numerous others opposed to OSP were weighing in as well. In anticipation of the session fight, Linda Finkelstein, past president of the Escambia County PTA wrote “School vouchers is an education reform proposal designed by politicians, economic theorists, entrepreneurs and parochial school advocates. No group of parents or educators would have designed a program for the improvement of the public schools that involves facilitating their abandonment.”<sup>25</sup> She went on to say that “one is not an unwitting apologist for the public education system when questioning how these children will be better served by diverting funds and weakening the public schools.”<sup>26</sup> In a series

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<sup>21</sup> Jackie Hallifax, “Vouchers a Priority for GOP Lawmakers,” *Tallahassee Democrat*, March 3, 1999.

<sup>22</sup> “Highlights from the text of Gov. Jeb Bush’s State of the State Address,” Associated Press, 2 March 1999.

<sup>23</sup> Jackie Hallifax, “Vouchers a Priority for GOP Lawmakers,” *Tallahassee Democrat*, March 3, 1999.

<sup>24</sup> Id.

<sup>25</sup> Linda Finkelstein, “Don’t Abandon our Public Schools,” *Pensacola News Journal*, 14 February 1999.

<sup>26</sup> Id.

of policy briefs designed to rebut the pro-voucher argument, written and distributed by the American Federation of Teachers to members of the Legislature, the media and educators. The AFT stated,

A regulated voucher system might satisfy citizens' demands for accountability, but it would erode the cherished autonomy and independence of private and religious schools. By contrast, an unregulated voucher system might preserve private and religious school autonomy, but it would not meet taxpayers' rightful, documented demand to know and have a say in how their dollars are spent.<sup>27</sup>

In a second policy brief the AFT called into question the admissions process<sup>28</sup> of private schools and raised the concern of the "creaming affect"<sup>29</sup> so called because of the concern over private schools simply taking the "best" students. The series of briefs went on to raise issues related to the "unprecedented breach in the church-state barrier"<sup>30</sup> and public concern over the accountability of private schools who took state money from OSP.<sup>31</sup>

Steven Green, legal director of Americans United for Separation of Church and State, in his testimony before the House committee argued that "Neither the Supreme Court nor any federal court has ever upheld anything close to a voucher program

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<sup>27</sup> American Federation of Teachers, "Vouchers and the Accountability Dilemma," *Policy Brief*, December 1998

<sup>28</sup> American Federation of Teachers, "Just How Private Are Private Schools?" *Policy Brief*, December 1998.

<sup>29</sup> Patrick Heffernan to the Florida House of Representatives, K-12 Education Committee, memorandum, February 1999.

<sup>30</sup> American Federation of Teachers, "The Accountability Dilemma," *Policy Brief*, December 1998.

<sup>31</sup> American Federation of Teachers, "What Kind of Accountability Would the Public Expect Under a Voucher Program?" *Policy Brief*, December 1998.

involving religious schools.”<sup>32</sup> Mr. Green later stated, “Out of six voucher cases at the state level, vouchers have been upheld only once.”<sup>33</sup> He went on to say,

The reason that vouchers are unconstitutional is that, regardless of what they are called, they result in public tax dollars spent for religious education. Parochial and other private religious schools are considered to be ‘pervasively sectarian’ and in that religious teachings and values are integrated throughout the curriculum...it is impossible to fund the secular without funding the sectarian.<sup>34</sup>

He concluded, “Under any reasonable analysis, vouchers for religious education are unconstitutional.”<sup>35</sup>

Legislators in both chambers also sought to stop the establishment of Opportunity Scholarships. Concerned over the lack of oversight of private schools, Democratic House member Debbie Wasserman Schultz argued, “The problem now is that any group of people could get together and start a private school. If we're going to do this, we should at least ensure that taxpayer dollars are accounted for and that the schools are high-quality.”<sup>36</sup> The Senate Education Committee debated an amendment introduced by Senator Buddy Dyer, the Democratic Minority Leader that would have eliminated OSP, but the amendment was defeated.<sup>37</sup> The Senator then sought “language that would prevent vouchers from being automatically transferred from one school to the next. Under Mr. Dyer's proposal, students who received vouchers in

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<sup>32</sup> Highlights of testimony by Stephen Green, Legal Director for Americans United for Separation of Church and State, to the Florida House of Representatives, K-12 Education Committee, 1999.

<sup>33</sup> Id.

<sup>34</sup> Id.

<sup>35</sup> Id.

<sup>36</sup> Jessica L. Sandham, “Florida House Approves Bush's Voucher Plan; Senate Action Likely,” Education Week 18, vol. 30 (1999): 22.

<sup>37</sup> Jessica L. Sandham, “Vouchers Front and Center in Florida Legislature,” Education Week 18, vol. 28 (1999): 17-19.

elementary school, for example, would not receive vouchers for middle school or high school if those schools met state standards.”<sup>38</sup> The Senator stated, “I don’t believe that taking money out of the public school system is the best way to improve low-performing schools. The consensus in committee is that vouchers shouldn’t be unlimited. The deeper we get into the Session, the more optimistic I am that we can blunt some of this.”<sup>39</sup> Even some Republicans were concerned and sought to defeat or limit the Opportunity Scholarship portion of the A+ Plan.<sup>40</sup> Senator Donald C. Sullivan “introduced a similar measure that would, in effect, stop students from rolling their vouchers over from one district to another if schools in the district they moved into met state standards.”<sup>41</sup> Republican Senator Jim King, who would ultimately vote against the final measure,<sup>42</sup> offered an amendment from the floor severely limiting in scope of the OSP.<sup>43</sup> His plan would have provided vouchers “only to those students in failing schools who scored in the bottom quartile of state test-takers”<sup>44</sup> which would have “effectively cut in half the number of eligible students.”<sup>45</sup>

Not to be outdone, and understanding that numbers were on their side with the

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<sup>38</sup> Id.

<sup>39</sup> Id.

<sup>40</sup> Florida House. 1999. *A+ Plan*. Florida Legislative Session., H.R. 751, 753, 755.

<sup>41</sup> Id.

<sup>42</sup> Levesque, Patricia. 2008. Interview by author. Tallahassee, Fla. 10 December.

<sup>43</sup> Jessica L. Sandham, “Florida Lawmakers Poised to Decide Fate of Voucher Plan,” Education Week 18, vol. 33 (1999): 21-22.

<sup>44</sup> Id.

<sup>45</sup> Id.

makeup of the new Legislature,<sup>46</sup> Governor Bush and his allies argued for why the state needed vouchers. It began even before Jeb Bush won the Governorship when Chip Mellor, president of the Institute for Justice, published a pro-voucher article in state newspapers.<sup>47</sup> Seeking momentum for vouchers in Florida, Mellor wrote when speaking of the Milwaukee<sup>48</sup> and Cleveland<sup>49</sup> voucher programs already in place, “The results are impressive. In addition to high parental satisfaction, test scores are rising. Independent studies...all have shown dramatic and statistically significant gains in math scores. Reading scores are also on the rise.”<sup>50</sup>

Following the election of Jeb Bush, the first Republican Governor to work with a Republican-led Legislature since Reconstruction,<sup>51</sup> those elected officials took their cue from the new Governor who said, “A student in a failing school deserves a quality education as much as a student in a successful school.”<sup>52</sup> Alex Diaz de la Portilla, the sponsor of the bill, argued that the bill was the “salvation of public education.”<sup>53</sup> In his opening comments as Chair of the House Committee on K-12 Education, Diaz de la Portilla said,

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<sup>46</sup> Levesque, Patricia. 2008. Interview by author. Tallahassee, Fla. 10 December.

<sup>47</sup> Chip Mellor, “Vouchers Give the Poor Access to Better Schools,” *Florida Times Union*, 24 January 1998.

<sup>48</sup> Wis. Stat. § 119.23

<sup>49</sup> Ohio Rev. Code Ann. §§ 3313.974 – 3313.979.

<sup>50</sup> Chip Mellor, “Vouchers Give the Poor Access to Better Schools,” *Florida Times Union*, 24 January 1998.

<sup>51</sup> Jackie Hallifax, “Vouchers a Priority for GOP Lawmakers,” *Tallahassee Democrat*, March 3, 1999.

<sup>52</sup> “Highlights from the text of Gov. Jeb Bush’s State of the State Address,” Associated Press, 2 March 1999.

<sup>53</sup> Jackie Hallifax, “Vouchers a Priority for GOP Lawmakers,” *Tallahassee Democrat*, March 3, 1999.

This bill represents a systematic change and a comprehensive look at accountability. This bill injects competition, parental choice and parental responsibility into our public education system...the single most important thing that Floridians need to understand about public schools is that their only reason for existence is to effectively educate children. We establish a covenant in this bill...a covenant that all children have the opportunity to attend schools that can meet their educational needs...that all students will learn.<sup>54</sup>

The House and Senate Republican leadership produced briefings<sup>55</sup> for their members and the media outlining why this legislation would pass the “three pronged test”<sup>56</sup> in *Lemon vs. Kurtzman*<sup>57</sup> arguing that “all students in or assigned to failing public schools”<sup>58</sup> would qualify. Moreover, it stated, “OSP does not violate the second prong of the Lemon test because the money from OSP flows to institutions...as a result of a parent’s...choice”<sup>59</sup> In addressing the third prong of Lemon<sup>60</sup> the memorandum stated, “The OSP does not create excessive entanglement between government and religion. The program does not involve the State in any way with the [religious] schools’ governance.”<sup>61</sup>

Talking points were also distributed to legislative members addressing concerns related to other potential objections: possible defunding of public schools, the

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<sup>54</sup> Highlights of speech by Chair Alex Diaz de la Portilla to the Florida House of Representatives, K-12 Education Committee, 1999.

<sup>55</sup> House Republican Leadership, “Opportunity Scholarship Program Subject to the Lemon Test,” *Policy Brief*, 1999.

<sup>56</sup> 403 U.S. 612 -613 (1971)

<sup>57</sup> 403 U.S. 602 (1971)

<sup>58</sup> House Republican Leadership, “Opportunity Scholarship Program Subject to the Lemon Test,” *Policy Brief*, 1999.

<sup>59</sup> *Id.*

<sup>60</sup> 403 U.S. 602 (1971)

<sup>61</sup> House Republican Leadership, “Opportunity Scholarship Program Subject to the Lemon Test,” *Policy Brief*, 1999.

“creaming” of the best students from public schools, potentially selective admissions by private schools.<sup>62</sup> Finally, the Legislature focused on the positives<sup>63</sup> of high standards, excellence in education, accountability and choice.<sup>64</sup>

Pro-voucher testimony before the various committees sounded the same themes. Larry Keough of the Florida Catholic Conference testified, “This is not about pitting public schools against private schools...Parents are the first and foremost educators of their children and should not be financially penalized for exercising this right...This should be especially so for the poor.”<sup>65</sup> Matthew Berry, staff attorney for the Institute for Justice addressing the possible contradiction over the so-called “Blaine Amendment” testified,

The opportunity scholarships here are consistent with the principles set forth in Florida’s Supreme Court jurisprudence. Scholarships are provided on a neutral basis for the purpose of promoting the general welfare of those children in Florida who are trapped in failing schools, and religious institutions only receive an indirect benefit to the extent that parents choose to use the opportunity scholarships at religious schools instead of non-religious schools.<sup>66</sup>

In his floor speech before the final vote, the person who had been charged with shepherding<sup>67</sup> this bill through the House, the chair of the House K-12 Education Committee, opened by saying,

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<sup>62</sup> Patrick Heffernan to the Florida House of Representatives, K-12 Education Committee, memorandum, February 1999.

<sup>63</sup> Levesque, Patricia. 2008. Interview by author. Tallahassee, Fla. 10 December.

<sup>64</sup> House Republican Leadership, “A High Quality Education System,” Memorandum, 1999.

<sup>65</sup> Highlights of testimony by Larry Keogh, Florida Catholic Conference, to the Florida House of Representatives, K-12 Education Committee, 1999.

<sup>66</sup> Highlights of testimony by Matthew Berry, Institute for Justice, to the Florida House Select Committee on Transforming Florida Schools, 23 February, 1999.

<sup>67</sup> Levesque, Patricia. 2008. Interview by author. Tallahassee, Fla. 10 December.

Perhaps a good way to understand what public schools are is to define what they are not. Public schools do not exist to perpetuate bureaucratic policy or politics. Florida public schools do not exist to spend endless amounts of money on the administration that runs them. . .The purpose of Florida schools is simple...to effectively, let me repeat, effectively educate children.<sup>68</sup> It is time to put aside all other concerns, sectors and interest groups and focus on the future of our children...We have to recognize that it is our utmost responsibility for all children, regardless of race, socioeconomic level or gender to learn a year's worth of knowledge in a year's worth of time.<sup>69</sup>

After outlining specific elements of the bill, he concluded,

This bill represents systematic change and a comprehensive look at accountability. It injects competition, parental choice and parental responsibility into our public school system. We have established a covenant in this bill – a covenant between the state and parents – a covenant that all children have the opportunity to attend schools that can meet their educational needs. 1999 is not the time for excuses. 1999 is the time for real reform. This bill provides that reform.<sup>70</sup>

The House passed the A+ Plan<sup>71</sup> including the Opportunity Scholarship Program<sup>72</sup> 70-48<sup>73</sup> while the Senate passed it 25-15.<sup>74</sup>

The day after Governor Bush signed into law the A+ Education Plan containing OSP,<sup>75</sup> state and national teachers' unions and the allies of those unions filed two

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<sup>68</sup> Highlights of floor speech by Chair Alex Diaz de la Portilla to the Florida House of Representatives, 1999.

<sup>69</sup> Id.

<sup>70</sup> Id.

<sup>71</sup> Florida House. 1999. *A+ Plan*. Florida Legislative Session., H.R. 751, 753, 755.

<sup>72</sup> Id.

<sup>73</sup> Jessica L. Sandham, "Florida Lawmakers Poised to Decide Fate of Voucher Plan," *Education Week* 18, vol. 34 (1999): 1,21.

<sup>74</sup> Id.

<sup>75</sup> Fla. Stat., Title XVI, Chapter 229.0537 (2001).

lawsuits in state court to stop the program.<sup>76</sup> These two suits were later consolidated into one.<sup>77</sup>

The lawsuit claimed that OSP was unconstitutional for several reasons. First, those opposed claimed that it violated the U.S. Constitution's Establishment Clause<sup>78</sup> as well as the Florida Constitution's separation of church and state clause, often referred to as the "Blaine Amendment,"<sup>79</sup> because it allowed students to choose religious schools. They also claimed that OSP violated a provision in the state Constitution under the "adequate provision" for a "uniform, efficient, safe, secure and high quality system of free public schools."<sup>80</sup>

In March of 2000, Leon County Circuit Court held<sup>81</sup> that the program violated the state Constitution's "adequate provision" clause.<sup>82</sup> Subsequently, the First District Court of Appeals reversed the lower court's decision<sup>83</sup> ruling that "the requirement to establish a public school system does not forbid the State from also providing educational services through other means, including publicly funded scholarships."<sup>84</sup> The Florida Supreme Court chose not to review the First DCA decision in April 2001, sending the

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<sup>76</sup> "Safeguarding Educational Freedom: Latest Legal Showdown for School Choice Heads to Supreme Court," Institute for Justice. [electronic journal], May 2005. [cited 5 December 2008, available from [www.ij.org/index.php?option=com\\_content&task=view&id=1097&Itemid=165](http://www.ij.org/index.php?option=com_content&task=view&id=1097&Itemid=165)].

<sup>77</sup> *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006).

<sup>78</sup> U.S. Const., Amendment I.

<sup>79</sup> Fla. Const, Art I § 3.

<sup>80</sup> Fla. Const, Art IX § 1.

<sup>81</sup> *Bush v. Holmes*, 767 So. 2d 668, 672. (Fla. District Court of Appeal 2000).

<sup>82</sup> Fla. Const, Art IX § 1.

<sup>83</sup> *Bush v. Holmes*, 767 So. 2d 668 (Fla. District Court of Appeals 2000).

<sup>84</sup> Id.

case back to the trial court on issues related to the state and U.S. Constitutions' respective establishment clauses.<sup>85</sup> On August 5, 2002, a Leon County Circuit Court held that OSP was in violation of the state's no-aid provision and therefore unconstitutional.<sup>86</sup> The program continued to operate pending the state's appeal of the decision. In 2004, the First DCA affirmed the lower court's decision on two separate occasions, first by a three judge panel<sup>87</sup> and later by the full First District Court.<sup>88</sup> The program continued to operate pending an appeal to the Florida Supreme Court.

In January of 2006, after nearly seven years of litigation, the Florida Supreme Court, in a 5-2 ruling, found the Opportunity Scholarship Program to be unconstitutional and in violation of the state's obligation to provide a "uniform" system of education.<sup>89</sup> It explained, "It diverts public dollars into separate private systems parallel to and in competition with the free public schools that are the sole means set out in the Constitution for the state to provide for the education of Florida's children. This diversion not only reduces money available to the free schools, but also funds private schools that are not 'uniform' when compared with each other or the public system."<sup>90</sup> The court's narrow ruling did not address the lower court's conclusion that OSP violated the separation of church and state mandates of the Florida Constitution.<sup>91</sup> The final opinion

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<sup>85</sup> Id.

<sup>86</sup> *Bush v. Holmes*, No. CV99-3370, 2002 WL 1809079 (Fla. Cir. Ct. Aug. 5, 2002).

<sup>87</sup> *Bush v. Holmes*, 29 Fla. L. Weekly D1877 (Fla. 1<sup>st</sup> Dist. Ct. Aug. 16, 2004).

<sup>88</sup> *Bush v. Holmes*, 886 So. 2d 340 (Fla. 1<sup>st</sup> Dist. Ct. App. 2004) (Holmes II).

<sup>89</sup> *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006).

<sup>90</sup> Id. At 399.

<sup>91</sup> Fla. Const, Art I § 3.

could not be appealed to the U.S. Supreme Court because “no federal issues” were involved.<sup>92</sup>

Both sides chimed in on the ruling. Governor Bush called the ruling “a blow to education reform,” stating “It temporarily removes a critical tool for improving Florida’s public schools and it also challenges the power of the Florida Legislature to decide as a matter of public policy the best way to improve our educational system.”<sup>93</sup> Toni Cortese of the American Federation of Teachers stated “It’s clear that the court felt that public monies ought to be used for public schools.”<sup>94</sup> The lawyer who argued the case before the Florida Supreme Court, Clark Neily, stated “This ruling is such a radical departure from Florida precedent and common sense that the opinion appears both nakedly political and specifically designed to avoid confronting the “Blaine Amendment” question. There is no case law whatsoever interpreting the ‘uniformity’ clause to prevent the State from providing both public education and scholarships.”<sup>95</sup> The 2006 Democratic gubernatorial candidate Jim Davis both applauded the ruling and criticized Republicans who supported the program saying, “The politicians in Tallahassee have done everything they could to avoid tackling the tough job of really improving our public schools – and the Supreme Court of Florida called them on one of the tactics today...Public dollars are for public schools.”<sup>96</sup> There were accusations of a politically predisposed court. A *Miami Herald* article referenced hostility on the part of several

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<sup>92</sup> Sam Dillon, “Florida Supreme Court Blocks Vouchers,” *New York Times*, January 6, 2006.

<sup>93</sup> Id.

<sup>94</sup> Id.

<sup>95</sup> Lisa Knepper, Institute for Justice, *press release*, 5 January 2006.

<sup>96</sup> Patricia K. Hardman, PhD, Let the Record Stand for Itself: Know Your Candidates Before You Go to the Polls, *The Coalition of McKay Scholarship Schools*, (2006).

court appointees by former Democratic Governor Lawton Chiles toward the state's attorneys while noting flaws in arguments presented by the teachers' union attorneys.<sup>97</sup>

And yet Governor Bush and the Republican leadership in the Legislature were not giving up. Following his re-election and 2006 State of the State Address, in which he urged legislators to "protect the moral imperative of school choice,"<sup>98</sup> the Florida Legislature began to take steps to amend the Florida Constitution in hopes of placing a ballot initiative before the voters that would codify the Opportunity Scholarship Program.<sup>99</sup> As if opposition to the measure from Democratic members of both chambers were not enough, the Republican-controlled Senate was plagued by an internal power struggle among party leaders that ultimately led to the demise of the ballot initiative.<sup>100</sup> The 23-16 vote, with four Republicans joining all of the Democrats in the Senate, fell one vote short of the three fifths needed to place a constitutional initiative on the ballot for a statewide vote.<sup>101</sup> Governor Bush stated following the vote, "This was not a vote about school choice, trust me. It was about people's feelings being hurt. It was about personal pride and it was about a dysfunctional Republican caucus."<sup>102</sup>

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<sup>97</sup> Gary Fineout, "Florida Supreme Court Hears Voucher Arguments," *The Miami Herald*, June 8, 2005.

<sup>98</sup> Erik Robelen, "Florida Lawmakers Float New Voucher Plans; Amending Constitution, Corporate Financing are Among Strategies," *Education Week* 30, vol. 25 (2006): 25, 31.

<sup>99</sup> *Id.*

<sup>100</sup> Linda Jacobson, "Governor's Voucher Effort Loses Steam in Florida," *Education Week* 36, vol. 25 (1999): 22.

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

One final effort to restore the Opportunity Scholarship Program occurred in the Taxation and Budget Reform Commission (TBRC), a group appointed every twenty years by the Governor, the House Speaker and the Senate President<sup>103</sup> to

Examine the state budgetary process, the revenue needs and expenditure processes of the state, the appropriateness of the tax structure of the state, and governmental productivity and efficiency; review policy as it relates to the ability of state and local government to tax and adequately fund governmental operations and capital facilities required to meet the state's needs during the next twenty year period; determine methods favored by the citizens of the state to fund the needs of the state, including alternative methods for raising sufficient revenues for the needs of the state; determine measures that could be instituted to effectively gather funds from existing tax sources; examine constitutional limitations on taxation and expenditures at the state and local level; and review the state's comprehensive planning, budgeting and needs assessment processes to determine whether the resulting information adequately supports a strategic decision-making process.<sup>104</sup>

The TBRC voted in the spring of 2008 to place before the voters two amendments that would have sought to readdress, both directly and indirectly, the school voucher and Opportunity Scholarship battle that had been waged since Governor Bush took office. Amendment 7 voted on and passed by the TBRC "would have stricken the 140-year-old ban on the direct or indirect state funding of religious institutions, including religious schools."<sup>105</sup> Amendment 9, also passed by the commission, would have "set the constitutional groundwork for children to attend private religious schools."<sup>106</sup> The Florida Supreme Court, in a unanimous decision, reversed a lower court ruling<sup>107</sup> and

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<sup>103</sup> Fla. Const, Art XI § 6.

<sup>104</sup> Id.

<sup>105</sup> "Reform Commission: Opportunity Wasted in Florida," *Lakeland Ledger*, September 5 2008.

<sup>106</sup> Josh Hafenback, "Florida Supreme Court Takes Property Tax Cut and Vouchers Off the Ballot," *South Florida Sun-Sentinel*, September 4 2008.

<sup>107</sup> *Ford v. Browning*, No. 1D08-3934, 2008-CA-1905 (Fla. Cir. Ct. 2008).

voted to remove both amendments passed by the TBRC<sup>108</sup> saying “ We find the appellees’ and the circuit court’s construction...to be contrary to the plain and unambiguous language of the constitutional provision.”<sup>109</sup>

### **John M. McKay Scholarship Program**

Within the Governor’s initial A+ Plan was a second school choice program which would eventually blossom into the state’s largest choice program in terms of students served.<sup>110</sup> During the arguments over the future of OSP, with opponents and the media focused on that program, the Senate President-Elect, John McKay, quietly added language<sup>111</sup> that would introduce another school choice pilot project as a part of the A+ Program called the John M. McKay Scholarships for Students with Disabilities Program.<sup>112</sup> The initial pilot program of one county and two students was expanded statewide in 2000<sup>113</sup> when John McKay became Senate President. Established

To provide the option to attend a public school other than the one to which assigned, or to provide a scholarship to a private school of choice, for students with disabilities for whom an individual education plan has been written in accordance with rules of the State Board of Education,<sup>114</sup>

the McKay Scholarship Program was virtually unnoticed in its initial existence.<sup>115</sup>

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<sup>108</sup> *Ford v. Browning*, SC08-1529(Fla. 2008).

<sup>109</sup> *Id.*

<sup>110</sup> Alan Richard, “Florida Sees Surge in Use of Vouchers,” Education Week 1, vol. 22 (2002): 34-35.

<sup>111</sup> Levesque, Patricia. 2008. Interview by author. Tallahassee, Fla. 10 December.

<sup>112</sup> Fla. Stat. § 1002.39.

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> Levesque, Patricia. 2008. Interview by author. Tallahassee, Fla. 10 December.

Though critics were slow to catch on, once aware, it did not take the opposition long to try to defeat, narrow, or severely limit the program. The problem, however, was that the school choice program for children with disabilities was named for the current Senate President, who himself had a special needs child. McKay was quoted as saying, “As a parent of a child with learning disabilities, I know how frustrating the process is. ...Fortunately, I was able to afford to pay for a private school, but most parents can't. The present system is an elitist system.”<sup>116</sup> Other proponents of the program argued that accountability was important but that the program should be accountable to parents, not “government authorities.”<sup>117</sup>

McKay was not only the Senate President in 2000-2002, a position of tremendous influence and power, he had, the year before, been chairman of the rules committee, another extremely powerful position in the Senate. Consequently, if a Senator from either party wanted anything done legislatively for his or her district, it had to receive the support of the Senate President.<sup>118</sup> Moreover, if the House wanted help from the Senate in passing a bill, it had to have the support of the Senate President.<sup>119</sup> Consequently, challenging the McKay Scholarship Program, overtly, proved difficult for anyone.<sup>120</sup>

Not surprisingly, supporters emphasized parental choice in getting the best education for children with disabilities. Moreover, supporters argued that parental choice was also the best accountability measure. Representative Dennis Baxley argued,

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<sup>116</sup> Jessica L. Sandham, “Vouchers Front and Center in Florida Legislature,” Education Week 18, vol. 28 (1999): 17-19.

<sup>117</sup> Lisa Fine, “Florida’s Other Voucher Program Taking Off,” Education Week 43, vol. 20 (2001): 28, 35.

<sup>118</sup> Levesque, Patricia. 2008. Interview by author. Tallahassee, Fla. 10 December.

<sup>119</sup> Id.

<sup>120</sup> Id.

Parents need to be in control of their own children's decisions. I'm telling you, as a parent of a blind child who is fourteen years old, I know the sensitivity of this issue and. I know that no one knows what's best for that child more than the parents who are with that child day in and day out. We got to get over this hump that there is only one way to deliver services, there are other people and other choices that need to be considered...<sup>121</sup>

Representative Nancy Detert argued,

Last year I voted against this bill because it was presented to us, and it only affected my county, and my county has a fabulous program for handicapped kids and I voted against all voucher bills, including this one. But I think this bill, this year, is a little bit different. It's for handicapped kids and it allows them to take their handicapped child to whatever program suits them. And frankly as a mom, and a lot of us are... as a mom, a dad, a parent if you had a handicapped kid, I think you're really entitled to take that child where you want, wherever you think the best program is and for any reason you think is valid. And I don't really think you need to prove your case either.<sup>122</sup>

Critics focused, however, in three specific areas: perceived loss of funding for the public school system, a greater need for school accountability through the regulation of those schools that took McKay Scholarship students, and providing the need for proper instruction to children with disabilities, called "inclusion."<sup>123</sup> David Clark of the Florida Education Association argued, "There are very few accountability measures...It seems likely our private-sector entrepreneurs could open fly-by-night schools."<sup>124</sup> Tony Welch of the FEA, when discussing the numerous choice programs in Florida stated, "I still don't see how this adds up to a better public school...Vouchers allow you to walk away,

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<sup>121</sup> Representative Dennis Baxley, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.

<sup>122</sup> Representative Nancy Detert, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.

<sup>123</sup> "Lessons from Florida: School Choice Gives Increased Opportunities to Children with Special Needs," Cato Institute, March 2003.

<sup>124</sup> Lisa Fine, "Florida's Other Voucher Program Taking Off," Education Week 43, vol. 20 (2001): 28, 35.

and wash your hands of it.<sup>125</sup> The National Education Association continued to highlight in its position papers the need for greater accountability and regulation of nonpublic schools while improving the public school system through “fewer threats” and greater funding.<sup>126</sup> The National Coalition for Public Education argued that any kind of voucher, including McKay Scholarships, would be “prohibitively expensive and will divert needed funds from public schools.”<sup>127</sup>

In final testimony on the two legislative floors, numerous legislators echoed similar themes. Representative Charlie Justice in his floor speech before the entire House stated,

We could have placed some accountability standards in there; we could have placed some limits in there about school districts that cannot provide the services like Representative Stansel mentioned in committee meeting. We could have put something that would have ensured that these children will receive the proper services that they’re going to need. We didn’t do any of these things. This is why I stand today standing to tell you that I’m going to oppose this bill. I ask that we come back next year and do it the right way.<sup>128</sup>

Representative Susan Bucher was also concerned about a perceived lack of standards saying,

I believe strongly that the staff analysis has proven and we have seen that the trigger does not include the dissatisfaction of the parent; in addition to that, we did have long discussion about the fact that there is no teacher criteria, these are very special students, and if we’re sending them to private facilities, I have tremendous concern that these students would be taught by unqualified individuals using state money as a voucher. I would

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<sup>125</sup> Alan Richard, “Florida Sees Surge in Use of Vouchers,” *Education Week* 1, vol. 22 (2002): 34-35.

<sup>126</sup> National Education Association, “Vouchers,” *Position Paper*. [cited 29 December 2008, available from [www.nea.org/vouchers./index.html](http://www.nea.org/vouchers./index.html)].

<sup>127</sup> National Coalition for Public Education, “The Truth about Vouchers,” *Position Paper*. [cited 30 December 2008, available from [www.pta.org/documents/vouchers.doc](http://www.pta.org/documents/vouchers.doc)].

<sup>128</sup> Representative Charlie Justice, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.

urge you to at least scale back, this proposal... and I believe the fiscal impact was over 10 million dollars. I would urge my colleagues to slow this down and let's put some meaningful standards and some trigger language in this that would be defensible in the court of law.<sup>129</sup>

Representative Curtis Richardson argued,

I have some concerns because there is no accountability built into this bill. ...I know that parents of special needs children sometimes get frustrated with the school system because their children are not making the kind of progress that they feel they should be making. And sometimes that's based on unrealistic expectations. They feel that their children are not being well served in the public school system, when in fact they may be. So for a parent to be able to come in and say I'm dissatisfied, without that dissatisfaction being based on any kind of objective standards or evidence such as the child's academic or behavioral progress. I have real problems with that...<sup>130</sup>

In 2004, following fraud and abuse charges of officials from two schools receiving vouchers, Sen. Ron Klein, the Democrat leader of the state Senate, continually called for "mandatory student testing through the Florida Comprehensive Achievement Tests—the same ones public schools give—for private schools using state vouchers, and for the scores to be made public"<sup>131</sup> for all choice programs. Klein also called for regulations that required "private schools provide certified teachers, that the schools be accredited by a national private school organization, that all owners and operators undergo background checks, and that the state impose sanctions on schools that break the rules." The Senate Minority Leader stated, "Otherwise, how do you know these voucher schools are doing any better than the public schools?"<sup>132</sup> Even Republican

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<sup>129</sup> Representative Jordan Bucher, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.

<sup>130</sup> Representative Curtis Richardson, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.

<sup>131</sup> Alan Richard, "Florida Cracks Down on Voucher Schools," Education Week 13, vol. 23 (2003): 14-15.

<sup>132</sup> Alan Richard, "Florida Vouchers Move Towards Tighter Rules," Education Week 3, vol. 23 (2003): 1, 23.

Senate President Jim King called for greater oversight of the programs, asking for mandatory testing for all students who used vouchers to attend private schools. He also wanted test scores to be public, and called for schools to face regular financial audits.<sup>133</sup> Saying that he regretted that the Legislature didn't impose stiffer rules when approving the numerous voucher programs, he stated, "I'm not apologizing for what we've done, and in a way I am."<sup>134</sup>

### **Current Status of John M. McKay Scholarship Program**

The McKay Program has grown substantially since its inception as a pilot project and its statewide expansion in 2000. Additionally, it has not yet faced litigation of any kind that would seek to abolish the program. The first year of its statewide existence approximately 970 students took advantage of the program. By the second year that number had jumped 416 percent to 5,013. In 2007-2008 19,852 students used the John M. McKay Scholarships for Students with Disabilities Program.<sup>135</sup> The average scholarship amount in 2007-08 was \$7,295 with a total of 131.3 million dollars paid to scholarship recipients. The number of participating schools has grown from 100 in 2000 to 846 in the 2007-2008 school year.<sup>136</sup>

The student population receiving scholarship funds is relatively diverse in terms of race, ethnicity and gender. In 2007-2008, 47 percent of recipients were white, 30 percent were African-American, and 19 percent were Hispanic. Moreover, 68 percent of

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<sup>133</sup> Id.

<sup>134</sup> Id.

<sup>135</sup> Florida Department of Education, Office of Independent Education and Parental Choice, "Choice Facts." [cited 30 December 2008, available from [www.floridaschoolchoice.org/information/mckay](http://www.floridaschoolchoice.org/information/mckay)].

<sup>136</sup> Id.

the students were male while 32 percent were female, and nearly half qualified for free or reduced lunch.<sup>137</sup>

### **Corporate Tax Credit Scholarship Program**

Those who believed in even more choice programs, and led by a Governor and legislative leadership that sensed momentum with their reformist agenda, established a third program. The Tax Credits for Scholarship Funding Organizations Program (CTC) was enacted in 2001<sup>138</sup> for the purpose of “encouraging private, voluntary contributions to nonprofit scholarship-funding organizations,” to “expand educational opportunities for children of families that have limited financial resources,” and to “enable children in this state to achieve a greater level of excellence in their education.”<sup>139</sup> In short, by contributing to a third party scholarship funding organization, a corporation could “receive a dollar for dollar tax credit for up to 75 percent of its state income tax liability.”<sup>140</sup>

Supporters continued to strike the tone for parental choice, the strengthening of public schools through competition, accountability and dollar savings to the state. Patrick Heffernan, a veteran of the OSP debate, argued “If parents can decide which schools will get the funds for their children's schooling, then schools will do better, both public and private.”<sup>141</sup> Other supporters argued, “...that it would help alleviate the state's

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<sup>137</sup> Id.

<sup>138</sup> Fla. Stat. § 220.187.

<sup>139</sup> Id.

<sup>140</sup> Florida Department of Education, Office of Independent Education and Parental Choice, “Choice Facts.” [cited 8 January 2009, available from [www.floridaschoolchoice.org/information/CTC](http://www.floridaschoolchoice.org/information/CTC)].

<sup>141</sup> Jessica L. Sandham, “Florida Debates Expanding Its Voucher Program,” Education Week 20, vol. 28 (2001): 18,22.

growing school crowding problem while potentially saving the state money. The \$3,000 cost of a private school voucher, they point out, is far less than the then average \$4,800 per-pupil cost of educating students in public schools."<sup>142</sup>

Those opposed to CTC argued several positions, centered primarily around a perceived loss of funding for the public school system, a lack of accountability of those private schools that received scholarship money, church and state entanglement, and a general ongoing assault on the traditional public school system. Elliot Mincberg of People for the American Way worried that choice supporters wanted to simply ruin the public school system when he stated, "This is what's inside the Trojan horse. If not privatize all schooling, then subsidized private schooling. The first voucher program was just the first step, and there are folks in Florida interested in advancing it as rapidly as they can." Representative Bob Henriquez argued that this was only a first step that would increasingly strain the state budget, "It can only go up. There is an albeit indirect effect on our budget, but it's real."<sup>143</sup> Senator Debbie Wasserman Schultz argued, "If we pass that bill, we might as well shut down the public schools."<sup>144</sup>

In final testimony on the House floor, elected officials from both sides echoed similar themes. Representative Joe Negron, the lead elected official in support of CTC, gave an impassioned argument in support stating,

House Bill 271 creates a partnership with our business community to encourage parental choice in their children's education. I start out with the basic philosophy that the primary responsibility for educating children rests with the parents. The tax credits that are the subject of this bill can be used for nonpublic schools, for home education programs, or in fact for public

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<sup>142</sup> Id.

<sup>143</sup> Id.

<sup>144</sup> Id.

schools that are out of the district. This bill will provide alternatives for low income families the same options that families with means have had always. At the outset I want to address and dispel the criticism that this bill in some way undermines our commitment to public education.

In the last four years, Members, we have increased the percentage of general revenue that goes to public education from fifty-one percent to fifty-five percent. We've appropriated almost \$3 billion of additional dollars to public education under the Republican leadership in the last four years. . . . Let's analogize what people are saying we are doing in this bill to another area. Let's assume that for a moment that we did what we did in education and we try that in healthcare, that all the millions of dollars we spent in Medicaid, Medicare, and other funding to protect healthcare in Florida that we told our citizens well you have to take that money on healthcare and you have to go to the government hospital, or you have to go to the public health clinic in your community. Of course we don't do that. We allowed you to go to a Presbyterian hospital, to a Jewish hospital, to a community hospital, to Saint Mary's hospital, which is in Palm Beach County, which I represent. We give flexibility, we encourage competition, we promote diversity, and we empower people to make the choices that are best for them.

One thing about the realities of how these scholarships are going to work, we are not talking about elite academies in the suburbs that cost \$10,000 a year. What we are talking about are what I call outposts of opportunity, we're talking about schools in inner cities, schools in blighted neighborhoods, that are taking children that other people have given up on. One of the problems that I have seen in public education, is you know we don't have as much overt racism fortunately in our state and in the country as we used to. But we still have a prejudice of reduced expectations. Many of the students, and we know from research, and there was just a study that came out four days ago from Harvard University from the Center for Civil Rights. That study showed that African American students are three times more likely to be found to have learning disabilities, to be mentally retarded, or to be put in special programs. In five states, four of which are in the South, it's more than four times likely. Now, I don't believe that those children can't succeed; I think they have the same rights and opportunities to succeed as the rest of us. The bill specifically provides that the scholarship must go to families that meet the income guidelines for free or reduced lunch.<sup>145</sup>

Representative Fred Brummer supported Representative Negron, saying

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<sup>145</sup> Representative Joe Negron, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.

Accountability is in this program, and I become more and more stressed with the fact that we believe that because poor parents are poor, that we must tell them how to take care of their children, that we must tell them whether or not their children are being successfully educated. Poor parents can look after their children's education. Poor parents when interested can provide the learning tools if we give them the resources necessary. Big government has not shown any success in guaranteeing parents being able to educate their children. This program gives poor parents the tool to get their children the special help they need. This amendment makes no sense; this amendment says that poor parents are not only poor, but they are stupid. That is not the case; poor parents can help their children. Please vote against this very stupid amendment.<sup>146</sup>

Representative Ralph Arza followed in support, speaking as an educator and a father,

This bill gives choice to those people that do not have choice in our society. Economically disadvantaged people, mothers that came before our committee, that live in the inner city, that don't have a choice to send their child to the school of their choice, this is what this bill does. In a very simple way it empowers minorities that are economically disadvantaged to be able to attend a private school like the private school we saw from Representative Baker today. So I support this, I ask that you support this. When you vote yes, you are voting to support minorities that don't have an opportunity because they are economically disadvantaged. So I ask for your support.<sup>147</sup>

Those who opposed the CTC program were no less impassioned. Representative Curtis Richardson in opposition to CTC stated,

This same Legislature established the Opportunity Scholarship Program, and in that program there were certain provisions that were put in to require accountability on the part of private schools that receive those scholarship students. With this bill there is no such provision; we will not require any form of account on the part of the private schools that would receive students under this voucher program. Nor would there be any accountability for monies that are directed towards home school students or students who receive the \$500 scholarship for transportation from one district to the other...Each member of this chamber was elected to be proper stewards of

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<sup>146</sup> Representative Fred Brummer, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.

<sup>147</sup> Representative Ralph Arza, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.

taxpayer dollars. With this bill we are abrogating that duty and violating the public trust. With the current bill we are indirectly sending public money in the form of vouchers to private institutions, or to parents for home schooling expenses, or transportation costs without requiring any reporting of how that money is being utilized. The bill provides tremendous leeway in how these dollars can be used. We would be allowing a tax credit to a business, individual, or corporation that makes the contribution, and we have no way of determining if these funds are being utilized for the purposes specified in this bill. It is not our intent to indirectly support the purchase of new furniture for a family's home, which could occur under this bill. \$1,000 going to a home school student, we have no way of knowing how that money is going to be spent once it goes to that parent. We could be purchasing clothing for family members; we could be making a down payment on an automobile with the \$500 that's given for transportation cost. We have no way of knowing how that money is going to be spent or utilized. This bill as written is ripe for abuse.

It is a false premise to assume that private schools by their very nature provide a higher quality instructional program. We demand that strict accountability on the part of public schools and punish them with failing grades and school vouchers if and when students fail to demonstrate adequate academic progress. Under the current bill we have no way of assuring that students would attend the private schools who often need the most help are in fact receiving a quality education and making continued academic progress.<sup>148</sup>

Representative Ken Gottlieb supported Representative Richardson saying,

If we believe that parental choice *is* accountability, then why do we impose student test scores on the FCAT or any accountability measures on the public schools where parents now do have choice? Do you really want to eliminate teacher certification, test scores on the FCAT, school performance grades, and tying teacher salaries to FCAT scores? What about the schools we haven't heard about? I've lived in my community my entire life, born and raised there. But I don't know about every private school in my neighborhood. What about them? What about the 34,000 kids in Broward private schools that we don't know exactly what kind of schools that they are going to? The claims that accountability provisions of this bill is simply parental choice just does not hold true. How could we state legislators encourage parents to enroll their children in fly-by-night schools with minimum wage teachers who are hired by owners that care more about the bottom line than a student's academic progress? Now I am not saying that they are fly-by-night schools, because I don't know and that's what

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<sup>148</sup> Representative Curtis Richardson, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.

accountability is all about, to find out the results of these schools. How can a parent choose when they aren't given the tools to make an educated choice? They're just going on hearsay and popularity. That is not the way to pick a school. Give parents the tools.<sup>149</sup>

Representative Charlie Justice concluded for those opposed to the scholarship program,

We heard testimony in our committee that the average tuition at a private school in Tampa Bay was \$2,700, now with the bill it has a \$4,000 maximum scholarship, that would work right? We took the time to call about twenty-five private schools in south Pinellas, the average cost was \$5,100 topping out at \$9,000. This is not going to help poor families in Pinellas County. We have the opportunity this session to do some good things for education; I don't believe that this is the bill we could do it with. Not with a \$5,100 average in Pinellas County and \$4,000 maximum and a program that we heard bragged about that the average scholarship would be about \$1,500. This is not the right thing to do for Florida today.<sup>150</sup>

### **Updates on the Corporate Tax Credit Scholarship Program**

In 2003, the *St. Petersburg Times* and *Education Week* reported several incidents of abuse or mistakes made in administering the Corporate Tax Program. In one instance several families received vouchers from more than one source.<sup>151</sup> In another instance, *Education Week* reported that the director of another scholarship foundation was convicted of embezzling roughly \$400,000 from his own foundation.<sup>152</sup> Another school was no longer allowed to receive funds when the founder of school was accused

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<sup>149</sup> Representative Ken Gotlieb, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.

<sup>150</sup> Representative Charlie Justice, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.

<sup>151</sup> Stephen Hegarty, "Voucher Flaws and Fixes Revealed," *St. Petersburg Times*, October 17 2003.

<sup>152</sup> "Jury Convicts Florida Man in K-12 Scholarship Scam," *Education Week* 10, vol. 25 (2005): 5.

of funneling terrorist money.<sup>153</sup> As a result, the state adopted tighter restrictions on both participating schools and the scholarship programs that received funding.

In 2008, the Florida Legislature, citing a study by the Collins Center that said the program actually saved the state money,<sup>154</sup> raised the cap on the \$88 million maximum that could be contributed to the Corporate Tax Program by businesses by \$30 million to \$118 million.<sup>155</sup> In the fall of 2008, the Office of Program Policy Analysis and Government Accountability confirmed the findings of the Collins Center saying that the CTC did indeed save the state money.<sup>156</sup>

### **Current Status of the Corporate Tax Scholarship Program**

The Corporate Tax Program has continued to grow since its beginnings in 2002. Thus far, it has not been the target of litigation. In 2002-2003 approximately 15,585 students took advantage of the program. In 2007-2008 that number increased to 19,416 students. The average scholarship amount has remained relatively constant. In 2002 the amount was \$3,500 and in 2007 it was \$3,750. The number of participating schools has remained fairly constant as well with only a slight dip. In 2002, 924 schools participated in the program while in 2007, there were 906 schools participating.<sup>157</sup>

The student population receiving scholarship funds is quite diverse in terms of race, ethnicity and gender. In 2007-2008, 23 percent of recipients were Caucasian, 39

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<sup>153</sup> Mary Ann Zehr, "No More Vouchers for Florida Islamic School," *Education Week* 43, vol. 22 (2003): 3.

<sup>154</sup> The Florida Corporate Income Tax Credit Scholarship Program: Updated Analysis, *Collins Center*, February 2007.

<sup>155</sup> "Poor Student Hypocrisy," *Palm Beach Post*, April 20 2008.

<sup>156</sup> "The Corporate Income Tax Credit Scholarship Program Saves State Dollars," *Office of Program Policy Analysis and Government Accountability*, Report No. 08-68, December 2008.

<sup>157</sup> Florida Department of Education, Office of Independent Education and Parental Choice, "Choice Facts." [cited 9 January 2009, available from [www.floridaschoolchoice.org/information/CTC](http://www.floridaschoolchoice.org/information/CTC)].

percent were African-American and 25 percent were Hispanic. Roughly 12 percent were multiracial or unknown. Moreover, 52 percent of the students were female, while 48 percent were male.<sup>158</sup>

### **Summary**

The establishment of Florida's three initial school choice programs has been a struggle for both sides: those who support school choice and those who oppose. Each side has used virtually every tool available to bolster their positions and affect public policy. From the Florida Legislature to the state and federal courts, to the grassroots movement to the media, each side has sought to frame the argument in ways that best advance their positions.

For those in support of these programs, the arguments centered on parental choice, competition to improve all K-12 schools, a belief that funding does not necessarily equate to success, saving the state treasury money and a general overall belief in the idea that greater freedom and more choice improves education. Those who believe in school choice saw the Opportunity Scholarship Program ultimately struck down by the Florida Supreme Court. However, they have also watched both the McKay Scholarship Program and Corporate Tax Program grow briskly to more than 40,000 children combined.

Those who believe that the public schools are ill-served by the establishment of these three programs argued that more public school funding, better teacher pay, limiting class size, and experienced and credentialed teachers would improve public schools. They argued that choice programs took money from an already under-funded

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<sup>158</sup> Id.

system, that these programs would take only the students “they wanted” and there would be little if any accountability of these programs by the state. Ultimately those who opposed these programs believed that the Governor and legislative leadership were setting up the public school system to fail. The latter assertion was called into question, however, when Florida moved into the top ten in the annual “Quality Counts” rankings of public education in the fifty states and the District of Columbia.<sup>159</sup> In the end, one program was disallowed while the two that were never challenged continue to grow. Though many of the key players have moved on, the battle in Florida over the future of K-12 education continues.

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<sup>159</sup> “Quality Counts 2008: Tapping into Teaching,” *Education Week* 18, vol. 27 (2008).

## CHAPTER 3

### PUBLIC EDUCATION AS A PUBLIC GOOD: THE ROLE OF GOVERNMENT AND THE FREE MARKET

#### **Introduction**

To fully comprehend the current struggle over education reform in this country, and particularly in Florida, it is important to understand the historic relationship of public education in the context of American society, as well as its evolutionary relationship with both state and federal government since the nation's founding. The role of public education and its relationship with government has fluctuated over time, depending upon the cultural values of the day. Tension between the role of market forces in reform and government intervention in affecting the school system have been in existence since our nation's founding.<sup>1</sup> While both sides of the debate would argue that they see public education as a "public good," each side differs on how best to achieve an effective public education system. This tension has historically existed between those who advocate a greater role by government in public education as a means of improving education and making it more uniform for all<sup>2</sup> and those who believe effective public education was to be primarily the responsibility of families who would then exercise their choices through the free market, thereby providing accountability to the individual schools.<sup>3</sup>

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<sup>1</sup> Samuel L. Blumfield, *Is Public School Necessary?* (Old Greenwich Ct.: The Devin-Adair Company, 1981) 11.

<sup>2</sup> Lawrence A. Cremin, ed. *The Republic and the School: Horace Mann on the Education of Free Men.* New York: Teachers College Press, 1957 & Matthew J. Brouillette, *The Case for Choice in Schooling: Restoring Parental Control of Education*, Mackinac Center for Public Policy, February 2001, 9.

<sup>3</sup> Milton Friedman, "The Role of Government in Education," *Economics and the Public Interest*, ed. Robert A. Solo (New Brunswick, New Jersey: Rutgers University Press, 1955) 124.

Those who believe that public education should be more closely linked and supported by government have often been referred to as statists. They are typified by people such as Horace Mann and organizations like the various state and national teachers' unions, school board associations and the American Civil Liberties Union.<sup>4</sup> Those who see public education as more of a commodity that can be improved primarily through market forces find their standard bearers in people such as the Founders who made no allowance for public education in the Constitution,<sup>5</sup> Milton Friedman,<sup>6</sup> Ronald Reagan,<sup>7</sup> and Jeb Bush.<sup>8</sup>

Because both sides of the debate regularly invoke American history and the history of the public school system in their arguments, this chapter addresses the research issue by examining that history in the context of its relationship with government as well as the free market. This chapter also examines various trends in these two areas throughout history that have contributed to the nature of public education. In answering the research issue, it is important to understand the two dominant and influential views of education and reform so that policy makers can then make informed decisions regarding K-12 education in Florida. As the former Dean of the School of Education at the University of Southern California, Guilbert C. Hentschke, argues any discussion about the nature of public education in America must consider

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<sup>4</sup> *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006).

<sup>5</sup> George H. Nash, *Books and the Founding Father*, (Louisville: Butler Books, 2007), 13.

<sup>6</sup> Milton Friedman, "The Role of Government in Education," *Economics and the Public Interest*, ed. Robert A. Solo (New Brunswick, New Jersey: Rutgers University Press, 1955) 124.

<sup>7</sup> Allan C. Ornstein, "The Changing Federal Role in Education," *American Education*, December, 1984.

<sup>8</sup> *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006).

three topics: “the nature of education itself, the proper role of households in pursuing education, and the proper role of government in fostering it.”<sup>9</sup>

### **Early American K-12 Education and the Origins of Public Schools**

The questions regarding how much government involvement there should be in public education versus the role of the free market in establishing a quality system have been in existence since the nation’s founding. At the beginnings of this nation, there were no public schools as we understand them to be today.<sup>10</sup> The education of children was the responsibility of parents and families. The education market was at its freest at any time in America. There were both “common schools,” funded by private dollars and occasionally by taxpayers, and “private” schools of many different kinds, funded with private dollars.<sup>11</sup> Examples include schools for the poor, primary or finishing schools for women, church schools, and schools that prepared a select group for college and seminaries.<sup>12</sup> Although there is no reference to public schools or a public school system in the Constitution, it is clear that the Founders understood the importance of education.<sup>13</sup> Most attained a “rigorous, classical and book-oriented” education<sup>14</sup> steeped in history, philosophy, mathematics, language and religion. More than half of the

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<sup>9</sup> Guilbert C. Hentschke, “The Role of Government in Education: Enduring Principles, New Circumstances and the Question of ‘Shelf Life’,” *Liberty and Learning: Milton Friedman’s Voucher Idea at Fifty*, ed. Lenore T. Ealy & Robert C. Enlow (Washington D.C.: Cato Institute, 2006) 13.

<sup>10</sup> George H. Nash, *Books and the Founding Father*, (Louisville: Butler Books, 2007), 14.

<sup>11</sup> Andrew J. Coulson, *Market Education: The Unknown History*, (New Brunswick: Transaction Publishers, 1999), 75.

<sup>12</sup> Id.

<sup>13</sup> George H. Nash, *Books and the Founding Father*, (Louisville: Butler Books, 2007), 13.

<sup>14</sup> Id at 14.

Founders went to college,<sup>15</sup> an extremely high number when compared to the general white male population. George Nash states in his book *Books and the Founding Fathers* that “In eighteenth century [sic] America, education was a serious enterprise, entailing disciplined exposure to the ‘great tradition’ of classical and enlightening reading.”<sup>16</sup> The problem with the lack of a public education system and the relegation of teaching primarily to private tutors and religious institutions, however, was that education was mostly to be taken advantage of by the wealthy.<sup>17</sup>

Common schools were the forerunners to America’s public schools, existing primarily in Protestant New England. There, students were immersed in the Calvinist Puritan faith along with the traditional curriculum of reading, writing and arithmetic.<sup>18</sup> In 1780, in drafting a new state constitution there were the beginnings of government involvement in establishing a public education system. Massachusetts chose to fund various common schools with taxpayer dollars.<sup>19</sup> Yet it was not the public education system we know today. Children had to be able to read to enter grammar schools; there were no compulsory attendance laws; free market forces still existed in that the primary education was the responsibility of the family; and there was no central state authority for these schools.<sup>20</sup> Other New England states followed suit with taxpayer funded

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<sup>15</sup> Id.

<sup>16</sup> Id at 16.

<sup>17</sup> Id.

<sup>18</sup> Andrew J. Coulson, *Market Education: The Unknown History*, (New Brunswick: Transaction Publishers, 1999).

<sup>19</sup> Samuel L. Blumfield, *Is Public School Necessary?* (Old Greenwich Ct.: The Devin-Adair Company, 1981) 11.

<sup>20</sup> Id.

education, however, and in 1795 the state of New York appropriated dollars in the budget to partially fund these common schools across the state.<sup>21</sup> Private schools were also eligible for these matching funds, and there was no discrimination against religious schools.<sup>22</sup>

### **Nineteenth Century Education and the Rise of Government Schools**

In the Nineteenth Century two specific trends in America contributed to the transformation of common schools to a more rigidly and centrally controlled system, primarily through government intervention of education. Both the massive influx of immigrants to America as well as the advent of the Industrial Revolution prompted much discussion of reform of the then highly decentralized school system. A leader and perhaps the most well-known reformer, typifying the new social movement, was a one-time Senate President of the Massachusetts Assembly and Secretary of the Board of Education, Horace Mann. In a series of annual reports to the Massachusetts State Legislature, Mann espoused his philosophy, believing that taxpayer funded education could improve character and morality, the economy, social mobility, and promote a general set of shared universal values.<sup>23</sup> He and other reformers, in part because of the trends of immigration and the Industrial Revolution, argued that the “primary purpose was to bring local school districts under centralized town authority and to achieve some degree of uniformity among the towns through a state agency. They believed that

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<sup>21</sup> Id. at 24 – 26, 56.

<sup>22</sup> Id. at 57.

<sup>23</sup> Lawrence A. Cremin, ed. *The Republic and the School: Horace Mann on the Education of Free Men*. New York: Teachers College Press, 1957.

popular schooling could be transformed into a powerful instrument for social unity.”<sup>24</sup>

Mann argued,

Finally, in regard to those who possess the largest shares in the stock of worldly goods, could there, in your opinion, be any police so vigilant and effective, for the protections of all the rights of person, property and character, as such a sound and comprehensive education and training, as our system of Common Schools could be made to impart; and would not the payment of a sufficient tax to make such education and training universal, be the cheapest means of self-protection and insurance?<sup>25</sup>

He believed in a substantially increased role by government in establishing a public education system, the training of teachers, a generalized curriculum and the pedagogy used to teach that curriculum. Massachusetts Congressman James G. Carter wrote “The ignorant must be allured to learn, by every motive which can be offered them. And if they will not thus be allured, they must be taken by the strong arm of government and brought out...and made to learn, at least enough to make them peaceable and good citizens.”<sup>26</sup>

To deal with the influx of mostly Catholic immigrants, Mann and those he epitomized in this new movement, emphasized “generalized Protestant character”<sup>27</sup> in the public schools to deal with the children of immigrants, without angering the most orthodox of Protestants suspicious of government schools. Catholics Schools were attempting to achieve tax exempt status for their parochial schools, and the call for

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<sup>24</sup> Matthew J. Brouillette, *The Case for Choice in Schooling: Restoring Parental Control of Education*, Mackinac Center for Public Policy, February 2001, 9.

<sup>25</sup> Lawrence A. Cremin, ed. *The Republic and the School: Horace Mann on the Education of Free Men*. New York: Teachers College Press, 1957.

<sup>26</sup> Andrew J. Coulson, *Market Education: The Unknown History*, (New Brunswick: Transaction Publishers, 1999) 78.

<sup>27</sup> Matthew J. Brouillette, *The Case for Choice in Schooling: Restoring Parental Control of Education*, Mackinac Center for Public Policy, February 2001, 10.

stronger and more tightly controlled common schools was in part a backlash to this trend.<sup>28</sup> Public schools became societal entities. Indeed the rise of the common school movement with its emphasis on central planning, universality, “and anti-Catholic bias were inextricably bound up with one another”<sup>29</sup> and reflected the needs of the Industrial Revolution. A natural progression followed toward the hiring of principals and the establishment of superintendents who would devote full-time to overseeing the growth of the various school systems while assimilating the massive numbers of immigrants. Horace Mann and his supporters argued that “the public good could best be served by public, not private, education because the moral and civic training of the young was the concern of all citizens, not just parents. For that reason, choices about education should be collective.”<sup>30</sup>

Despite the rhetoric and lofty goals, an interesting phenomenon occurred in that “Government control of schooling was intended to bring education to a larger segment of the population. . . As tax expenditures on the government system increased during the mid-1800s, more parents were drawn away from tuition-charging schools while the percentage of the child population being educated remained essentially constant.”<sup>31</sup> The increased role of government in the common school movement “did little to increase education access for children. Rather, it shifted the responsibility of education from the

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<sup>28</sup> Andrew J. Coulson, *Market Education: The Unknown History*, (New Brunswick: Transaction Publishers, 1999), 75.

<sup>29</sup> Matthew J. Brouillette, *The Case for Choice in Schooling: Restoring Parental Control of Education*, Mackinac Center for Public Policy, February 2001, 10.

<sup>30</sup> David Tyack, “Choice options: School choice, yes-but what kind?” *The American Prospect*, vol. 10, 42, January, 1999. Available at <http://www.prospect.org/print-friendly/print/V10/42/tyack-d.html>.

<sup>31</sup> Matthew J. Brouillette, *The Case for Choice in Schooling: Restoring Parental Control of Education*, Mackinac Center for Public Policy, February 2001, 9.

family to the state.”<sup>32</sup>

### **Public Education and the Increased Role of the Federal Government**

The transformation from parental and local control of public education to greater centralized authority continued in the mid and late-Nineteenth Century. Though the first example of a federal role in public education can be found in the establishment of the Northwest Ordinance of 1787 which stated “ Religion, morality and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged,”<sup>33</sup> the initial “Department” of Education in the federal government was established in 1867 “to collect information on schools and teaching that would help the states establish effective school systems.”<sup>34</sup> The historical nature of the department in all of its transitions and changes has traditionally been “a means of filling gaps in state and local support for education when critical national needs arise.”<sup>35</sup> It was housed originally in the executive branch and was later moved to the Department of Interior in 1869 and renamed the Bureau of Education but had no power over state or local control of education.<sup>36</sup>

In the mid-Nineteenth Century from California to Michigan to Wisconsin and New England the phrase “public interest” and the belief in greater efficiency and equality for

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<sup>32</sup> Id. at 10.

<sup>33</sup> Northwest Land Ordinance of 1787. Continental Congress. [cited 26 March 2009, available from [www.earlyamerica.com/earlyamerica/milestones/ordinance/text.html](http://www.earlyamerica.com/earlyamerica/milestones/ordinance/text.html)].

<sup>34</sup> U.S. Department of Education, “The Federal Role in Education.” [cited 26 March 2009, available from [www.ed.gov/about/overview/fed/role.html](http://www.ed.gov/about/overview/fed/role.html)].

<sup>35</sup> Id.

<sup>36</sup> Id.

all children was the “banner for the expansion of government schooling”<sup>37</sup> in the states, which fed into the idea of a more centralized authority, be it state or national, over public education. Partly because of a belief that centralization and government control were “bound to bring education to a larger segment of the population at a lower cost”<sup>38</sup> and partly because of anti-immigrant bias across the country,<sup>39</sup> the Mayor of New York signed into law an 1896 bill that would bring all control of education under the city itself.<sup>40</sup> This signed bill was symptomatic of trends across the country. In addition, the Morrill Acts of 1862 and 1890, which provided federal dollars to establish state land-grant universities, represented the first example of federal dollars for state educational purposes.<sup>41</sup>

In 1925 an important ruling in the tense struggle between the defenders of a government-controlled, uniform system of public education and those who believed in market forces and parental control was applied in *Pierce v. Society of Sisters*.<sup>42</sup> In 1922, the state of Oregon passed an initiative, called the Oregon Compulsory Education Act, requiring all children between the ages of eight and sixteen to attend a public school.<sup>43</sup> The U.S. Supreme Court upholding a lower court ruling that struck down the initiative stated that “the liberty upon which all governments of this Union rest excludes any

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<sup>37</sup> Andrew J. Coulson, *Market Education: The Unknown History*, (New Brunswick: Transaction Publishers, 1999), 83.

<sup>38</sup> Id at 83.

<sup>39</sup> Id.

<sup>40</sup> Id.

<sup>41</sup> U.S. National Archives & Records Administration. 1995. Morrill Act. (1862) (1869). [cited 26 March 2009, available from [www.ourdocuments.gov/doc.php?doc+33](http://www.ourdocuments.gov/doc.php?doc+33).]

<sup>42</sup> *Pierce v. Society of Sisters*, 268 U.S. 510 (1925).

<sup>43</sup> Oreg.Ls., § 5259.

general power of the State to standardize its children by forcing them to accept instruction from public teachers only”<sup>44</sup> on the basis of violating the fourteenth amendment rights of the parents and the property rights of private schools.

The ruling stated that “No question is raised concerning the power of the State reasonably to regulate all schools, to inspect, supervise and examine them....to require that all children of proper age attend some school.”<sup>45</sup> Supporters of greater government involvement in public education pointed to that comment as support for their position. Yet the court also said that “The inevitable practical result of enforcing the Act...would be destruction of appellees’ primary schools, and perhaps all other private primary schools for normal children within the state of Oregon.”<sup>46</sup> Not surprisingly those who supported greater parental control pointed to that statement as well. The so-called “Pierce Compromise” recognized that while the State had the power “reasonably to regulate,”<sup>47</sup> it did not have the power “to standardize its children”<sup>48</sup> and the struggle over how best to achieve effective public education continued.

The federal involvement in public education turned another corner in the 1950s with the establishment of the Department of Health, Education and Welfare (HEW)<sup>49</sup> and in the wake of the launch of the Soviet satellite Sputnik I. In the words of *Education*

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<sup>44</sup> *Pierce v. Society of Sisters*, 268 U.S. 510 (1925).

<sup>45</sup> Id at 268.

<sup>46</sup> Id.

<sup>47</sup> Id.

<sup>48</sup> Id.

<sup>49</sup> John Hope Franklin, “The National Responsibility for Equality of Opportunity,” *Education Week*, Online Edition, (2007), [cited 16 April 2009, available from [www.edweek.org/ew/articles/10/31/1984/05610021.ho4.html?s=Department+Health,+Education+Welfare](http://www.edweek.org/ew/articles/10/31/1984/05610021.ho4.html?s=Department+Health,+Education+Welfare)] 1953.

Week writer and then professor at Howard University John Hope Franklin, the establishment of HEW represented:

A significant recognition by the federal government that it had an important, definable responsibility in the area of education. It was an unequivocal commitment to study, monitor, and, yes, to make available a considerable portion of its enormous resources in the effort to improve the quality of education and to equalize educational opportunities among the various segments of our society.<sup>50</sup>

Concerned that the launching of Sputnik was a sign that American education was falling behind, Congress passed a massive funding bill in the areas of math, science and language as part of the National Defense Education Act (NDEA)<sup>51</sup> in 1958.

There was another event that contributed to the ever-changing nature of the relationship between the federal government and public education in the states. In 1954, the U.S. Supreme Court, in *Brown v. the Board of Education*,<sup>52</sup> overturned the "separate but equal" principle set forth in 1896 in *Plessy v. Ferguson*.<sup>53</sup> In *Brown*, the Court stated that "it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education"<sup>54</sup> and that "Such an opportunity, where the state has undertaken to provide it, is a right which must be available to all on equal terms."<sup>55</sup> This focused the nation as a whole and certainly Washington, D.C., on

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<sup>50</sup> Id.

<sup>51</sup> National Defense Act, 20 U.S.C 401, Pub. L. 85-864, September 2, 1958, 72 Stat. 1580.

<sup>52</sup> *Brown v. Board of Education*, 347 U.S. 483 74 S. Ct. 686, (1954)

<sup>53</sup> *Plessy v. Ferguson*, 163 U.S. 537 (1896).

<sup>54</sup> *Brown v. Board of Education*, 347 U.S. 483 74 S. Ct. 686, (1954) at 493.

<sup>55</sup> Id.

the federal government's role in promoting, adding to and enforcing the laws for public education in the states.<sup>56</sup>

### **The Backlash toward Government Intervention in Public Education**

In the 1940s there was a strong response to the growing involvement of both state and federal government in K-12 education. In the 1940s and 1950s “a deluge of books and articles condemning the public schools,” and government intrusion into those schools, “flooded the educational landscape.”<sup>57</sup> The pushback grew more intense and “distaste for progressivism among segments of the public hit a new high in 1957, when the Soviet Union launched Sputnik I.”<sup>58</sup> The question became what to do.

In 1955, Nobel Prize winning economist Milton Friedman published “*The Role of Government in Education*” in which he stated, “A stable and democratic society is impossible without widespread acceptance of some common set of values and without a minimum degree of literacy and knowledge on the part of most citizens.”<sup>59</sup> Yet Friedman criticized the then current role of government in the public education system saying,

Education is today largely paid for and almost entirely administered by governmental bodies... This situation has developed gradually and is now taken so much for granted that little explicit attention is any longer directed to the reasons for the special treatment of education even in countries that are predominantly free enterprise in organization and philosophy. The result has been an indiscriminate extension of governmental responsibility.<sup>60</sup>

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<sup>56</sup> Allan C. Ornstein, “The Changing Federal Role in Education,” *American Education*, December, 1984.

<sup>57</sup> Andrew J. Coulson, *Market Education: The Unknown History*, (New Brunswick: Transaction Publishers, 1999), 113.

<sup>58</sup> Id at 114.

<sup>59</sup> Milton Friedman, “The Role of Government in Education.” From *Economics and the Public Interest*. Robert A. Solo, ed. (New Brunswick, N.J. Rutgers University Press, 1955).

<sup>60</sup> Id.

Friedman argued that the appropriate role of government was “to preserve the rules of the game by enforcing contracts, preventing coercion and keeping markets free.”<sup>61</sup> He argued for school vouchers and the free market in reforming public education saying “parents who chose to send their children to other schools would be paid a sum equal to the estimated cost of educating a child in a government school, provided that at least this sum was spent on education in an approved school.”<sup>62</sup> This represented a significant shift of philosophy regarding how public education was to be most effective, a shift from providers, primarily government entities, to market-oriented forces, primarily the choices made by parents and families.<sup>63</sup> Milton Friedman’s work profoundly impacted both the future Prime Minister of England, Margaret Thatcher, as well as a future president of the United States named Ronald Reagan.<sup>64</sup> The seeds of his published ideas on vouchers, parental control, school choice, the role of government, and market forces in education would come to fruition in the policy battles of the 1980s and 1990s.<sup>65</sup>

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<sup>61</sup> Id at 124.

<sup>62</sup> Id.

<sup>63</sup> Guibert C. Hentschke, “The Role of Government in Education: Enduring Principles, New Circumstances and the Question of ‘Shelf Life’,” *Liberty and Learning: Milton Friedman’s Voucher Idea at Fifty*, ed. Lenore T. Ealy & Robert C. Enlow (Washington D.C.: Cato Institute, 2006) 12.

<sup>64</sup> Guy Sorman, “Remembering Rose Friedman,” *Forbes*, August 19, 2009.

<sup>65</sup> John E. Brandl, “Choice, Religion and Community’,” *Liberty and Learning: Milton Friedman’s Voucher Idea at Fifty*, ed. Lenore T. Ealy & Robert C. Enlow (Washington D.C.: Cato Institute, 2006) 26.

## The 1960s and the 1970s: Government Emphasis on Funding and Equality

In 1965, Lyndon Johnson, in his State of the Union Address, focused on the federal government's role in education:

We do not intend to live in the midst of abundance, isolated from neighbors and nature, confined by blighted cities and bleak suburbs, stunted by a poverty of learning and an emptiness of leisure. The Great Society asks not how much, but how good; not only how to create wealth but how to use it; not only how fast we are going, but where we are headed...I propose that we begin a program in education to ensure every American child the fullest development of his mind and skills...We begin with learning. Every child must have the best education that this nation can provide. Thomas Jefferson said that no nation can be both ignorant and free. Today no nation can be both ignorant and great. In addition to our existing programs, I will recommend a new program for schools and students with a first year authorization of \$1,500 million. It will help at every stage along the road to learning. For the preschool years we will help needy children become aware of the excitement of learning. For the primary and secondary school years we will aid public schools serving low-income families and assist students in both public and private schools. For the college years we will provide scholarships to high school students of the greatest promise and the greatest need and we will guarantee low-interest loans to students continuing their college studies. New laboratories and centers will help our schools—help them lift their standards of excellence and explore new methods of teaching. These centers will provide special training for those who need and those who deserve special treatment.<sup>66</sup>

With that State of the Union speech, the President of the United States had firmly entrenched the federal government's role in education. In the wake of *Brown v. Board of Education*, anti-poverty legislation and other civil and social justice issues, 1960s education policy focused on massive targeted funding to the states and greater state regulation as a result of that funding.<sup>67</sup> Prior to Johnson's State of the Union, in 1964, he had proposed to Congress the "Great Society" initiative in which he called for giving

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<sup>66</sup> "Highlights from the text of President Lyndon Johnson's State of the Union Address," 4 January 1965. [cited 9 May 2009, available from [www.c-span.org/executive/stateoftheunion.asp.](http://www.c-span.org/executive/stateoftheunion.asp.)]

<sup>67</sup> Allan C. Ornstein, "The Changing Federal Role in Education," *American Education*, December, 1984.

“high priority to helping young Americans who lack skills, who have not completed their education or who cannot complete it because they are too poor. . . ”<sup>68</sup>

The steady increase in federal funding “to achieve specific purposes as opposed to no previous consistent purpose”<sup>69</sup> in the 1960s was significant. President Johnson proposed numerous programs: Head Start<sup>70</sup> for pre-school age children, Title I of the Elementary and Secondary Education Act of 1965,<sup>71</sup> and Upward Bound<sup>72</sup> for high school, vocational and college age children. In 1960 federal funding of education programs totaled \$1.7 billion. By 1965, after the passage of President Johnson’s numerous initiatives that figure was \$6 billion.<sup>73</sup>

Federal funding, however, became “earmarked for specific categories like vocational training, Teacher Corps, and bilingual education.”<sup>74</sup> A fundamental change in the federal government’s role in education occurred now that “the initial no-strings-attached concept of federal funds dramatically changed to one of multiple-strings, as national policy evolved.”<sup>75</sup> With these “multiple-string” initiatives came greater regulation. Now that the federal government had targeted its funding “the schools and other institutions of society receiving federal money were forced to respond to requests

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<sup>68</sup> “Highlights from the text of President Lyndon Johnson’s Special Message to Congress,” 16 March 1964. [cited 9 May 2009, available from [www.npr.org/templates/story/story.php?storyId=158966](http://www.npr.org/templates/story/story.php?storyId=158966).]

<sup>69</sup> Allan C. Ornstein, “The Changing Federal Role in Education,” *American Education*, December, 1984.

<sup>70</sup> Economic Opportunity Act of 1964, 42 U.S.C. 2701, Pub. L. 88-452, August 20, 1964, 78 Stat. 508.

<sup>71</sup> Title I of the Elementary and Secondary Education of 1965, 20 U.S.C. 2701.

<sup>72</sup> Economic Opportunity Act of 1964, 42 U.S.C. 2701, Pub. L. 88-452, August 20, 1964, 78 Stat. 508.

<sup>73</sup> Allan C. Ornstein, “The Changing Federal Role in Education,” *American Education*, December, 1984.

<sup>74</sup> Id.

<sup>75</sup> Id.

for hundreds of forms, reports and studies to meet federal regulations and compliance procedures.”<sup>76</sup>

In 1967 there was another significant event that contributed greatly to the argument over the role of the federal government in local education. The U.S. Commission of Civil Rights called for mandatory compliance, through the passage of legislation, that no school have more than a 50 percent minority population.<sup>77</sup> This led to a practice that came to be known as mandatory busing. The commission report<sup>78</sup> stated “Geographical zoning is the common method of determining school attendance and the neighborhood school is the predominant attendance unit. When these are imposed upon the existing pattern of residential segregation, racial isolation is the inevitable result.” Its remedy for this “isolation” was to have “Programs which place Negro youngsters from majority-Negro city schools in neighboring suburban schools.”<sup>79</sup>

The reaction to this new government intrusion into local public education in various areas of the country, North and South, was stark, resulting in two landmark rulings by the U.S Supreme Court. In *Milliken v. Bradley*, a class action suit was brought arguing that the Detroit public school system was racially segregated because of the policies of city officials.<sup>80</sup> The court ruled that “desegregation, in the sense of dismantling a dual system, does not require any particular racial balance”<sup>81</sup> and moreover, “there is no

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<sup>76</sup> Id.

<sup>77</sup> U.S. Commission on Civil Rights. *Racial Isolation in the Public Schools*. Washington: Government Printing Office, 1967.

<sup>78</sup> Id.

<sup>79</sup> Id.

<sup>80</sup> *Milliken v. Bradley*, 418 U.S. 717 (1974).

<sup>81</sup> Id. at 739-741.

claim or finding that the other included districts have failed to operate unitary school systems or have committed acts that effected segregation within the other districts, there is no claim or finding that the school district boundary lines were established with the purpose of fostering racial segregation,”<sup>82</sup> adding that “substantial local control of public education in this country is a deeply rooted tradition”<sup>83</sup> thereby seemingly limiting the role of the federal government in local public education.

*Swann v. Board of Education* focused on a proposed desegregation plan for Charlotte-Mecklenburg County.<sup>84</sup> The U.S. Supreme Court ruled “In default by school authorities of their affirmative obligation to proffer acceptable remedies, the district courts have broad power to fashion remedies that will assure unitary school systems.”<sup>85</sup> From attendance zones to transportation the court stated, “In devising remedies to eliminate legally imposed segregation, local authorities and district courts must see to it that...” school systems “do not serve to perpetuate or re-establish a dual system.”<sup>86</sup> By charging “local authorities” with the responsibility of the actions of school systems the court again appeared to limit the federal role in local public education.

In 1971, the U.S. Supreme Court ruled, in *Lemon v. Kurtzman*,<sup>87</sup> that state and federal funds could not be used to aid religious schools.<sup>88</sup> In its ruling the court

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<sup>82</sup> Id. at 737-753

<sup>83</sup> Id. at 741-742.

<sup>84</sup> *Swann v. Board of Education*, 402 U.S. 1 (1971).

<sup>85</sup> Id at 15.

<sup>86</sup> Id at 20-21.

<sup>87</sup> *Lemon v. Kurtzman*, 403 U.S. 602 (1971).

<sup>88</sup> Id.

established a three-pronged test for whether states were in violation or not. In an 8-0 decision, Chief Justice Warren Burger wrote that a statute must have "a secular legislative purpose,"<sup>89</sup> that it must also neither advance nor inhibit religion,<sup>90</sup> and it could not have "an excessive government entanglement with religion."<sup>91</sup> The unanimous decision provided one answer for the role of state and federal funding in parochial or religious education. Rather than providing a definitive answer, however, these three cases, in combination, contributed more to the debates over the role of state and federal government in public education.

Because compliance procedures, reports and forms to meet so many federal regulations had proliferated in large part during the 1960s, by the mid 1970s, then-President Gerald Ford reacted to the massive funding and resulting regulations stating, "We have unwittingly created a heavy burden of varying regulations, differing standards, and overlapping responsibilities. Too often we ask whether federal forms have been properly filled out, not whether children have been properly educated."<sup>92</sup> Joseph Cronin, Superintendent of Public Instruction for the state of Illinois said that "millions of person-hours and dollars are required just to develop procedures, personnel systems, and forms to implement law."<sup>93</sup> The groundswell of concern over federal intervention in local

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<sup>89</sup> Id.

<sup>90</sup> Id.

<sup>91</sup> Id.

<sup>92</sup> Allan C. Ornstein, "The Changing Federal Role in Education," *American Education*, December, 1984.

<sup>93</sup> Id.

education had begun. That groundswell would receive a sympathetic ear from a former Governor of California who was readying a run for the White House.<sup>94</sup>

In 1979, President Jimmy Carter established a Cabinet-level position solely for education, cementing even further the importance the federal government placed on education in American society. Through the Department of Education Organization Act, the Department of Education was established for the first time as a Cabinet-level post.<sup>95</sup> In signing this bill into law, President Carter stated that “The Department of Education bill will allow the Federal Government to meet its responsibilities in education more effectively, more efficiently and more responsively.”<sup>96</sup>

### **Reversal of the Status Quo: the 1980s**

The 1980s saw a dramatic shift in the relationship between the federal government and K-12 education. This decade also marked a return to public education as a commodity that would be improved best when subject to less government intervention. This “New Federalism”<sup>97</sup> emphasized results, quality of education as opposed to equality, accountability and local control.<sup>98</sup> Ronald Reagan campaigned on less federal intervention in all public policy arenas, including education.<sup>99</sup> Moreover, then candidate

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<sup>94</sup> Id.

<sup>95</sup> U.S. Department of Education, *Department of Education Organization Act of 1979*, 20 U.S.C., 3401, 88- 96, Oct. 17, 1979, 93 Stat.

<sup>96</sup> “Highlights from the text of President Jimmy Carter’s Department of Education Organizational Act Statement,” 17 October 1979.

<sup>97</sup> Allan C. Ornstein, “The Changing Federal Role in Education,” *American Education*, December, 1984.

<sup>98</sup> Chester F. Finn, Jr., “The Original Education President: Reagan’s ABC’s,” *National Review*, June 9, 2004. Available at <http://www.nationalreview.com/comment/finn200406090839.asp>.

<sup>99</sup> Allan C. Ornstein, “The Changing Federal Role in Education,” *American Education*, December, 1984.

Reagan was strongly influenced by the writings of Milton Friedman.<sup>100</sup> In terms of education funding, “he switched from categorical funding to block grants” which replaced “dozens of highly regulated programs with a handful...” with fewer strings attached.<sup>101</sup> States, with these block grants, were able to fund programs they believed important while eliminating “much of the federal bureaucracy as well as the cost of administering and overseeing the many federal programs.”<sup>102</sup> In 1981, President Reagan supported and Congress passed the Education Consolidation and Improvement Act which passed as a “revision of the Elementary and Secondary Education Act.”<sup>103</sup> The President emphasized his view of K-12 education and the role of choice, accountability and market forces in an interview with *Education Week* in 1984 saying, “It is in our homes, where parents guide children, and in our communities, where local school boards know their own areas’ needs, that responsibility for running our schools has always rested. . . America has always prided itself on an education system controlled not by Washington, D.C., but by the states.”<sup>104</sup>

His critics called him “a divisive figure...whose policies undermined civil rights and whose anti-government, budget slashing ways hurt schools.”<sup>105</sup> Jack Jennings, a Democratic aide to the Education and Labor Committee in the House said “He was

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<sup>100</sup> Guy Sorman, “Remembering Rose Friedman,” *Forbes*, August 19, 2009.

<sup>101</sup> Id.

<sup>102</sup> Id.

<sup>103</sup> Education Consolidation and Improvement Act of 1981, 20 U.S.C. Sec. 7301, Pub. L. 97 – 35, Aug., 13, 1981, 95 Stat. 469.

<sup>104</sup> Sean Cavanagh, “Reagan’s Legacy: A Nation at Risk, Boost for Choice,” *Education Week* 40, vol. 23 (2004): 35-38.

<sup>105</sup> Id.

frozen in his beliefs.”<sup>106</sup> Terrel Bell, President Reagan’s first Secretary of Education, even stated that “Ronald Reagan was unable to recognize that the department could perform that role and exercise crucial oversight while leaving responsibility for the governance of education to states and local communities.”<sup>107</sup>

In 1983, the National Commission on Excellence in Education produced its famous report on public education, *A Nation at Risk: The Imperative for Educational Reform*.<sup>108</sup> It brought to the fore once again the historic tension over how best to administer effective public education. The 18-member panel stated that at one time the United States was unchallenged in its “preeminence in commerce, industry, science and technological innovation” but such preeminence was no longer true.<sup>109</sup> The commission went on to warn that “If an unfriendly power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war.”<sup>110</sup> The call for the improvement of public education “was uncommonly eloquent and forthright in telling America that it had a big problem with the quality and effectiveness of its schools.”<sup>111</sup> Yet those who called for increased government involvement in public education as well as those who believed in the free market of

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<sup>106</sup> Id.

<sup>107</sup> Id.

<sup>108</sup> National Commission on Excellence in Education. *A Nation at Risk: The Imperatives for Education Reform*. Washington D.C.: U.S. Government Printing Office, 1983.

<sup>109</sup> Id.

<sup>110</sup> Id.

<sup>111</sup> Chester F. Finn, Jr., “The Original Education President: Reagan’s ABC’s,” *National Review*, June 9, 2004. Available at <http://www.nationalreview.com/comment/finn200406090839.asp>.

education saw an opportunity to advance their agendas. The report “did not just make waves; it also caught a wave of anxiety and criticism that had been building.”<sup>112</sup>

Concomitantly, in 1983 the U.S. Supreme Court ruled, in *Mueller v. Allen*, that Minnesota could provide a tax credit and tax deduction<sup>113</sup> covering educational expenses in any public or private school, including religious schools.<sup>114</sup> The court stated “One fixed principle in this field is our consistent rejection of the argument that ‘any program which in some manner aids an institution with a religious affiliation’ violates the Establishment Clause.”<sup>115</sup> The decision argued that because the tax credit was open to parents who sent their children to either sectarian or non-sectarian schools, essentially all schools, the state program was neutral, and did not advance one religion by the state, nor did it promote excessive entanglement.<sup>116</sup> This was a victory for those who adhered to Milton Friedman’s philosophy of proposed market solutions to public education.

*A Nation at Risk: The Imperative for Educational Reform*<sup>117</sup> and the *Mueller Decision*<sup>118</sup> had a tremendous effect on the state and federal relationship in K-12 education. Reagan’s campaign of less federal involvement in all areas of public policy and the subsequent policy changes of his Administration in numerous areas including

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<sup>112</sup> Id.

<sup>113</sup> Minn. Stat. § 290.0674

<sup>114</sup> *Mueller v. Allen*, 463 U.S. 388, 103 S. Ct. 3062 (1983).

<sup>115</sup> Id.

<sup>116</sup> Id.

<sup>117</sup> National Commission on Excellence in Education. *A Nation at Risk: The Imperatives for Education Reform*. Washington D.C.: U.S. Government Printing Office, 1983.

<sup>118</sup> *Mueller v. Allen*, 463 U.S. 388, 103 S. Ct. 3062 (1983).

education strongly influenced that relationship as well. David Clark categorized Ronald Reagan's effect on education as "The Five D's." Clark analyzed Reagan's administration in terms of five policy shifts that marked his Administration: (1) diminution, reduction of federal expenditures in education; (2) deregulation, revocation of federal enforcement rules and regulations; (3) decentralization, the belief that the ills of education are related to federal intrusion into what should be a state or local responsibility; (4) disestablishment, limiting the powers of the Department of Education and other federal agencies; and (5) de-emphasis, the sum of the preceding aspects, or the narrowing of the focus and scope of the federal role in education.<sup>119</sup> For good or for ill, by the time President Reagan left office, "U.S. education had been transformed, not yet in its operations but in its aspirations; not so much in its effectiveness as in the country's insistence that it become more effective."<sup>120</sup> It was no accident, according to Chester Finn, former Assistant Secretary of Education during Reagan's second term, that all of the presidents who followed ran on a platform of reshaping American K-12 education<sup>121</sup> and that the tension between the statists and the believers of the free market would continue.

### **Education Trends and the 1990s**

The 1980s served as a jumping off point for educational trends in the 1990s<sup>122</sup> and continued many of the emphases of the Reagan Administration: accountability, choice,

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<sup>119</sup> Terry Astuto and David Clark, "Reagan's Report Card," *Society*, 4, Vol. 26, May 1989.

<sup>120</sup> Chester F. Finn, Jr., "The Original Education President: Reagan's ABC's," *National Review*, June 9, 2004. Available at <http://www.nationalreview.com/comment/finn200406090839.asp>.

<sup>121</sup> Id.

<sup>122</sup> Michael Mintrom and Sandra Vergari, *Education Reform and Accountability Issues in an Intergovernmental Context*, *Publius*, (Oxford University Press, 1997) 2, Vol. 27, p.143-166.

market forces and local control.<sup>123</sup> One issue that remained a source of tension, however, was the constant evolution of the relationship over control of education by the state and federal government.<sup>124</sup>

George Herbert Walker Bush campaigned as the “education president”<sup>125</sup> in 1988 and urged the National Governors Association to make education reform its top priority.<sup>126</sup> In 1991, the group released a report that emphasized school reform as an economic development issue.<sup>127</sup> Bush also proposed, but was never able to pass, his own set of policies that included millions of dollars for voucher experiments in the states emphasizing local control. He also tried to pass a set of national standards, which would have emphasized a greater role for the federal government.<sup>128</sup>

Bill Clinton ran on education reform as one of his top issues in both 1992 and 1996, citing national goals, voluntary academic standards, and state and local accountability and reforms.<sup>129</sup> As President, Clinton called his Administration’s initiative

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<sup>123</sup> Id.

<sup>124</sup> Chester F. Finn, Jr., “The Original Education President: Reagan’s ABC’s,” *National Review*, June 9, 2004. Available at <http://www.nationalreview.com/comment/finn200406090839.asp>. National Governors’ Association, Time for Results: The Governors’ 1991 Report on Education (Washington D.C., National Governors’ Association, 1986).

<sup>125</sup> Chester F. Finn, Jr., “The Original Education President: Reagan’s ABC’s,” *National Review*, June 9, 2004. Available at <http://www.nationalreview.com/comment/finn200406090839.asp>.

<sup>126</sup> Id.

<sup>127</sup> National Governors’ Association, Time for Results: The Governors’ 1991 Report on Education (Washington D.C., National Governors’ Association, 1986.)

<sup>128</sup> Education Commission of the States, “Legislative Activities Involving Open Enrollment,” *Clearinghouse Notes*, December 1994, 91.

<sup>129</sup> Susan H. Fuhrman, Clinton’s Educational Policy and Intergovernmental Relations in the 1990s, *Publius*, (Oxford University Press, 1994) 3, Vol. 24, p. 83-97.

the Goals 2000: Educate America Act and signed it into law in 1994.<sup>130</sup> Goals 2000 provided “grants for state and local reforms, such as the development of standards, assessments that measure attainment of standards...improvements in technology...and changes in governance and accountability.”<sup>131</sup> Many of President Clinton’s policies were “predicated on systemic state reform”<sup>132</sup> where the federal government would provide resources “to build and expand upon activities that the states have pioneered and that they appear to be pursuing enthusiastically.”<sup>133</sup> In its Goals 2000 initiative,<sup>134</sup> it provided flexibility and “broad waiver authority with only a few limited exceptions.”<sup>135</sup> Both the charter school and open-enrollment movements were able to gain political traction during the 1990s in part because of the broad flexibility provided by Goals 2000.<sup>136</sup>

The Clinton Administration also expanded the role of the federal government through Goals 2000 in a host of other areas. These included occupational standards for teachers, aid to disadvantaged students, bilingual education and specific funding targets for high-poverty schools and districts.<sup>137</sup> Moreover, critics contended that national

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<sup>130</sup> Goals 2000: Educate America Act, 20 U.S.C. 5801, Pub. L. 103 – 227, Mar. 31, 1994, 108 Stat. 125 – 191, 200 – 211, 265 – 280.

<sup>131</sup> Susan H. Fuhrman, Clinton’s Educational Policy and Intergovernmental Relations in the 1990s, *Publius*, (Oxford University Press, 1994) 3, Vol. 24, pp. 83-97.

<sup>132</sup> Id.

<sup>133</sup> Id.

<sup>134</sup> Goals 2000: Educate America Act, 20 U.S.C. 5801, Pub. L. 103 – 227, Mar. 31, 1994, 108 Stat. 125 – 191, 200 – 211, 265 – 280.

<sup>135</sup> Susan H. Fuhrman, Clinton’s Educational Policy and Intergovernmental Relations in the 1990’s, *Publius*, (Oxford University Press, 1994) 3, Vol. 24, pp. 83-97.

<sup>136</sup> Mark E. Rigidon and John F. Witte, Education Choice Reforms: Will They Change American Schools?, *Publius*, (Oxford University Press, 1993) 3, Vol. 23, p. 95-114.

<sup>137</sup> Susan H. Fuhrman, Clinton’s Educational Policy and Intergovernmental Relations in the 1990’s, *Publius*, (Oxford University Press, 1994) 3, Vol. 24, pp. 83-97.

standards were simply a veiled attempt at a grab for power by the federal government,<sup>138</sup> and that policy issues such as certification, bilingual education, national textbook standards and the proliferation of other federal programs were overly intrusive, a waste of money and ineffective.<sup>139</sup>

The states saw an opportunity largely brought about by the proposals of the Reagan and the Clinton Administrations and those efforts to support local control.<sup>140</sup> Numerous school choice programs were initiated. Arizona,<sup>141</sup> Florida,<sup>142</sup> Illinois,<sup>143</sup> Minnesota,<sup>144</sup> Ohio,<sup>145</sup> and Wisconsin<sup>146</sup> all established various forms of choice and tax credit programs. The Milwaukee Parental Choice program was the first in the nation to provide a voucher for low-income students to attend a participating private school.<sup>147</sup> It was later amended to allow religious schools to participate as well.<sup>148</sup> Florida enacted

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<sup>138</sup> Id at 94.

<sup>139</sup> Id.

<sup>140</sup> Mark E. Rigdon and John F. Witte, *Education Choice Reforms: Will They Change American Schools?*, *Publius*, (Oxford University Press, 1993) 3, Vol. 23, p. 95-114.

<sup>141</sup> ARIZ. REV. STAT. § 43 – 1089.

<sup>142</sup> Fla. Stat. § 229.0537 and Fla. Stat. § 1002.39.

<sup>143</sup> 35 ILCS 5/201 (m).

<sup>144</sup> Minn. Stat. § 290.0674

<sup>145</sup> Ohio Rev. Code Ann. § 3313.974 – 3313.979 (Baldwin Supp. 2001).

<sup>146</sup> Wis. Stat. § 119.23 (1995-96).

<sup>147</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition.

<sup>148</sup> Wis. Stat. § 119.23 (2001).

the first statewide voucher law<sup>149</sup> in 1999 which the Florida State Supreme Court<sup>150</sup> later ruled a violation of the state constitution.

### **Twenty-First Century Education Reform and the No Child Left Behind Act**

George W. Bush ran for president in 2000 with education policy as one of his top priorities.<sup>151</sup> Soon after his election he signed The No Child Left Behind Act (NCLB),<sup>152</sup> which reauthorized Title I of the Elementary and Secondary Education Act (ESEA).<sup>153</sup> Mr. Bush was considered by many to support those who believed in the Milton Friedman views of school accountability achieved through parental choice and local control. To pass NCLB, he worked with Senator Edward Kennedy, traditionally seen as a leader for those with views that emphasized more dollars, greater federal oversight and national standards in public education.<sup>154</sup> NCLB would soon cause great consternation for both sides of the education reform debate.<sup>155</sup> Meanwhile numerous states across the country, citing the work of Milton Friedman,<sup>156</sup> enacted additional

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<sup>149</sup> Fla. Stat. § 229.0537.

<sup>150</sup> *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006).

<sup>151</sup> "Highlights from the text of President George Bush's State of the Union Address," 4 January 2000. [cited 20 May 2009, available from [www.c-span.org/executive/stateoftheunion.asp](http://www.c-span.org/executive/stateoftheunion.asp).]

<sup>152</sup> No Child Left Behind Act of 2001, 20 U.S.C. 6301, Pub. L. 107-110, January 8, 2002, 115 Stat. 1425.

<sup>153</sup> Title I of the Elementary and Secondary Education of 1965, 20 U.S.C. 2701.

<sup>154</sup> W. James Antle III, "Leaving No Child Left Behind," *The American Conservative*, August 1 (2005).

<sup>155</sup> *Id.*

<sup>156</sup> Milton Friedman, "The Role of Government in Education." From *Economics and the Public Interest*. Robert A. Solo, ed. New Brunswick, N.J. Rutgers University Press, 1955. Milton Friedman, Capitalism and Freedom, Chicago, Il., The University of Chicago, 1962. Milton Friedman, *Free to Choose*, San Diego, California, Harcourt Trade Publishers, 1980.

choice and accountability programs as well: Arizona,<sup>157</sup> the District of Columbia,<sup>158</sup> Florida,<sup>159</sup> Georgia,<sup>160</sup> Iowa,<sup>161</sup> Ohio,<sup>162</sup> Pennsylvania,<sup>163</sup> Rhode Island,<sup>164</sup> and Utah.<sup>165</sup>

Initially hailed as landmark legislation, NCLB soon became the target for tremendous complaint at every level of government and from both sides of the political aisle.<sup>166</sup> NCLB hoped to raise the expectations and goals of Title I policy by emphasizing “equal educational outcomes”<sup>167</sup> and “narrowing the gap between high and low performing children.”<sup>168</sup> It offered “liberals increased spending and focus on minority-student achievement; it offered conservatives enhanced school choice and tougher standards.”<sup>169</sup>

In its attempt, NCLB imposed “numerous regulations such as strict timelines for improving the achievement of disadvantaged students and mandates... specific

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<sup>157</sup> ARIZ. REV. STAT. § 15 – 891 and ARIZ. REV. STAT. § 43 – 1183.

<sup>158</sup> Washington Revised Code § 28B.10.814.

<sup>159</sup> Fla. Stat. § 229.0537 expanded statewide and Fla. Stat. § 220.187.

<sup>160</sup> Ga. Annotated Code §§ 2A. 20-2A-1 – 20-2A-4 & 48-7-29.13.

<sup>161</sup> I.C.A. § 422.12 (2).

<sup>162</sup> Ohio Rev. Code Ann. § 3310.41 and Ohio Rev. Code Ann. § 3310.01 – 3310.17.

<sup>163</sup> 24 P.S. §§ 20 – 20005 – B, & 20-2007B.

<sup>164</sup> R.I. Gen. Laws § 44-62-1

<sup>165</sup> Ut. Annotated Code §§ 53A-3-410 & 53A-1A-701 – 53A-1a-710

<sup>166</sup> James Antle III, “Leaving No Child Left Behind,” *The American Conservative*, August 1 (2005).

<sup>167</sup> Jimmy Kim and Gail Sunderman, Expansion of Federal Power in American Education: Federal-State Relationships under the No Child Left Behind Act Year One, *The Civil Rights Project, Harvard University*, February 2004.

<sup>168</sup> Id.

<sup>169</sup> James Antle III, “Leaving No Child Left Behind,” *The American Conservative*, August 1 (2005).

sanctions for schools not performing well.”<sup>170</sup> NCLB also required strict reporting, required states to establish specific standards and define yearly adequate progress, while establishing timelines for identifying failing schools.<sup>171</sup> Those failing schools could be subject “to a series of sanctions, ranging from public school choice to reconstitution.”<sup>172</sup> Meanwhile these sanctions would no longer be under local control.<sup>173</sup>

NCLB did expand accountability and testing by requiring annual testing of grades three through eight, and while “states are responsible for developing and adopting tests...” the new tests had to be implemented according to a schedule provided by the federal government.<sup>174</sup>

So while NCLB established strict standards for accountability with the possibility of some level of parental choice which appealed to those who supported the free market in education reform, it also imposed massive regulation and reporting requirements on officials at the local level which appealed to those who argued that public education was best served when accountable to government forces. In short the federal government became more intrusive in K-12 education in some areas and less so in others.<sup>175</sup> It altered the federal-state relationship by expanding and contracting the functions of the federal government.<sup>176</sup> It also altered the traditional funding relationship between the

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<sup>170</sup> Jimmy Kim and Gail Sunderman, Expansion of Federal Power in American Education: Federal-State Relationships under the No Child Left Behind Act Year One, *The Civil Rights Project, Harvard University*, February 2004.

<sup>171</sup> Id.

<sup>172</sup> Id.

<sup>173</sup> Id.

<sup>174</sup> Id.

<sup>175</sup> Id.

<sup>176</sup> Id.

state and federal government. Funding in NCLB “favored state education agencies and chief state school officers over the governor, legislature, and state and local boards” allowing the federal government to “administer federally funded programs without necessarily consulting with elected officials.”<sup>177</sup>

Though it is too early to judge the results of the implementation of NCLB, suffice to say that its passage was a seminal event in the history of the state and federal relationship regarding K-12 education.<sup>178</sup> Today Milton Friedman free market believers balk “at NCLB’s exorbitant price tag and federal meddling.”<sup>179</sup> The measure also offers choice in the form of vouchers only under very strict standards, another characteristic exasperating to them.<sup>180</sup> Meanwhile, supporters of government involvement in public education still complain that not enough money is devoted to its implementation.<sup>181</sup>

However, James Antle states that “the biggest challenge to NCLB comes from outside Washington, as state legislatures and education officials resist federal requirements they say they cannot afford.”<sup>182</sup> Consternation and resistance spans dozens of states from perceived liberal states such as Connecticut and New Jersey to perceived conservative states such as Utah and Texas.<sup>183</sup> In all, some forty states have

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<sup>177</sup> Id.

<sup>178</sup> Id.

<sup>179</sup> James Antle III, “Leaving No Child Left Behind,” *The American Conservative*, August 1 (2005).

<sup>180</sup> Id.

<sup>181</sup> Id.

<sup>182</sup> Id.

<sup>183</sup> Id.

“proposed significant changes to the implementation of NCLB,”<sup>184</sup> and at this writing with a new administration NCLB’s future makeup, indeed its ability to survive as legislation, is unknown.

In a landmark decision in 2002, the U.S. Supreme Court ruled in *Zelman v. Simmons-Harris*<sup>185</sup> upholding the Ohio Pilot Project Scholarship Program<sup>186</sup> better known as the Cleveland Voucher Program. The court ruled that the program did not violate the Establishment Clause of the First Amendment of the U.S. Constitution because it passed what the court called the Private Choice Test. This test consisted of the following: the program must have “a valid secular purpose,”<sup>187</sup> aid must go directly to the parents and a broad base of individuals, and not to the schools,<sup>188</sup> that the program was neutral with respect toward religion,<sup>189</sup> and that the program would provide adequate nonreligious options.<sup>190</sup> Chief Justice William Rehnquist, writing for the majority in the 5-4 decision, stated that “The incidental advancement of a religious mission, or the perceived endorsement of a religious message, is reasonably attributable to the individual aid recipients not the government, whose role ends with the disbursement of benefits.”<sup>191</sup> Justice Clarence Thomas agreed writing “The promise of a public school education has failed poor inner-city blacks. Converting the Constitution

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<sup>184</sup> Id.

<sup>185</sup> *Zelman v. Simmons-Harris*, 536 U.S. 639, 122 S. CT. 2460 (2002).

<sup>186</sup> Ohio Rev. Code Ann. § § 3313.974 – 3313.979.

<sup>187</sup> *Zelman v. Simmons-Harris*, 536 U.S. 649, 122 S. CT. 2460 (2002).

<sup>188</sup> Id. at 653

<sup>189</sup> Id.

<sup>190</sup> Id at 651.

<sup>191</sup> Id.

from a guarantee of opportunity to an obstacle against education reform distorts our constitutional values and disserves those in greatest need.”<sup>192</sup>

The decision was hailed by believers in free market education as “a victory for school reform...a win for America’s tradition of education freedom.”<sup>193</sup> The decision was simply “enshrining the value of true private choice,” that true private choice was now safeguarded against a constitutional challenge<sup>194</sup> and that now “American children” would be “better off for it.”<sup>195</sup> Echoing the voice of Milton Friedman, supporters of the decision stated that “the ability of all Americans to learn in freely chosen schools would improve the quality of both public and private education.”<sup>196</sup>

The statists who saw public education now threatened by *Zelman* predictably opposed the decision. Justice John Paul Stevens, in a dissenting opinion, wrote “The voluntary character of the private choice to prefer a parochial education over an education in the public school system seems to me quite irrelevant to the question whether the government’s choice to pay for religious indoctrination is constitutionally permissible.”<sup>197</sup> Justice David Souter questioned the ability of the court to reconcile religious instruction and secular education as it related to the Establishment Clause.<sup>198</sup> Opponents of school choice argued before the ruling that the Cleveland Program

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<sup>192</sup> Id.

<sup>193</sup> Marie Gryphon, “High Court Decision Reflects True Spirit of the Constitution,” *Milwaukee Journal Sentinel*, July 6 2002.

<sup>194</sup> Id.

<sup>195</sup> Id.

<sup>196</sup> Id.

<sup>197</sup> *Zelman v. Simmons-Harris*, 536 U.S. 649, 122 S. CT. 2460 (2002).

<sup>198</sup> Id.

amounted to the idea of establishing a religion by the state.<sup>199</sup> Justice Steven Breyer was concerned that the majority “turns the clock back” and “adopts, under the name of ‘neutrality,’ an interpretation of the Establishment Clause that this Court rejected more than half a century ago.”<sup>200</sup>

The split vote of *Zelman v. Simmons-Harris* and the opinions put forth by the Justices on both sides illustrate the historic and ongoing tension between those who see a quality public education in need of greater protection by government, and those who see public education as an opportunity to provide market discipline and parental choice in an effort to improve the system. Public education and its relationship with government throughout America’s history continue to change as policy makers seek the best solutions to a system that faces ongoing and ever-changing challenges.

### **Summary**

Since before the nation’s inception,<sup>201</sup> K-12 education and the strategy for effectively educating the populace have been a keen source of great debate.<sup>202</sup> Moreover, the changing role of both state and federal involvement has also been a source of tension.<sup>203</sup> This chapter focused on the trends and changes throughout America’s history typified by those who see government support of public education as

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<sup>199</sup> Marie Gryphon, “High Court Decision Reflects True Spirit of the Constitution,” *Milwaukee Journal Sentinel*, July 6 2002.

<sup>200</sup> *Zelman v. Simmons-Harris*, 536 U.S. 649, 122 S. CT. 2460 (2002).

<sup>201</sup> Northwest Land Ordinance of 1787. Continental Congress. [cited 26 March 2009, available from [www.earlyamerica.com/earlyamerica/milestones/ordinance/text.html](http://www.earlyamerica.com/earlyamerica/milestones/ordinance/text.html)].

<sup>202</sup> See Andrew J. Coulson, *Market Education: The Unknown History*, (New Brunswick: Transaction Publishers, 1999), 75. and Lawrence A. Cremin, ed. *The Republic and the School: Horace Mann on the Education of Free Men*. New York: Teachers College Press, 1957. See also *Brown v. Board of Education*, 347 U.S. 483 74 S. Ct. 686, (1954). And *Lemon v. Kurtzman*, 403 U.S. 602 (1971).

<sup>203</sup> Id.

a means of improving the system, the statist, and those who see the solution to a strong public education system coming about primarily through market forces and individual choice. To thoroughly understand educational choice as a public policy issue, the current choice programs in existence in Florida, and the effects and implications both pro and con in Florida and across the nation, it is important to comprehend the history of K-12 education in America: the traditions, the evolving trends, the efforts at reform, the important judicial decisions, the role of government and the possibilities offered by choice and the free market. Moreover, understanding the assumptions and resultant consequences of the various education policies is paramount for making future policy decisions.

The great debate has generally and traditionally fallen into two camps: those who believe that government's role should be limited in its efforts, relying more on parents, families, free markets and local control for a strong education system,<sup>204</sup> and those who believe that government's role should be greater and more broadly defined in an effort to provide a more comprehensive, just and equal system.<sup>205</sup> Both sides claim to want to the same thing: a quality education system that meets the needs of all students.<sup>206</sup> In

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<sup>204</sup> Andrew J. Coulson, *Market Education: The Unknown History*, (New Brunswick: Transaction Publishers, 1999), 75. and Matthew J. Brouillette, *The Case for Choice in Schooling: Restoring Parental Control of Education*, Mackinac Center for Public Policy, February 2001, 10.

<sup>205</sup> "Highlights from the text of President Lyndon Johnson's Special Message to Congress," 16 March 1964. [cited 9 May 2009, available from [www.npr.org/templates/story/story.php?storyId=158966](http://www.npr.org/templates/story/story.php?storyId=158966).] and Lawrence A. Cremin, ed. *The Republic and the School: Horace Mann on the Education of Free Men*. New York: Teachers College Press, 1957.

<sup>206</sup> "Highlights from the text of President Lyndon Johnson's Special Message to Congress," 16 March 1964. [cited 9 May 2009, available from [www.npr.org/templates/story/story.php?storyId=158966](http://www.npr.org/templates/story/story.php?storyId=158966).] and Lawrence A. Cremin, ed. *The Republic and the School: Horace Mann on the Education of Free Men*. New York: Teachers College Press, 1957. See also Milton Friedman, "The Role of Government in Education." From *Economics and the Public Interest*. Robert A. Solo, ed. (New Brunswick, N.J. Rutgers University Press, 1955). Chester F. Finn, Jr., "The Original Education President: Reagan's ABC's," *National Review*, June 9, 2004. Available at <http://www.nationalreview.com/comment/finn200406090839.asp>.

the end, this debate requires one to evaluate both the attributes and the detriments of each side of the argument.

Parents, teachers, the “education establishment,” bureaucrats, elected officials, the courts and voters all have a hand in the public policy decisions of public education. The challenge becomes the tremendous amount of data that can be used by one side or the other to justify differing positions. This chapter focuses on the historical trends, court decisions and public policies in an effort to answer the research issue which is to neutrally examine the context of educational policy so that policy makers can make informed decisions regarding K-12 education in Florida.

## CHAPTER 4

### INFLUENTIAL EDUCATIONAL ORGANIZATIONS CITED BY STATE POLICYMAKERS

#### **Introduction**

As stated in Chapter 1, there has been a tremendous amount written as to the pros and cons of education reform in general, and in Florida specifically, as it relates to K-12 education. However, much of the debate focuses on narrowly defined discussions such as the cost, the merits of a single choice program, the effects of a specific lawsuit, a statistical evaluation of test scores, or an analysis of the student dropout rates in various programs. Empirical and statistical data are either highly limited or highly segmented<sup>1</sup> because of the relative infancy of many of the state reforms. Apart from the difficulty of substantive data analysis, any discussion pro or con regarding these choice programs is often lost in the cacophony of political bickering, partisan clichés, pandering to voters, and media sound bites.

All of this makes it difficult for policymakers in Florida to assess honestly how these programs are administered and, perhaps more importantly, whether they are effective. The rhetoric shows no signs of abatement. Both sides continue the struggle in state legislatures,<sup>2</sup> the courts,<sup>3</sup> the media,<sup>4</sup> and at the ballot box.<sup>5</sup> A major concern is that reasonable discussions regarding long-term solutions are sacrificed to the

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<sup>1</sup> Craig Wood, telephone call, 20 June 2008.

<sup>2</sup> John Fund, "He's Throwing Away My Dream," *The Wall Street Journal*, 16 January 2006.

<sup>3</sup> *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006).

<sup>4</sup> John Fund, "He's Throwing Away My Dream," *The Wall Street Journal*, 16 January 2006.

<sup>5</sup> Shannon Colavecchio-Van Sickler, "Jeb Campaigns for Education, not Office," *St. Petersburg Times*, 15 June 2008.

immediacy of twenty-four hour media and an endless political campaign season.<sup>6</sup>

This study has looked at both the state and national landscape regarding choice and reform. It has also reviewed the history of public education in the context of two prevailing ideas of how to improve it: those who favor greater government involvement versus those who favor market forces and parental choice as the primary means of improving public education. Consequently, policymakers in Florida have a purposeful context on which to base their decisions and an answer in large part to the research issue posed in Chapter 1. There is another important question however, and that is, how do policymaking leaders in Florida currently receive their information to make their decisions regarding K-12 education? What organizations do they look to and who are these influential groups providing that information? Answering this question will provide one more piece of information for those seeking answers to policy questions affecting education reform in Florida.

### **The Response by Political Leaders**

The communication consisted of approximately forty-four elected Florida officials from both parties in the Legislature as well as the executive branch.<sup>7</sup> Twenty-nine Republicans and twelve Democrats, which represent the exact political makeup of the legislative committees, were queried.<sup>8</sup> Three people with no party affiliation but who represented Capitol staff or the executive branch also responded to the communication.<sup>9</sup> Each person was included because he or she held a decision-making

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<sup>6</sup> Craig Wood, telephone call, June 2009.

<sup>7</sup> Email to elected officials, 8, 9, 10 June 2009. Telephone call follow-up, 17, 18, 19 June 2009.

<sup>8</sup> Bob McClure, Communication with Florida Elected Officials, Table 1, 2009.

<sup>9</sup> Id.

position of influence regarding public education in Florida.<sup>10</sup> The questions asked were, “When making K-12 policy decisions, what group or groups do you turn to for information, pro or con? Are there specific groups whose opinions you respect or trust?”<sup>11</sup> Of the forty-four contacted, twenty responded<sup>12</sup> and they cited fourteen different organizations,<sup>13</sup> both state and national, as groups they would “turn to for information”<sup>14</sup> and groups “whose opinions you respect or trust.”<sup>15</sup> Table 1 lists the organizations cited by policymakers, the number of times they were cited and the specific official who referenced them.<sup>16</sup>

Table 4-1. Communication with Florida Elected Officials, 2009

Organization	No. of Recs	Sources
American Legislative Exchange	I	Rep. Kelli Stargel
Florida Department of Education	IIIIIIII	Rep. Faye Culp, Rep. John Legg, Rep. Bill Proctor, Sen. Lee Constantine, Sen. Ronda Storms, Dustin Paulson, Lowell Matthews, Marleen Ahearn, Scott Kittel
Education Commission of the States	I	Lowell Matthews
Florida Association of School Administrators	III	Rep. Bill Proctor, Lowell Matthews, Marleen Ahearn, Scott Kittel

<sup>10</sup> Id contacted all elected officials of House PreK – 12 Policy Committee, House Education Policy Council, House PreK – 12 Education Appropriations Committee, Senate Committee on Education PreK – 12, Senate Committee on Education PreK – 12 Appropriations, Speaker of the House, House Minority Leader, Senate President, Senate Minority Leader, and the Governor’s office.

<sup>11</sup> E-mail to elected officials, 18, 19, 20 June 2009. Telephone call follow-up, 25, 26, 27 June 2009. Also 27 July 2009.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> Bob McClure, Communication with Florida Elected Officials, Table 1, 2009.

Florida Association of District School Superintendents	III	Lowell Matthews, Marleen Ahearn, Scott Kittel
Florida Education Association	IIII	Rep. Bill Proctor, Rep. Ritch Workman, Marleen Ahearn, Scott Kittel
Foundation for Excellence in Education	II	Rep. Seth McKeel, Rep. Kelli Stargel
Foundation for Florida's Future	IIII	Rep. Erik Fresen, Rep. Charles McBurney, Rep. Scott Plakon, Rep. Ritch Workman
Friedman Foundation	I	Rep. Kelli Stargel
The James Madison Institute	III	Rep. John Legg, Sen. Stephen Wise, Rep. Larry Cretul
National Conference of State Legislatures	I	Rep. Kelli Stargel
Office of Program Policy Analysis and Government Accountability	IIII	Rep. Faye Culp, Rep. Charles McBurney, Rep. Scott Plakon, Marleen Ahearn, Scott Kittel
Florida School Board Association	II	Rep. Bill Proctor, Lowell Matthews
Southern Regional Education Board	III	Rep. Seth McKeel, Lowell Matthews, Marleen Ahearn

The organizations cited represent a very broad range, from government agencies, to associations, to think tanks, to legislative coalitions.<sup>17</sup> They also represent the entire political spectrum.<sup>18</sup> For example, the American Legislative Exchange Council<sup>19</sup> has traditionally been an association that attracted state elected officials who advocated the Milton Friedman philosophy of reform for improving public education through market forces and greater parental choice<sup>20</sup> while the National Conference of State

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<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> American Legislative Exchange Council, [cited 24 July 2009, available from [www.alec.org/AM/Template.cfm?Section=About](http://www.alec.org/AM/Template.cfm?Section=About)].

<sup>20</sup> Thomas Perrin, telephone call, June 2009.

Legislatures<sup>21</sup> was also cited, and yet has attracted public officials who have traditionally advocated for more government involvement in public education.<sup>22</sup> The Foundation for Florida's Future<sup>23</sup> founded by Jeb Bush has traditionally battled for greater parental choice in public education against the Florida Education Association,<sup>24</sup> a traditional supporter of greater government funding and intervention.<sup>25</sup> Yet both were cited in this communication.

Because elected officials referenced these various groups as being influential in helping them with their decision making, it is important to understand who each group is, what their various missions are, what they actually do to engage in the debates over public education, and how they are viewed across the political spectrum. A thorough examination of the various organizations' mission statements, the work produced, how they engaged in the debate, and how various perceived opponents or media reports characterized them in the great battle over public education provided helpful details in further understanding each of the organizations cited.

### **Profiles of the “Influential” Organizations**

The organization most often cited in the communication<sup>26</sup> was the Florida Department of Education.<sup>27</sup> Created in 1885,<sup>28</sup> the Department lists its mission as to

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<sup>21</sup> Id.

<sup>22</sup> National Conference of State Legislatures, [cited 29 July 2009, available from [www.ncsl.org](http://www.ncsl.org)].

<sup>23</sup> Foundation for Florida's Future, [cited 12 July 2009, available from [www.foundationforfloridasfuture.org](http://www.foundationforfloridasfuture.org)].

<sup>24</sup> Florida Education Association, [cited 23 May 2009, available from [www.feaweb.org](http://www.feaweb.org)].

<sup>25</sup> See *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006).

<sup>26</sup> Bob McClure, Communication with Florida Elected Officials, Table 1, 2009.

<sup>27</sup> Florida Department of Education, [cited 10 July 2009, available from [www.fl doe.org](http://www.fl doe.org)].

“serve as a repository of education data from school districts, community colleges, universities, and independent postsecondary institutions” in order “to track student performance across time and varying education sectors.”<sup>29</sup> Through a number of statewide initiatives including reading, workforce innovation, apprenticeships and career development, the Department provides numerous services to teachers, students, parents and legislators.<sup>30</sup> This government agency’s representative work includes data profiles on graduation rates,<sup>31</sup> financial statistics of school districts,<sup>32</sup> and student and financial records involving the current choice programs.<sup>33</sup> Essentially, the Department of Education is perceived as a repository and clearinghouse of statistical information and analysis.<sup>34</sup> The Department also regularly testifies before legislative committees or speaks before public gatherings or at various conferences in an effort to dispense its work more widely.<sup>35</sup>

It is often cited by both sides of the education reform and school choice debate<sup>36</sup> as it provides voluminous amounts of statistical data on a whole host of topics.<sup>37</sup> During

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<sup>28</sup> Fla. Const, Art IX § 2.

<sup>29</sup> Id.

<sup>30</sup> Id.

<sup>31</sup> Florida Department of Education, 2007-2008 Five-Year District Graduation Rates, *Education Information & Accountability Services, Data Report*. [cited 13 July 2009, available from [www.fl DOE.org/eias/eiaspubs/pdf/gradgde.pdf](http://www.fl DOE.org/eias/eiaspubs/pdf/gradgde.pdf)].

<sup>32</sup> Florida Department of Education, Financial Profiles of Florida School Districts, *Office of Funding and Financial Reporting*, April 2009. [cited 13 July 2009, available from [www.fl DOE.org](http://www.fl DOE.org)].

<sup>33</sup> Florida Department of Education, Office of Independent Education and Parental Choice, “Choice Facts.” [cited 30 December 2008, available from [www.floridaschoolchoice.org/information/mckay](http://www.floridaschoolchoice.org/information/mckay)].

<sup>34</sup> E-mail to elected officials, 18, 19, 20 June 2009. Telephone call follow-up, 25, 26, 27 June 2009.

<sup>35</sup> Id.

<sup>36</sup> Natasha Levanti, “Newton Children Deserve a Better Education,” *Sarasota Herald Tribune*, July 13 2009. Kathy Bushouse, “State Set to Intervene in Two South Florida Schools,” *South Florida Sun-*

the Jeb Bush Administration and the debates that took place regarding the various school choice programs, the Department was cited regularly by the Governor,<sup>38</sup> his colleagues in the Legislature who supported his reforms,<sup>39</sup> those in the Legislature who opposed his reforms,<sup>40</sup> and members of the media.<sup>41</sup> The media routinely cites the Department and its statistical analysis when discussing public education issues.<sup>42</sup> Consequently, one may infer that the Florida Department of Education is seen as a neutral third party that stores statistical information of all types for anyone who may be interested in knowing such data while also providing information to parents, teachers, students and elected officials.

The second most often cited<sup>43</sup> “influential” organization when it comes to information on K-12 education issues was the Office of Program Policy Analysis and Government Accountability (OPPAGA).<sup>44</sup> Established in 1994, this arm of the Florida Legislature was created to “perform independent examinations, program reviews, and

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*Sentinel*, June 26 2009. Elizabeth Colson, “Something New: A 4-Year Degree at a 2-Year College,” *New York Times*, December 14 2005.

<sup>37</sup> Florida Department of Education, [cited 10 July 2009, available from [wwwfldoe.org](http://wwwfldoe.org)].

<sup>38</sup> Patricia Levesque, 2008. Interview by author. Tallahassee, Fla. 10 December.

<sup>39</sup> Representative Joe Negron, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.

<sup>40</sup> Representative Curtis Richardson, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session & Representative Ken Gotlieb, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.

<sup>41</sup> Jessica L. Sandham, “Florida Debates Expanding Its Voucher Program,” *Education Week* 20, vol. 28 (2001): 18, 22.

<sup>42</sup> Kathy Bushouse, “Florida Changing the Way Its High Schools are Graded,” *South Florida Sun-Sentinel*, 14 August 2009 & “Behind All Those ‘A’ Grades,” *Palm Beach Post*, 22 June 2009.

<sup>43</sup> Bob McClure, Communication with Florida Elected Officials, Table 1, 2009

<sup>44</sup> Office of Program Policy Analysis and Government Accountability, [cited 12 July 2009, available from [wwwoppaga.state.fl.us.org](http://wwwoppaga.state.fl.us.org)].

other projects as provided by general law, as provided by concurrent resolution, or as directed by the Legislative Auditing Committee, and shall provide recommendations, training or other services to assist the Legislature.”<sup>45</sup> Its primary focus is to be “the research arm of the Florida Legislature”<sup>46</sup> at the direction of legislative leadership<sup>47</sup> including “performance evaluations and policy reviews” and government accountability reports.<sup>48</sup>

With a staff of approximately seventy people, one official said that the job of OPPAGA is to “speak the truth to power.”<sup>49</sup> Created by the Legislature to “help improve the performance and accountability of state government and root out inefficiencies,”<sup>50</sup> OPPAGA has produced numerous reports since its inception in 1994, many of which have focused on education.<sup>51</sup> It primarily evaluates how money is spent and the overall effectiveness of a particular government program. Under the auditor general’s office until 1994, legislators at that point made it an independent agency.<sup>52</sup> It is often cited by

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<sup>45</sup> Fla. Stat. § 11.51.

<sup>46</sup> Office of Program Policy Analysis and Government Accountability, [cited 12 July 2009, available from [www.oppaga.state.fl.us/shell.aspx?pagepath=about/whatwedo.htm.org](http://www.oppaga.state.fl.us/shell.aspx?pagepath=about/whatwedo.htm.org)].

<sup>47</sup> Id.

<sup>48</sup> Id.

<sup>49</sup> Ami Keller, “A Watch Dog’s Life,” *Florida Trend*, October 1 2008.

<sup>50</sup> Id.

<sup>51</sup> Office of Program Policy Analysis and Government Accountability, “Some Progress Achieved in Addressing Factors Contributing to Teacher Attrition,” *Report No. 09-11*, February 2009. and Office of Program Policy Analysis and Government Accountability, “School Districts Can Take Steps to Substantially Reduce Their Transportation Costs,” *Report No. 04-10*, February 2004. and Office of Program Policy Analysis and Government Accountability, “The Corporate Income Tax Credit Scholarship Program Saves State Dollars,” *Report No. 08-68*, December 2008.

<sup>52</sup> Ami Keller, “A Watch Dog’s Life,” *Florida Trend*, October 1 2008.

both sides of the education reform and school choice debate,<sup>53</sup> depending upon whether those groups agree with the report. One of its most recent studies created controversy when it stated that the Corporate Income Tax Credit Scholarship Program saved the state money.<sup>54</sup> School choice advocates saw it as a victory while those who support greater government involvement called the study's validity into question.<sup>55</sup>

Because of its perceived independence, OPPAGA has on occasion crossed swords with elected officials whom it depends on for funding, as well as various associations representing members' interests.<sup>56</sup> Governors as well as legislative leaders have tried on occasion to defund OPPAGA when those elected officials took exception to a produced report.<sup>57</sup> Jeb Bush tried to eliminate the agency while he was governor and various other legislators displeased with some of its research have tried, unsuccessfully, to make it less independent by making it accountable to some other government agency.<sup>58</sup> Though on occasion OPPAGA leadership has had to publicly defend various reports criticized by opponents,<sup>59</sup> members of the media have generally

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<sup>53</sup> Ami Keller, "A Watch Dog's Life," *Florida Trend*, October 1 2008. and Florida Education Association, "FEA Takes Issue with OPPAGA Report on Corporate Tax Voucher Program 'savings'." *Press Release*, December 16 2008.

<sup>54</sup> Office of Program Policy Analysis and Government Accountability, "The Corporate Income Tax Credit Scholarship Program Saves State Dollars," *Report No. 08-68*, December 2008.

<sup>55</sup> John Kirtley, 2009. Interview by author. Tallahassee, Fla. 15 June. & "FEA Takes Issue with OPPAGA Report on Corporate Tax Voucher Program 'savings'." *Press Release*, December 16 2008.

<sup>56</sup> Ami Keller, "A Watch Dog's Life," *Florida Trend*, October 1 2008.

<sup>57</sup> Id.

<sup>58</sup> Id.

<sup>59</sup> Office of Program Policy Analysis and Government Accountability, "Statement by Secretary Moore on OPPAGA Findings," *Press Release*, January 3 2001.

viewed OPPAGA sympathetically as an impartial research and reporting arm of the Florida Legislature, quoting it extensively in media reports regarding public education.<sup>60</sup>

Another organization cited<sup>61</sup> by elected officials nearly as much as the Florida Department of Education and OPPAGA as a group to look to for information on K-12 education was the Foundation for Florida's Future (FFF)<sup>62</sup> founded by former Governor Jeb Bush. The organization's mission as a 501(c)4 is "dedicated to keeping the promise of quality education by advocating reforms that raise standards, increase accountability, provide incentives for success and offer choices – key factors for improving quality in any system, including public schools."<sup>63</sup> While it has not traditionally produced research studies or policy briefs, it does circulate studies and research projects from other organizations, serving as a kind of clearinghouse for state and national reports, studies, statistics or events that reference or affect public education in the state of Florida.<sup>64</sup> It serves as a legacy of Jeb Bush' eight years in office and his support for the Milton Friedman philosophy of public education which emphasizes choice, accountability, school grades for quality and improvement, merit pay and parental control.<sup>65</sup>

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<sup>60</sup> Ami Keller, "A Watch Dog's Life," *Florida Trend*, October 1 2008. and "Florida's Auditors Discover Just How Hard It is to Track Down the Money Trail at School Districts?," *TC Palm*, 23 January 2008.

<sup>61</sup> Bob McClure, Communication with Florida Elected Officials, Table 1, 2009

<sup>62</sup> Foundation for Florida's Future, [cited 12 July 2009, available from [www.foundationforfloridasfuture.org](http://www.foundationforfloridasfuture.org)].

<sup>63</sup> Id.

<sup>64</sup> Id.

<sup>65</sup> Robert F. Sanchez, 2009. Interview by author. Tallahassee, Fla. 27 August.

As a 501(c)4, the group lobbies on behalf of various policy oriented legislative initiatives and has provided committee testimony before the legislature.<sup>66</sup> It also frequently comments publicly through the press on various legislative bills pending, court decisions or any other significant event in Florida regarding K-12 education.<sup>67</sup> The Foundation also provides the former Governor a platform to speak and write on reforms he supported while in office.<sup>68</sup> In general, short of original research, the Foundation serves as an extension of the platform to promote and support the educational issues that Governor Jeb Bush worked for while in office, with an emphasis on affecting the legislative process.<sup>69</sup>

Those who have regularly opposed the Governor's reform efforts offer a different view of a Foundation for Florida's Future and its push for reform, saying about his work for more school choice and scholarships "all we know is that the vast majority of such schoolchildren received religious educations at the public's expense."<sup>70</sup> Moreover, both the media and his opponents have watched with interest his aggressive push for education change even though he is no longer in office.<sup>71</sup>

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<sup>66</sup> Brandy Hance, 2009. Interview by author. Tallahassee, Fla. 22 July.

<sup>67</sup> Foundation for Florida's Future, [cited 12 July 2009, available from [www.foundationforfloridasfuture.org](http://www.foundationforfloridasfuture.org)].

<sup>68</sup> Jeb Bush, "Here's How to Transform Education," *Miami Herald*, 1 July 2009 & Jeb Bush, "Will Public Schools Suffer Under Vouchers? No: Choice Forces Educators to Improve," *Atlanta Journal Constitution*, 4 March 2009.

<sup>69</sup> Id.

<sup>70</sup> S. V. Date, "What Would Jeb Do?," *The Washington Post*, 21 January 2007.

<sup>71</sup> Shannon Colavecchio-Van Sickler, "Jeb Campaigns for Education, not Office," *St. Petersburg Times*, 15 June 2008.

There were other organizations that received several mentions each as groups respected for their opinions on education reform:<sup>72</sup> the Florida Association of School Administrators (FASA),<sup>73</sup> the Florida Education Association (FEA),<sup>74</sup> the Florida School Boards Association (FSBA),<sup>75</sup> the Foundation for Excellence in Education (FEE),<sup>76</sup> The James Madison Institute (JMI)<sup>77</sup> and the Southern Regional Education Board (SREB).<sup>78</sup> Each has a somewhat different mission in K-12 education, and each has occasionally both sided with one another and opposed one another depending upon the issue.<sup>79</sup>

The beliefs of the Florida Association of School Administrators (FASA) center around the idea of a professional organization “dedicated to the development of effective educational leadership”<sup>80</sup> that “promotes a spirit of professionalism among all school administrators”<sup>81</sup> and “to advance public education by providing organized and unified efforts for the resolving of matters concerning school administrators.”<sup>82</sup> Moreover, FASA believes in “improving standards of cooperation with other professional

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<sup>72</sup> Bob McClure, Communication with Florida Elected Officials, Table 1, 2009.

<sup>73</sup> Florida Association of School Administrators, [cited 23 May 2009, available from [www.fasa.net](http://www.fasa.net)].

<sup>74</sup> Florida Education Association, [cited 23 May 2009, available from [www.feaweb.org](http://www.feaweb.org)].

<sup>75</sup> Florida School Board Association, [cited 1 July 2009, available from [www.fsba.org](http://www.fsba.org)].

<sup>76</sup> Foundation for Excellence in Education, [cited 1 July 2009, available from [www.excelined.org](http://www.excelined.org)].

<sup>77</sup> The James Madison Institute, [cited 15 July 2009, available from [www.jamesmadison.org](http://www.jamesmadison.org)].

<sup>78</sup> Southern Regional Education Board, [cited 1 July 2009, available from [www.sreb.org](http://www.sreb.org)].

<sup>79</sup> Thomas Perrin, 2009. Interview by author. Tallahassee, Fla. 23 July.

<sup>80</sup> Florida Association of School Administrators, *Constitution*, Art II § 2.

<sup>81</sup> Id.

<sup>82</sup> Id.

organizations,”<sup>83</sup> while promoting the “personal welfare of school administrators in the state.”<sup>84</sup>

FASA is governed by a Board of Directors made up of members from across the state<sup>85</sup> with a paid staff and executive director appointed and overseen by that board.<sup>86</sup> Its primary activities consist of lobbying on behalf of relevant issues to school administrators. The Florida Association of School Administrators has been traditionally viewed as a credible voice for administrators and public education as a whole.<sup>87</sup> The issues it focuses on have particular relevance to these groups, with an emphasis on more state funding, greater latitude for administrators to run their schools, and professional development.<sup>88</sup> It keeps its members aware of relevant political activities during the legislative session.<sup>89</sup> It has also at times found itself in opposition to the FEA over the ability of principals to evaluate, hire, and fire teachers.<sup>90</sup>

FASA faces the challenge of representing administrators from districts with competing and varying demands.<sup>91</sup> Florida’s sixty-seven counties differ widely in terms of population, wealth, and urban issues versus rural. All of those challenge FASA on

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<sup>83</sup> Id.

<sup>84</sup> Id.

<sup>85</sup> Florida Association of School Administrators, *Constitution*, Art V § 1-3.

<sup>86</sup> Id.

<sup>87</sup> Thomas Perrin, 2009. Interview by author. Tallahassee, Fla. 23 July.

<sup>88</sup> Jim Warford, Florida Association of School Superintendents, Letter to Florida Legislators, 2009. and Florida Association of School Administrators, *Official Legislative Platform*, 2009.

<sup>89</sup> Id.

<sup>90</sup> Robert F. Sanchez, 2009. Interview by author. Tallahassee, Fla. 27 August.

<sup>91</sup> Id.

how best to advocate for issues especially school funding.<sup>92</sup> Larger more urban districts depend more on local funding than on state funding, while smaller less populated districts depend on greater state funding, and this makes advocacy and lobbying before the legislature and at the local level difficult.<sup>93</sup>

The Florida Education Association's (FEA) mission is to "advocate the right to a free, quality public education for all. Empower and support local affiliates. Advance professional growth, development and status of all who serve the students in Florida's public schools. Engage our members and communities to ensure that all students learn and succeed in a diverse world."<sup>94</sup> Founded in 1886,<sup>95</sup> it merged with the Florida Teaching Profession, an arm of the National Education Association<sup>96</sup> in 2000.<sup>97</sup> It is governed by an executive cabinet, a board of directors and a governing board of local presidents across the state.<sup>98</sup>

The FEA is a political force in Florida that serves as a union on behalf of its members focusing on public school issues and those who work in the system.<sup>99</sup> It is extremely active in the legislative process, lobbying on behalf of increased public education funding of all kinds, teacher pay, teacher hiring, strict certification standards,

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<sup>92</sup> Id.

<sup>93</sup> Id.

<sup>94</sup> Florida Education Association, [cited 23 May 2009, available from [www.feaweb.org](http://www.feaweb.org)].

<sup>95</sup> Id.

<sup>96</sup> National Education Association, [cited 27 July 2009, available from [www.nea.org](http://www.nea.org)].

<sup>97</sup> Florida Education Association, [cited 23 May 2009, available from [www.feaweb.org/cms/FEA=Leadership/24.html](http://www.feaweb.org/cms/FEA=Leadership/24.html)].

<sup>98</sup> Id.

<sup>99</sup> Robert F. Sanchez, 2009. Interview by author. Tallahassee, Fla. 27 August.

limiting class size and the importance of local control of K-12 education.<sup>100</sup> The FEA keeps its members informed of relevant potential legislation at the state and federal level.<sup>101</sup> In an effort to advance its agenda, it hosts “best practice” conferences, highlights public school success stories, works with the media to advance its agenda and coordinates the relationships between the FEA officers, staff, and the local presidents.<sup>102</sup>

It has also been directly involved in the political process as well, giving money to political candidates at the state legislative and local school board level who advance its agenda, supporting or seeking to defeat various constitutional amendments, filing lawsuits and providing polling information to the media for political purposes.<sup>103</sup> In 2002, it spent millions dollars in a failed attempt to defeat the reelection of Jeb Bush as Governor.<sup>104</sup> Moreover, it has traditionally opposed much of the agenda initiated by Bush and the Republican dominated legislature in the late 1990s on school choice, parental control, testing and merit pay.<sup>105</sup> Even today, with Bush out of office, the

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<sup>100</sup> Florida Education Association, *Legislative Summary*, 2009. and Stephen Hegarty & Kelly Ryan Gilmer, “Once Mighty Teacher Union’s Influence on the Wane,” *St. Petersburg Times*, 25 March 2002.

<sup>101</sup> Florida Education Association, [cited 23 May 2009, available from [www.feaweb.org/cms/FEA=Leadership/24.html](http://www.feaweb.org/cms/FEA=Leadership/24.html)]. and Florida Education Association, *Legislative Summary*, 2009. and Stephen Hegarty & Kelly Ryan Gilmer, “Once Mighty Teacher Union’s Influence on the Wane,” *St. Petersburg Times*, 25 March 2002.

<sup>102</sup> Florida Education Association, [cited 23 May 2009, available from [www.feaweb.org/cms/FEA=Leadership/24.html](http://www.feaweb.org/cms/FEA=Leadership/24.html)].and Florida Education Association, [cited 23 May 2009, available from [www.feaweb.org/cms/FEA=Leadership/24.html](http://www.feaweb.org/cms/FEA=Leadership/24.html)]. and Florida Education Association, *Legislative Summary*, 2009. and Stephen Hegarty & Kelly Ryan Gilmer, “Once Mighty Teacher Union’s Influence on the Wane,” *St. Petersburg Times*, 25 March 2002.

<sup>103</sup> Stephen Hegarty & Kelly Ryan Gilmer, “Once Mighty Teacher Union’s Influence on the Wane,” *St. Petersburg Times*, 25 March 2002. and Brendan Farrington, “Teachers’ Union a Factor in Florida,” *Associated Press*, 25 September 2002. [cited 13 July 2009, available from [www.freerepublic.com/focus/news/756840/posts](http://www.freerepublic.com/focus/news/756840/posts)].

<sup>104</sup> Id.

<sup>105</sup> Id.

Legislature continues to push for these issues with similar themes, finding the Florida Education Association oftentimes in a defensive posture.<sup>106</sup> As long as the Florida Legislature remains dominated by Republicans, the FEA may find its priorities placed on the back burner and in fact has found itself primarily focused on stopping legislation it perceives as harmful to public education and to its members rather than its role in years past of advancing legislation in support of its members.<sup>107</sup>

The Florida School Board Association (FSBA) was founded in 1930. Its beliefs concerning educational reform are focused on the understanding that “the educational system should develop and must make available programs that enable each child to learn and develop at his/her maximum potential.”<sup>108</sup> Moreover, the FSBA believes that “education requires effective legislative participation in order to exercise school boards’ constitutional right to control, manage and operate school districts.”<sup>109</sup> In addition, the association believes that “legislative decisions...can best be made with informed input from stakeholders”<sup>110</sup> and that “federal and state governments and the Department of Education should provide adequate resources to support local school boards’ responsibilities to their community.”<sup>111</sup>

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<sup>106</sup> Florida Education Association, “FEA Takes Issue with OPPAGA Report on Corporate Tax Voucher Program ‘savings’.” *Press Release*, December 16 2008. and Florida Education Association, *Legislative Summary*, 2009.

<sup>107</sup> Thomas Perrin, 2008. Interview by author. Tallahassee, Fla. 23 July.

<sup>108</sup> Florida School Board Association, [cited 1 July 2009, available from [www.fsba.org/beliefs.asp](http://www.fsba.org/beliefs.asp)].

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

The FSBA is governed by a Board of Directors made up of school board members from across the state.<sup>112</sup> Like the FEA and FASA, their primary activities consist of lobbying on behalf of school board issues particularly public school funding, providing committee testimony and publicizing legislative battles, while keeping its members abreast of relevant potential legislation at the state and federal level.<sup>113</sup> It also hosts various networking events for members, highlights innovations and successes at the district level, and coordinates the relationships between school boards and local governments.<sup>114</sup>

The FSBA spends a tremendous amount of time representing its members' interests through the legislative process.<sup>115</sup> Issues of importance include class size, sufficient education funding including but not limited to the Florida Education Finance Program (FEFP), lottery funds and capital outlay projects, professional development, voluntary prekindergarten programs, education technology and teacher pay.<sup>116</sup> In her installation speech as the new FSBA President, Joy Bowen cited several challenges and tough choices to be made by FSBA saying "We need more money to do what we need to do. For us, inadequate budgets mean making hard, unpleasant but necessary decisions – closing schools, letting staff go, and giving up programs..."<sup>117</sup> She

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<sup>112</sup> Florida School Board Association, "Leaders," *Newsletter* 4, vol. 10 (2009).

<sup>113</sup> Florida School Board Association, "FSBA Boarder-Line," *Official Legislative Bulletin*, March 27 2009.

<sup>114</sup> Florida School Board Association, [cited 1 July 2009, available from [www.fsba.org/beliefs.asp](http://www.fsba.org/beliefs.asp)]. and Florida School Boards Association, "Leaders," *Newsletter* 4, vol. 10 (2009).

<sup>115</sup> *Id.*

<sup>116</sup> Florida School Board Association, "FSBA Boarder-Line," *Official Legislative Bulletin*, March 27 2009.

<sup>117</sup> Highlights of installation speech by President Joy Bowen to the Florida School Board Association, 2009.

continued, “Whether you love the FCAT or hate it, Florida students have made a lot of gains in recent years. Setting benchmarks is important, but they have to be clear to be attainable and they have to be consistent.”<sup>118</sup> She concluded, “Stop explaining failures based on demographics. Children are children whether they live in Bombay or Blountstown...They deserve our best.”<sup>119</sup>

The FSBA faces some challenges similar to the Florida Association of School Administrators. Like FASA, the FSBA also serves sixty-seven counties with very different school boards and representing member needs from such a disparate group is difficult.<sup>120</sup> The urban Miami-Dade County district is the fourth largest school district in the country and its members have differing needs from the smallest and very rural district in Florida, Liberty County.<sup>121</sup> Funding for Miami-Dade is much more dependent upon local tax dollars as an extremely populous county, while Liberty County must depend upon a greater share of state money to receive funding,<sup>122</sup> and balancing those interests on behalf of the FSBA is just one example of the kinds of challenges it faces.<sup>123</sup> Larger counties have concerns that they are simply subsidizing some of the smaller ones, and the challenges faced by school boards in large counties remain very different from those in small counties.<sup>124</sup>

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<sup>118</sup> Id.

<sup>119</sup> Id.

<sup>120</sup> Robert F. Sanchez, 2009. Interview by author. Tallahassee, Fla. 27 August.

<sup>121</sup> Id.

<sup>122</sup> Id.

<sup>123</sup> Id.

<sup>124</sup> Id.

The FSBA has been traditionally viewed as a credible voice for teachers and schools.<sup>125</sup> The issues it focuses on have particular relevance to both, with an emphasis on adequate funding, teacher and school recognition, and local school board governance.<sup>126</sup> While it has traditionally been seen as a group that supported greater government involvement in public education,<sup>127</sup> it has been known to work with most any group if the issue benefits the members of the FSBA Association.<sup>128</sup>

The Foundation for Excellence in Education's (FEE) mission is to answer the following questions: "What motivates students to exceed expectations? What are the secrets to successful teaching? How do we replicate academic achievement across classrooms, schools, and school districts, regardless of their unique challenges?"<sup>129</sup> Moreover, FEE states that its "programs identify, quantify, reward and foster excellence in education."<sup>130</sup> Founded in 2007 by former Governor Jeb Bush as a 501(c)3 not-for-profit charity<sup>131</sup> FEE is governed by a small board of directors made up of former supporters and staff members from the Governor's time in office.<sup>132</sup> It is very similar in

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<sup>125</sup> Thomas Perrin, 2008. Interview by author. Tallahassee, Fla. 23 July.

<sup>126</sup> Florida School Boards Association, "Leaders," *Newsletter* 4, vol. 10 (2009). and Florida School Board Association, "FSBA Boarder-Line," *Official Legislative Bulletin*, March 27 2009.

<sup>127</sup> Thomas Perrin, 2008. Interview by author. Tallahassee, Fla. 23 July.

<sup>128</sup> Id.

<sup>129</sup> Foundation for Excellence in Education, [cited 1 July 2009, available from [www.excelined.org](http://www.excelined.org)].

<sup>130</sup> Id.

<sup>131</sup> Id.

<sup>132</sup> Foundation for Excellence in Education, [cited 1 July 2009, available from [www.excelined.org/ViewPage.aspx?pc=13](http://www.excelined.org/ViewPage.aspx?pc=13)].

its mission to its sister organization, the Foundation for Florida's Future<sup>133</sup> with one difference. FEE does not lobby.<sup>134</sup> Its focus is less on the legislative process and more on the "stakeholders" in education.<sup>135</sup>

Like its sister organization, FEE does a variety of activities in order to highlight successes and best practices. It has not traditionally produced its own original research projects but, like FFF, serves as a clearinghouse, circulating studies and statistical analyses from other organizations that promote education reform on issues such as school choice, merit pay, and accountability.<sup>136</sup> FEE also serves as an opportunity for the former Governor to speak and write on his related issues of importance.<sup>137</sup> It hosts events around the state that reward with dollars excellence by students and teachers.<sup>138</sup> It also hosts best practice events that focus on education reform including model legislation for choice initiatives, accountability programs, the grading of schools, merit pay, and educational technology and innovation.<sup>139</sup>

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<sup>133</sup> Foundation for Florida's Future, [cited 12 July 2009, available from [www.foundationforfloridasfuture.org](http://www.foundationforfloridasfuture.org)].

<sup>134</sup> Brandy Hance, 2009. Interview by author. Tallahassee, Fla. 22 July.

<sup>135</sup> Foundation for Florida's Future, [cited 12 July 2009, available from [www.foundationforfloridasfuture.org](http://www.foundationforfloridasfuture.org)].

<sup>136</sup> Foundation for Excellence in Education, [cited 1 July 2009, available from [www.excelined.org/Default.aspx](http://www.excelined.org/Default.aspx)].

<sup>137</sup> Jeb Bush, "Here's How to Transform Education," *Miami Herald*, 1 July 2009 & Jeb Bush, "Will Public Schools Suffer Under Vouchers? No: Choice Forces Educators to Improve," *Atlanta Journal Constitution*, 4 March 2009.

<sup>138</sup> Id.

<sup>139</sup> Foundation for Excellence in Education, [cited 1 July 2009, available from [www.excelined.org/Program/Viewpage.aspx?pr=4&pc=21](http://www.excelined.org/Program/Viewpage.aspx?pr=4&pc=21)].

As with the Foundation for Florida's Future, critics of the Governor while he was in office are also critical of the initiatives favored by FEE<sup>140</sup> in part because the same reforms are promoted by both organizations, simply using different strategies.<sup>141</sup> Moreover, the two organizations, because they were started by the same recognizable figure in the state, have similar staffing and the exact same boards of directors,<sup>142</sup> and are regularly confused with one another.<sup>143</sup> Together, however, both the Foundation for Florida's Future as well as the Foundation for Excellence in Education form an effective and influential voice for Milton Friedman's view of free market forces as a means of improving public education.<sup>144</sup>

Another organization that received several votes in the communication<sup>145</sup> was The James Madison Institute (JMI),<sup>146</sup> a Florida think tank whose mission is "to keep the citizens of Florida informed about their government and to shape our state's future through the advancement of practical free-market ideas on public policy issues."<sup>147</sup> Founded in 1987 by the former President of Florida State University, J. Stanley Marshall, JMI is "independent, nonprofit, and nonpartisan" and "makes no attempt to aid

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<sup>140</sup> S. V. Date, "What Would Jeb Do?," *The Washington Post*, 21 January 2007.

<sup>141</sup> Thomas Perrin, 2008. Interview by author. Tallahassee, Fla. 23 July.

<sup>142</sup> Foundation for Excellence in Education, [cited 23 July 2009, available from [www.excelined.org/ViewPage.aspx?pc=13](http://www.excelined.org/ViewPage.aspx?pc=13)]. and Foundation for Florida's Future, [cited 23 July 2009, available from [www.foundationforfloridasfuture.org/who\\_we\\_are.php?sub\\_page\\_id=9](http://www.foundationforfloridasfuture.org/who_we_are.php?sub_page_id=9)].

<sup>143</sup> Thomas Perrin, 2008. Interview by author. Tallahassee, Fla. 23 July.

<sup>144</sup> Bob McClure, Communication with Florida Elected Officials, Table 1, 2009.

<sup>145</sup> Id.

<sup>146</sup> The James Madison Institute, [cited 23 July 2009, available from [www.jamesmadison.org](http://www.jamesmadison.org)].

<sup>147</sup> The James Madison Institute, [cited 23 July 2009, available from [www.jamesmadison.org/category.php/1.html?PHPSESSID=fd8f16ef42698d01df8ef2be87e18690](http://www.jamesmadison.org/category.php/1.html?PHPSESSID=fd8f16ef42698d01df8ef2be87e18690)].

or hinder the passage of legislation.”<sup>148</sup> While education is one of the Institute’s primary policy issues, it is only one among several that it focuses on. Others issues include the protection of private property, healthcare reform, energy and tax and budget issues.<sup>149</sup>

As a state think tank, the Institute advances education reform primarily as it relates to Florida policies in a variety of ways including researched studies,<sup>150</sup> events,<sup>151</sup> opinion pieces,<sup>152</sup> media outreach,<sup>153</sup> and legislative education<sup>154</sup> with an issue emphasis on accountability, varying forms of parental choice, charter and virtual school options, and testing.<sup>155</sup> However, given that the state of Florida is a bellwether state many of the national issues affecting public education are also relevant in Florida as well.<sup>156</sup> John Fund of *The Wall Street Journal*, has called The James Madison Institute “one of the three best think tanks in the country.”<sup>157</sup>

Those who have traditionally opposed the specific education reforms advocated by JMI similar to those espoused by Milton Friedman have often been at odds with the

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<sup>148</sup> Id.

<sup>149</sup> Id.

<sup>150</sup> Greg Forster, *Lost Opportunity: An Empirical Analysis of How Vouchers Affected Florida Public Schools*, The James Madison Institute, March 2008.

<sup>151</sup> The James Madison Institute, [cited 23 July 2009, available from [www.jamesmadison.org](http://www.jamesmadison.org)].

<sup>152</sup> Greg Forster and Bob McClure, “Work to Offset Loss of School Vouchers,” *The Lakeland Ledger*, 28 April 2009.

<sup>153</sup> The James Madison Institute, “Allan Bense Assumes Chairmanship of The James Madison Institute,” *Press Release*, January 5 2009.

<sup>154</sup> The Florida House of Representatives, “Key Lawmakers and Premier Think Tanks Unveil ‘F’ Grade on National Insurance Report Card, Study Outlining Florida’s Insurance Ills,” *Press Release*, February 4 2008.

<sup>155</sup> Robert F. Sanchez, 2009. Interview by author. Tallahassee, Fla. 24 July.

<sup>156</sup> Id.

<sup>157</sup> Highlights of speech by John Fund in Jacksonville to The James Madison Institute, October, 2008.

organization. It has its critics who argue that the Institute always and only wants to reduce government services.<sup>158</sup> Others have argued that the “laissez-fare fetishists and Ayn Randistas”<sup>159</sup> believe in the “free market solves everything approach,”<sup>160</sup> an ideology “currently in profound disrepute.”<sup>161</sup> Those organizations who have traditionally opposed the Institute’s more libertarian view of the governmental role in public education have they themselves traditionally supported a greater involvement by government.<sup>162</sup>

Another organization received several votes in the communication with Florida elected officials.<sup>163</sup> Founded in 1948, the Southern Regional Education Board (SREB) is an “interstate compact for education” comprised of sixteen states.<sup>164</sup> Those sixteen states work together “to advance education and improve the social and economic life of the region.”<sup>165</sup> SREB is a “nonprofit, nonpartisan organization...that works with sixteen member states to improve PreK-12, and higher education”<sup>166</sup> with the mission of helping

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<sup>158</sup> Louis W. Bender, Letter to the Editor, *Tallahassee Democrat*, 24 December 2008.

<sup>159</sup> Diane Roberts, “Repeating the Past Won’t Save the Future,” *St. Petersburg Times*, 19 April 2009.

<sup>160</sup> Id.

<sup>161</sup> Id.

<sup>162</sup> Robert F. Sanchez, 2008. Interview by author. Tallahassee, Fla. 23 July. See also *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006).

<sup>163</sup> Bob McClure, Communication with Florida Elected Officials, Table 1, 2009.

<sup>164</sup> Southern Regional Education Board, [cited 24 July 2009, available from [www.sreb.org/main/SREB/index.asp](http://www.sreb.org/main/SREB/index.asp)]. See Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia.

<sup>165</sup> Id.

<sup>166</sup> Southern Regional Education Board, “Rising to the Challenge,” *Annual Report*, 2009.

“the region lead the nation in educational progress.”<sup>167</sup> In addition, the association works with states “by directing attention to key education issues; collecting, compiling and analyzing comparable data; and sharing its analyses of actions and issues that help states and institutions form long-range plans and policies.”<sup>168</sup> SREB is governed by a board of directors that “consists of the governor of each member state and four gubernatorial appointees, including at least one state legislator and one educator.”<sup>169</sup>

SREB compiles information from the various states and maintains databases, shares information, hosts events, monitors state legislative initiatives that focus on education, and produces reports highlighting various educational successes in the states for K-20 education.<sup>170</sup> It focuses on a wide range of issues including middle and high school test scores, graduation rates, technology in education, accountability, K-20 funding and readiness for college.<sup>171</sup>

Perhaps because SREB truly does have both Republicans and Democrats on its board, the media appear to treat the association as the nonpartisan, independent group it claims to be.<sup>172</sup> The issues that it focuses on appear to cross traditional political lines, and its studies seem to be primarily straight factual clearinghouse reporting of what is happening in the various states.<sup>173</sup>

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<sup>167</sup> Id.

<sup>168</sup> Southern Regional Education Board, [cited 24 July 2009, available from [www.sreb.org/main/SREB/index.asp](http://www.sreb.org/main/SREB/index.asp)].

<sup>169</sup> Id.

<sup>170</sup> Southern Regional Education Board, “Rising to the Challenge,” *Annual Report*, 2009.

<sup>171</sup> Id.

<sup>172</sup> Janet Ross, “Tennessee’s College Graduation Rate is Third Worst,” *The Tennessean*, 11 July 2009. and “Florence High Receives Regional Honor,” *The Clarion Ledger*, 8 July 2009.

<sup>173</sup> Id.

There were a number of other groups that received at least one vote in the communication.<sup>174</sup> These groups include: American Legislative Exchange Council (ALEC),<sup>175</sup> Education Commission of the States (ECS),<sup>176</sup> the Florida Association of District School Superintendents,<sup>177</sup> the Friedman Foundation for Educational Choice,<sup>178</sup> and the National Conference of State Legislatures (NCSL).<sup>179</sup>

The American Legislative Exchange Council's (ALEC) mission is to "advance the Jeffersonian principles of free markets, limited government, federalism and individual liberty through a nonpartisan public-private partnership of America's state legislatures, members of the private sector, the federal government and the general public."<sup>180</sup> Moreover, ALEC seeks "to promote these principles by developing policies that ensure the powers of government are derived from, and assigned to, first the people, then the states, and finally the federal government."<sup>181</sup>

Founded in 1973<sup>182</sup> and governed by a board of directors comprised of state elected officials from across the country,<sup>183</sup> ALEC provides a whole host of targeted

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<sup>174</sup> Bob McClure, Communication with Florida Elected Officials, Table 1, 2009.

<sup>175</sup> American Legislative Exchange Council, [cited 24 July 2009, available from [www.alec.org/AM/Template.cfm?Section=About](http://www.alec.org/AM/Template.cfm?Section=About)].

<sup>176</sup> Education Commission of the States, [cited 27 July 2009, available from [www.ecs.org](http://www.ecs.org)].

<sup>177</sup> Florida Association of District School Superintendents, [cited 21 July 2009, available from [www.fadss.org](http://www.fadss.org)].

<sup>178</sup> The Friedman Foundation for Educational Choice, [cited 29 July 2009, available from [www.friedmanfoundation.org](http://www.friedmanfoundation.org)].

<sup>179</sup> National Conference of State Legislatures, [cited 29 July 2009, available from [www.ncsl.org](http://www.ncsl.org)].

<sup>180</sup> American Legislative Exchange Council, [cited 24 July 2009, available from [www.alec.org/AM/Template.cfm?Section=About](http://www.alec.org/AM/Template.cfm?Section=About)].

<sup>181</sup> Id.

<sup>182</sup> Id.

information and tools for elected officials and private citizens with the belief that improving public education does not necessarily need to come from Washington D.C. but rather from the various states and state officials who share their best practices.<sup>184</sup> Through its numerous and various task forces it provides model legislation that reflects its mission, sidesteps intervention from Washington and can be taken back to those individual states.<sup>185</sup> ALEC also produces reports on numerous public policy issues including education.<sup>186</sup> It shares best practices that promote its mission to “advance the Jeffersonian principles of free markets, limited government, federalism and individual liberty”<sup>187</sup> and uses elected officials as state chairs to advance its agenda.<sup>188</sup> ALEC also serves as a platform for its members to appear in the media to advance public policy.<sup>189</sup>

ALEC does have its critics. It has been called “another form of proselytizing”<sup>190</sup> and “a corrosive, secretive and highly influential power in state capitals”<sup>191</sup> that is

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<sup>183</sup> American Legislative Exchange Council, [cited 24 July 2009, available from [www.alec.org/AM/Template.cfm?Section=Board](http://www.alec.org/AM/Template.cfm?Section=Board)].

<sup>184</sup> Id.

<sup>185</sup> Id.

<sup>186</sup> Report Card on American Education: A State-by-State Analysis, *American Legislative Exchange Council*, 2009.

<sup>187</sup> American Legislative Exchange Council, [cited 24 July 2009, available from [www.alec.org/AM/Template.cfm?Section=About](http://www.alec.org/AM/Template.cfm?Section=About)].

<sup>188</sup> Id.

<sup>189</sup> Art Laffer and Steve Moore, “Soak the Rich, Lose the Rich,” *The Wall Street Journal*, 18 May 2009. See also Phil Graham and Mike Solon, “If You Like Michigan’s Economy, You’ll Love Obama’s,” *The Wall Street Journal*, 13 September 2008.

<sup>190</sup> Ira Chinoy and Robert G. Kaiser, “Decades of Contributions to Conservatism,” *The Washington Post*, 2 May 1999.

<sup>191</sup> Corporate America’s Trojan Horse in the States: The Untold Story Behind the American Legislative Exchange Council, *Defenders of Wildlife and Natural Resources Defense Council* 28 February 2002.

nothing more than “a tax-exempt façade for the country’s largest corporations.”<sup>192</sup>

According to one group, it produces “deceptive and insidious work”<sup>193</sup> and is supported by big businesses who will “use their extensive resources to finance a corporate takeover of state government.”<sup>194</sup>

Another organization cited in the communication was the Education Commission of the States (ECS).<sup>195</sup> Founded in 1965, ECS helps states develop “effective policy and practice for public education by providing data, research analysis and leadership”<sup>196</sup> and is comprised of forty-nine states and the District of Columbia. Its purpose is to facilitate collaboration and “the exchange of ideas among the states and long-range strategic thinking.”<sup>197</sup> ECS also seeks to “enlighten, equip and engage key education leaders — governors, legislators, chief state school officers, higher education officials, business leaders and others to improve education across the 50 states...”<sup>198</sup>

ECS is governed by officers including elected and appointed state officials from across the country.<sup>199</sup> However, it has a significant staff that executes the strategic plan for the organization.<sup>200</sup> It also provides copious amounts of information and tools for elected officials, government workers and private citizens in the various states including

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<sup>192</sup> Id.

<sup>193</sup> Id.

<sup>194</sup> Id.

<sup>195</sup> Education Commission of the States, [cited 27 July 2009, available from [www.ecs.org](http://www.ecs.org)].

<sup>196</sup> Education Commission of the States, [cited 27 July 2009, available from [www.ecs.org/ecsmain.asp?page=htmlaboutECS/home\\_aboutECS.htm](http://www.ecs.org/ecsmain.asp?page=htmlaboutECS/home_aboutECS.htm)].

<sup>197</sup> Id.

<sup>198</sup> Id.

<sup>199</sup> Id.

<sup>200</sup> Id.

policy and research reports,<sup>201</sup> help with educational funding issues<sup>202</sup> and demographic trends across the country.<sup>203</sup>

Much like the Southern Regional Education Board,<sup>204</sup> ECS has both Republicans and Democrats on its board, and the media also appear to treat it as the nonpartisan, independent group it claims to be.<sup>205</sup> The issues that it focuses on appear to cross traditional political lines, and the studies and information ECS provides its members and the media appear to be nonpartisan and primarily straightforward factual reports of what is happening in the various states.<sup>206</sup>

The Florida Association of District School Superintendents,<sup>207</sup> also cited once in the communication, shares many similarities and overlapping activities with both the Florida Association of School Administrators<sup>208</sup> as well as the Florida School Board Association.<sup>209</sup> Its mission is to “support superintendents in providing leadership to ensure that every student in Florida acquires the skills, knowledge, and attitude to be

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<sup>201</sup> The Progress of Education Reform, *Education Commission of the States* 3, vol. 10 (2009).

<sup>202</sup> The Progress of Education Reform, *Education Commission of the States* 1, vol. 10 (2009).

<sup>203</sup> The Progress of Education Reform, *Education Commission of the States* 6, vol. 9 (2009).

<sup>204</sup> Southern Regional Education Board, [cited 24 July 2009, available from [www.sreb.org/main/SREB/index.asp](http://www.sreb.org/main/SREB/index.asp)].

<sup>205</sup> Robert Tomsho, “For College Bound, New Barriers to Entry” *The Wall Street Journal*, 2 December 2008. and Anne Marie Chaker, “Amid Shortage, States Scramble to Hire Teachers” *The Wall Street Journal*, 17 August 2006.

<sup>206</sup> Id.

<sup>207</sup> Florida Association of District School Superintendents, [cited 21 July 2009, available from [www.fadss.org/mission.htm](http://www.fadss.org/mission.htm)].

<sup>208</sup> Florida Association of School Administrators, [cited 27 July 2009, available from [www.fasa.net](http://www.fasa.net)].

<sup>209</sup> Florida School Board Association, [cited 1 July 2009, available from [www.fsba.org/beliefs.asp](http://www.fsba.org/beliefs.asp)].

contributing members of our democratic society.”<sup>210</sup> It works to establish relationships that focus on “student achievement, building relationships with business and governmental leaders and communication and networking services.”<sup>211</sup>

This association, similar to the others, is governed by a Board of Directors made up of Superintendents from across the state,<sup>212</sup> with a paid staff and executive director appointed and overseen by that board.<sup>213</sup> Its primary activities consist of lobbying on behalf of important issues. Similar to the Florida School Board Association<sup>214</sup> and the Florida Association of School Administrators,<sup>215</sup> this group also sees issues of importance as including class size, sufficient education funding including Florida Education Finance Program (FEFP), lottery funds and capital outlay projects, but it also focuses a great deal of energy on other issues including physical fitness for students, cyber safety, and professional development.<sup>216</sup> Elected superintendents in the various counties may have a greater sensitivity to higher millage rates and taxes at the local level in favor of greater state funding of public education.<sup>217</sup> It regularly keeps its

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<sup>210</sup> Florida Association of District School Superintendents, [cited 21 July 2009, available from [www.fadss.org/mission.htm](http://www.fadss.org/mission.htm)].

<sup>211</sup> Id.

<sup>212</sup> Florida Association of District School Superintendents, [cited 21 July 2009, available from [www.fadss.org](http://www.fadss.org)].

<sup>213</sup> Id.

<sup>214</sup> Florida School Board Association, “FSBA Boarder-Line,” *Official Legislative Bulletin*, March 27 2009.

<sup>215</sup> Florida Association of School Administrators, [cited 27 July 2009, available from [www.fasa.net](http://www.fasa.net)].

<sup>216</sup> Bill Montford, Florida Association of District School Superintendents, Memorandum to District School Superintendents, August 6, 2009. and Bill McCollum, Attorney General of the State of Florida, Memorandum, September 6, 2007. and Florida Association of District School Superintendents, [cited 21 July 2009, available from [www.fadss.org/mission.htm](http://www.fadss.org/mission.htm)].

<sup>217</sup> Robert F. Sanchez, 2009. Interview by author. Tallahassee, Fla. 27 August.

members abreast of relevant political activities during the legislative session,<sup>218</sup> while facilitating the communication process among its members.<sup>219</sup>

The association of superintendents has been traditionally viewed as a respected voice for superintendents and public education as a whole.<sup>220</sup> As an active and energetic association with a strong lobbying arm, it understands the importance of representing the interests of its members before the Florida Legislature.<sup>221</sup>

The Friedman Foundation for Educational Choice<sup>222</sup> was also cited as an influential organization for at least one of the twenty members of the Florida Legislature who responded to this communication. The Friedman Foundation seeks to play a “critical and unique role in the school choice movement”<sup>223</sup> as an organization that promotes an education system where “all parents are free to choose”<sup>224</sup> the best education for their children. Founded by Milton Friedman and his wife Rose, the Friedman Foundation seeks to promote parental choice in K-12 education and general market forces outlined in their writings over the years as a means of improving public

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<sup>218</sup> Id at Bill Montford, Florida Association of District School Superintendents, Memorandum to District School Superintendents, August 6, 2009.

<sup>219</sup> Florida Association of District School Superintendents, [cited 21 July 2009, available from [www.fadss.org/mission.htm](http://www.fadss.org/mission.htm)].

<sup>220</sup> J. T. Rushing, “Educators Fear Budget Storm,” *Jacksonville Times-Union*, 10 July 2007, and “Community Colleges Endorse Seminole Compact for Education,” *Naples Daily News*, 24 April 2009.

<sup>221</sup> Bill Montford, Florida Association of District School Superintendents, Memorandum to District School Superintendents, August 6, 2009. and Bill McCollum, Attorney General of the State of Florida, Memorandum, September 6, 2007. and Florida Association of District School Superintendents, [cited 21 July 2009, available from [www.fadss.org/mission.htm](http://www.fadss.org/mission.htm)].

<sup>222</sup> The Friedman Foundation for Educational Choice, [cited 29 July 2009, available from [www.friedmanfoundation.org](http://www.friedmanfoundation.org)].

<sup>223</sup> The Friedman Foundation for Educational Choice, [cited 29 July 2009, available from [www.friedmanfoundation.org/about/whatwedo.jsp](http://www.friedmanfoundation.org/about/whatwedo.jsp)].

<sup>224</sup> Id.

education. Friedman, among numerous other honors, was awarded the Nobel Prize for Economic Science in 1976.<sup>225</sup> Though based in Indianapolis, Indiana, The Friedman Foundation is national in the scope of its mission and promotes various forms of school choice across the country.<sup>226</sup> It also partners regularly with state organizations in its advocacy and research of education reform.<sup>227</sup>

The Friedman Foundation promotes its positions in a variety of ways: by producing original independent policy research,<sup>228</sup> highlighting polling and media campaigns that promote school choice,<sup>229</sup> sharing best practices of various forms of school choice, providing model language for legislation, hosting events around the country,<sup>230</sup> supporting grassroots initiatives and amendment campaigns,<sup>231</sup> working with school

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<sup>225</sup> The Friedman Foundation for Educational Choice, [cited 29 July 2009, available from [www.friedmanfoundation.org/friedmans/friedmansbio.jsp](http://www.friedmanfoundation.org/friedmans/friedmansbio.jsp)].

<sup>226</sup> The Friedman Foundation for Educational Choice, [cited 29 July 2009, available from [www.friedmanfoundation.org/about/whatwedo.jsp](http://www.friedmanfoundation.org/about/whatwedo.jsp)].

<sup>227</sup> Robert F. Sanchez, 2009. Interview by author. Tallahassee, Fla. 27 August.

<sup>228</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition. and Greg Forster, *A Win-Win Solution: The Empirical Evidence on How Vouchers Affect Public School*, February 2009.

<sup>229</sup> The Friedman Foundation for Educational Choice, [cited 29 July 2009, available from [www.friedmanfoundation.org](http://www.friedmanfoundation.org)].

<sup>230</sup> "The Empire Strikes Back," *The Wall Street Journal*, 25 March 2004. and "Special-Needs Tax Credit Program Unveiled, *City-Sentinel*, 8 July 2008. and Jacob Steinberg, "Voucher Backers See Opening for Wider Agenda," *The New York Times*, 28 June 2002.

<sup>231</sup> The Friedman Foundation for Educational Choice, [cited 29 July 2009, available from [www.friedmanfoundation.org/about/whatwedo.jsp](http://www.friedmanfoundation.org/about/whatwedo.jsp)].

choice states<sup>232</sup> and supporting political candidates who share its mission.<sup>233</sup> As a 501(C)3, the Foundation is totally funded through private support.<sup>234</sup>

The Friedman Foundation is clear in its mission of promoting Milton Friedman's vision of public school choice through the use of vouchers,<sup>235</sup> and is treated as such by members of the media and by those who traditionally oppose school choice.<sup>236</sup> The Foundation genuinely believes that all parents should have the right to choose the best education for their children,<sup>237</sup> and that this goal can be achieved in numerous ways, primarily via legislation, or the prevention thereof, that opens up the public education system to free market forces and less government intervention.<sup>238</sup>

The final group cited in the communication was the National Conference of State Legislatures (NCSL).<sup>239</sup> Its mission is to "improve the quality and effectiveness of state legislatures, to promote policy innovation and communication among state legislatures," and "to ensure state legislatures a strong, cohesive voice in the federal system."<sup>240</sup>

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<sup>232</sup> Id.

<sup>233</sup> Id.

<sup>234</sup> The Friedman Foundation for Educational Choice, [cited 29 July 2009, available from [www.friedmanfoundation.org/howtohelp/donate.jsp](http://www.friedmanfoundation.org/howtohelp/donate.jsp)].

<sup>235</sup> "The Empire Strikes Back," *The Wall Street Journal*, 25 March 2004. and "Special-Needs Tax Credit Program Unveiled, *City-Sentinel*, 8 July 2008.

<sup>236</sup> Id.

<sup>237</sup> The Friedman Foundation for Educational Choice, [cited 29 July 2009, available from [www.friedmanfoundation.org/about/whatwedo.jsp](http://www.friedmanfoundation.org/about/whatwedo.jsp)].

<sup>238</sup> Id.

<sup>239</sup> National Conference of State Legislatures, [cited 29 July 2009, available from [www.ncsl.org](http://www.ncsl.org)].

<sup>240</sup> National Conference of State Legislatures, [cited 29 July 2009, available from [www.ncsl.org/Aboutus/tabcid/305/Default.aspx](http://www.ncsl.org/Aboutus/tabcid/305/Default.aspx)].

Similar as an organization to the American Legislative Exchange Council,<sup>241</sup> NCSL is governed by an executive committee made up of state elected officials from across the country and has a paid operations staff responsible for the day-to-day activities.<sup>242</sup> However, unlike ALEC, NCSL has traditionally supported greater governmental involvement in public education particularly as it relates to funding.<sup>243</sup> NCSL also provides information and tools for elected officials and private citizens.<sup>244</sup> Through its numerous and various task forces it provides model legislation and works with government at the federal level in order to facilitate relationships among its members in the individual states.<sup>245</sup>

NCSL also produces reports on numerous public policy issues including education.<sup>246</sup> It shares best practices that promote its mission of improving “the quality and effectiveness of state legislatures” while promoting better communication among those state legislatures.<sup>247</sup> It also works with state leadership committees to advance its

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<sup>241</sup> American Legislative Exchange Council, [cited 24 July 2009, available from [www.alec.org](http://www.alec.org)].

<sup>242</sup> National Conference of State Legislatures, [cited 29 July 2009, available from [www.ncsl.org/documents/DiscoverNCSL\\_07\\_OrgChart.pdf](http://www.ncsl.org/documents/DiscoverNCSL_07_OrgChart.pdf)].

<sup>243</sup> Thomas Perrin, telephone call, June 2009.

<sup>244</sup> National Conference of State Legislatures, [cited 29 July 2009, available from [www.ncsl.org/Aboutus/tabcid/305/Default.aspx?TabID=305&tabs=1027,77,548&77](http://www.ncsl.org/Aboutus/tabcid/305/Default.aspx?TabID=305&tabs=1027,77,548&77)].

<sup>245</sup> Id.

<sup>246</sup> Sam Dillon, “Report Faults Bush Initiative on Education,” *The New York Times*, 24 February 2005.

<sup>247</sup> National Conference of State Legislatures, [cited 29 July 2009, available from [www.ncsl.org/Aboutus/tabcid/305/Default.aspx](http://www.ncsl.org/Aboutus/tabcid/305/Default.aspx)].

mission in the states.<sup>248</sup> NCSL also provides opportunities for its members to appear in the media to advance public policy including issues related to education reform.<sup>249</sup>

## **Summary**

The communication reached out to those Florida elected officials and staff members representing both political parties who routinely focus on K-12 education issues in Florida.<sup>250</sup> Legislative committee members, House and Senate leadership, and the executive branch provided a broad range of organizations focused on public education and who have been traditionally viewed as representing a broad political spectrum.<sup>251</sup> The organizations cited do have different missions: from government agencies, to associations, to think tanks, to legislative coalitions.<sup>252</sup>

This investigation provides insight into where Florida's elected officials obtain their primary information when dealing with important state education issues. This study has examined both the state and national landscape currently in education reform. It has also reviewed the history of K-12 education and its ever-changing relationship with state and federal governments, as well as the evolving nature of system stakeholders, all so that policymakers have purposeful information on which to base their decisions. The underlying research issue is addressed in this chapter by providing one more piece of

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<sup>248</sup> National Conference of State Legislatures, [cited 29 July 2009, available from [www.ncsl.org/documents/DiscoverNCSL\\_07\\_OrgChart.pdf](http://www.ncsl.org/documents/DiscoverNCSL_07_OrgChart.pdf)].

<sup>249</sup> Lisa Schelzer, "Six States Hitting Residents with Big Tax Hikes," *The Wall Street Journal*, 16 June 2009. See also Sam Dillon, "Report Faults Bush Initiative on Education," *The New York Times*, 24 February 2005.

<sup>250</sup> Bob McClure, Communication with Florida Elected Officials, Table 1, 2009.

<sup>251</sup> Thomas Perrin, 2009. Interview by author. Tallahassee, Fla. 29 July.

<sup>252</sup> Bob McClure, Communication with Florida Elected Officials, Table 1, 2009.

information that moves beyond the rhetoric and name calling, and examines who these organizations are, what they do, and how they contribute to the political process.<sup>253</sup> By providing useful findings that help policymakers to make their own informed decisions going forward regarding these programs, understanding where current elected officials get most of their information as they evaluate the great educational issues of the day is imperative.

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<sup>253</sup> Id.

## CHAPTER 5 SUMMARY AND CONCLUSIONS

Because of the limited data and relative newness of the Florida K-12 school choice programs, much of the available information is highly segmented or simply limited to a particular study of an individual criterion such as test scores, graduation rates, or financial costs or savings to the state. This study provides an entire body of evidence which contains relevant research concerning school-choice programs and other recent reform practices, in an effort to provide policymakers a unified source of information to inform them as they make future decisions on these policy issues. In answering the research question, a study was designed that examined the various data while providing useful findings and conclusions that could assist policymakers and others in determining decisions regarding future education policy.

First, to advance this goal, the study provides background information surrounding the beginnings of Florida's three initial choice programs: the "Opportunity Scholarship"<sup>1</sup> (OSP) Program, McKay Scholarships Program for Students with Disabilities,<sup>2</sup> and the Tax Credits for Scholarship Funding Organizations.<sup>3</sup> It also profiles the other twenty-two programs<sup>4</sup> across the country similar in nature to the three Florida programs. It provides decision makers with an understanding of the similar national choice initiatives as context for a more in-depth research study.

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<sup>1</sup> Fla. Stat. § 229.0537.

<sup>2</sup> Fla. Stat. § 1002.39.

<sup>3</sup> Fla. Stat. § 220.187.

<sup>4</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition. & Ga. Annotated Code §§ 2A. 20-2A-1 – 20-2A-4 & 48-7-29.13

Second, this study profiles in depth the three current programs in Florida and the political machinations and legal actions that took place as these three high profile programs became law.

Third, this study provides a historical perspective of K-12 education and the great debates, judicial decisions, and political trends throughout American history affecting the argument between those who believe in the role of the government versus the role of the free market in establishing a quality education system. This discussion allows policymakers to understand more fully how we as a nation have reached the point where we are today in this monumental debate.

Finally, this study communicates<sup>5</sup> with current Florida lawmakers in an effort to discover which organizations they value when making public policy decisions, and which organizations are influential with policy makers as those officials evaluate public policy for Florida as well as their potential decisions.

### **The Role of Government Versus the Freedom to Choose: Florida and the Nation**

The role of public education and the state versus the rights of families to choose which kind of education best meets the needs of their children has been a source of tension throughout America's history. Nowhere has that tension been more evident than in Florida, where for the first time ever in the states three school choice programs<sup>6</sup> were established within six years specifically for the purposes of providing competition both within and outside of the public schools system,<sup>7</sup> when Governor Jeb Bush ran on a platform that clearly focused on school choice as an important tool for improving public

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<sup>5</sup> Bob McClure, Communication with Florida Elected Officials, Table 1, 2009.

<sup>6</sup> Fla. Stat. § 229.0537. Fla. Stat. § 1002.39. Fla. Stat. § 220.187.

<sup>7</sup> Robert F. Sanchez, 2009. Interview by author. Tallahassee, Fla. 27 August.

education.<sup>8</sup> While the Milwaukee Parental Choice Program (MPCP) was the nation's first voucher program,<sup>9</sup> because of the size and scope of the three Florida programs initiated, the school reform and choice movement in Florida became the national story.<sup>10</sup> Other state legislators examined the Florida model, and similar programs proliferated across the country.<sup>11</sup> Even with the termination<sup>12</sup> of the "poster child"<sup>13</sup> program for school choice, the Opportunity Scholarship Program,<sup>14</sup> the struggle between those who believe in choice and those who believe in a greater role for government as a means for improving public education remains both in Florida and across the country. It is clear, given the proliferation of the majority of these programs, after the efforts of Governor Jeb Bush and the Republican Legislature, K-12 education policy in Florida has had a dramatic impact across the country.

### **Public Education as a Public Good: Government Intervention Versus the Free Market**

How best to improve public education has been a source of great debate since our country's founding. The public policy argument has traditionally fallen into to two camps: those who see the role of government as a means of improving education, primarily through increased funding, the passage of legislation, and greater accountability to the

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<sup>8</sup> "Highlights from the text of Gov. Jeb Bush's State of the State Address," Associated Press, 2 March 1999.

<sup>9</sup> Wis. Stat. § 119.23

<sup>10</sup> Id.

<sup>11</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition.

<sup>12</sup> *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006).

<sup>13</sup> Robert F. Sanchez, 2009. Interview by author. Tallahassee, Fla. 27 August.

<sup>14</sup> Fla. Stat. § 229.0537.

forces of government versus those who believe that improved public education is best achieved by limiting the role of government while increasing and allowing market forces to create a better product.

Those who believe in government's role point to the nation's long history of supporting public education beginning with the Northwest Ordinance<sup>15</sup> and the taxpayer funded "common school" movement.<sup>16</sup> Supporters argue that the public education system and its forerunners sought to establish a system that is both blind to race and class, while educating the American populace to meet the needs of the country.<sup>17</sup> In the mid-Nineteenth Century, the idea of "public interest" and the belief in greater efficiency and equality was the "banner for the expansion of government schooling"<sup>18</sup> in the states, and the belief that centralization and government control were "bound to bring education to a larger segment of the population at a lower cost."<sup>19</sup> Over time a more central authority with full time superintendents, administrators and teachers began to emerge.<sup>20</sup> A major ruling in the fight between those who believed in a strong

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<sup>15</sup> Northwest Land Ordinance of 1787. Continental Congress. [cited 26 March 2009, available from [www.earlyamerica.com/earlyamerica/milestones/ordinance/text.html](http://www.earlyamerica.com/earlyamerica/milestones/ordinance/text.html)].

<sup>16</sup> Andrew J. Coulson, *Market Education: The Unknown History*, (New Brunswick: Transaction Publishers, 1999). & Samuel L. Blumfield, *Is Public School Necessary?* (Old Greenwich Ct.: The Devin-Adair Company, 1981) 11.

<sup>17</sup> Lawrence A. Cremin, ed. *The Republic and the School: Horace Mann on the Education of Free Men*. New York: Teachers College Press, 1957. & Matthew J. Brouillette, *The Case for Choice in Schooling: Restoring Parental Control of Education*, Mackinac Center for Public Policy, February 2001, 9.

<sup>18</sup> Andrew J. Coulson, *Market Education: The Unknown History*, (New Brunswick: Transaction Publishers, 1999), 83.

<sup>19</sup> Id.

<sup>20</sup> Id.

governmental role in public education and those who argued for parental control and choice occurred in 1925 in *Pierce v. Society of Sisters*.<sup>21</sup>

The federal involvement in public education grew rapidly in the 1950s due to three specific events. The Department of Health, Education and Welfare (HEW) was established during this decade.<sup>22</sup> At the time, Professor John Hope Franklin of Howard University stated that the establishment of HEW represented “a significant recognition by the federal government that it had an important, definable responsibility in the area of education. It was an unequivocal commitment to study, monitor, and, yes, to make available a considerable portion of its enormous resources in the effort to improve the quality of education and to equalize educational opportunities among the various segments of our society.”<sup>23</sup>

The second event that affected federal involvement in public education was much more dramatic and obvious. The U.S. Supreme Court, in 1954, in *Brown v. the Board of Education*,<sup>24</sup> overturned the “separate but equal” principle set forth in 1896 in *Plessy v. Ferguson*.<sup>25</sup> This decision, and its subsequent required federal enforcement, forever expanded the federal government’s role in public education.<sup>26</sup>

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<sup>21</sup> *Pierce v. Society of Sisters*, 268 U.S. 510 (1925).

<sup>22</sup> John Hope Franklin, “The National Responsibility for Equality of Opportunity,” Education Week, Online Edition, (2007), [cited 16 April 2009, available from [www.edweek.org/ew/articles/10/31/1984/05610021.ho4.html?s=Department+Health,+Education+Welfare](http://www.edweek.org/ew/articles/10/31/1984/05610021.ho4.html?s=Department+Health,+Education+Welfare)] 1953.

<sup>23</sup> *Id.*

<sup>24</sup> *Brown v. Board of Education*, 347 U.S. 483 74 S. Ct. 686, (1954).

<sup>25</sup> *Plessy v. Ferguson*, 163 U.S. 537 (1896).

<sup>26</sup> Allan C. Ornstein, “The Changing Federal Role in Education,” *American Education*, December, 1984.

The third event that affected the federal government's role in public education was the launch of the Soviet Union's Sputnik I. Congress and many other Americans saw the launching of Sputnik as evidence that American children were falling behind in math, science, and language. Congress proceeded to pass a massive funding bill in those areas as part of the National Defense Education Act (NDEA)<sup>27</sup> in 1958.

The 1960s and 1970s saw the federal government firmly establish itself as a partner in public education in America both in programs<sup>28</sup> as well as in participating more fully in the funding of public education, which grew 500 percent from 1960 to 1965 alone.<sup>29</sup> In a landmark 1971 decision called *Lemon v. Kurtzman*,<sup>30</sup> the U.S. Supreme Court ruled, using a three-pronged test, that government funds could not be used to aid religious schools.<sup>31</sup> 1979 saw the establishment of the Department of Education as a Cabinet-level post.<sup>32</sup>

Those who argue that the best way to improve public education is by subjecting it to market forces point to the nation's founding, where there were no public schools as we know them today.<sup>33</sup> Moreover the U. S. Constitution does not even mention

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<sup>27</sup> National Defense Act, 20 U.S.C 401, Pub. L. 85-864, September 2, 1958, 72 Stat. 1580.

<sup>28</sup> Economic Opportunity Act of 1964, 42 U.S.C. 2701, Pub. L. 88-452, August 20, 1964, 78 Stat. 508. & Title I of the Elementary and Secondary Education of 1965, 20 U.S.C. 2701. & Economic Opportunity Act of 1964, 42 U.S.C. 2701, Pub. L. 88-452, August 20, 1964, 78 Stat. 508.

<sup>29</sup> Allan C. Ornstein, "The Changing Federal Role in Education," *American Education*, December, 1984.

<sup>30</sup> *Lemon v. Kurtzman*, 403 U.S. 602 (1971).

<sup>31</sup> Id.

<sup>32</sup> U.S. Department of Education, *Department of Education Organization Act of 1979*, 20 U.S.C., 3401, 88- 96, Oct. 17, 1979, 93 Stat.

<sup>33</sup> Andrew J. Coulson, *Market Education: The Unknown History*, (New Brunswick: Transaction Publishers, 1999).

education in the document.<sup>34</sup> Market reformists also draw inspiration from the writings of Milton Friedman, the Nobel Prize winning economist who argued in 1955 that government's proper role was "to preserve the rules of the game by enforcing contracts, preventing coercion, and keeping markets free"<sup>35</sup> and that the public education system had become "an indiscriminate extension of governmental responsibility"<sup>36</sup> that could not possibly be done well. School vouchers and market forces in which "parents who chose to send their children to other schools would be paid a sum equal to the estimated cost of educating a child in a government school, provided that at least this sum was spent on education in an approved school"<sup>37</sup> were the ways to improve public education.

Milton Friedman profoundly impacted President Ronald Reagan, newly elected in 1980, who also believed in a limited role, particularly of the federal government, in education saying "'It is in our homes, where parents guide children, and in our communities, where local school boards know their own areas' needs, that responsibility for running our schools has always rested. . . America has always prided itself on an education system controlled not by Washington, D.C., but by the states."<sup>38</sup>

During the Reagan Administration of the 1980s three important events occurred that affected the debate over public education. The nation saw the establishment of its first voucher program for school choice for low-income families. The Milwaukee Parental

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<sup>34</sup> George H. Nash, *Books and the Founding Father*, (Louisville: Butler Books, 2007), 13.

<sup>35</sup> Id.

<sup>36</sup> Id.

<sup>37</sup> Id.

<sup>38</sup> Sean Cavanagh, "Reagan's Legacy: A Nation at Risk, Boost for Choice," *Education Week* 40, vol. 23 (2004): 35-38.

Choice Program (MPCP) was established in 1984.<sup>39</sup> In *Mueller v. Allen*, the U.S. Supreme Court decided that Minnesota could provide a tax credit and tax deduction<sup>40</sup> covering educational expenses in any public or private school, including religious schools.<sup>41</sup> This landmark decision was an important victory for those who adhered to the philosophy espoused by Milton Friedman.

The National Commission on Excellence in Education, in 1983, released its report on public education, *A Nation at Risk: The Imperative for Educational Reform*.<sup>42</sup> Stating, “a rising tide of mediocrity” in American public education “threatens our very future as a Nation and as a people”<sup>43</sup> it rekindled the great debate on how best to improve public education. Both sides of the debate, those wanted a greater role by government and those who did not, saw the report as evidence to justify their arguments.

The 1990s saw victories and defeats for the two traditional positions in the struggle over public education policy. Both George H. W. Bush and Bill Clinton proposed policies that pleased and exasperated both sides.<sup>44</sup> Bush urged Congress to pass reforms that included millions of dollars for various voucher experiments at the local level, which would have pleased the disciples of Milton Friedman, but he also proposed a set of national education standards that gave pause to those who were wary of government

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<sup>39</sup> Wis. Stat. § 119.23

<sup>40</sup> Minn. Stat. § 290.0674

<sup>41</sup> *Mueller v. Allen*, 463 U.S. 388, 103 S. Ct. 3062 (1983).

<sup>42</sup> National Commission on Excellence in Education. *A Nation at Risk: The Imperatives for Education Reform*. Washington D.C.: U.S. Government Printing Office, 1983.

<sup>43</sup> *Id.*

<sup>44</sup> Education Commission of the States, “Legislative Activities Involving Open Enrollment,” *Clearinghouse Notes*, December 1994, 91. & Susan H. Fuhrman, Clinton’s Educational Policy and Intergovernmental Relations in the 1990s, *Publius*, (Oxford University Press, 1994) 3, Vol. 24, p. 83-97.

intervention.<sup>45</sup> Clinton persuaded Congress to pass Goals 2000: Educate America Act,<sup>46</sup> which provided “grants for state and local reforms, such as the development of standards, assessments that measure attainment of standards...improvements in technology...and changes in governance and accountability”<sup>47</sup> which pleased those who believed that the federal government should play a more active role in public education.

With the election of George W. Bush, the relationship among local, state and federal entities for control of public education changed significantly again.<sup>48</sup> President Bush signed into law the No Child Left Behind Act (NCLB),<sup>49</sup> reauthorizing Title I of the Elementary and Secondary Education Act (ESEA).<sup>50</sup> Entities from both sides of the great historic debate over public education quickly made NCLB the target of great criticism.<sup>51</sup> It established some level of accountability with the small possibility of parental choice. However, it also imposed tremendous regulations and controls at the local level, which appeased those entities who believed that the most effective public education is that which is accountable to government forces. In reality the federal government became less regulatory in some areas and more so in others.<sup>52</sup> Suffice it to

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<sup>45</sup> Education Commission of the States, “Legislative Activities Involving Open Enrollment,” *Clearinghouse Notes*, December 1994, 91.

<sup>46</sup> Goals 2000: Educate America Act, 20 U.S.C. 5801 Pub. L. 103 – 227, Mar. 31, 1994, 108 Stat. 125 – 191, 200 – 211, 265 – 280.

<sup>47</sup> Susan H. Fuhrman, Clinton’s Educational Policy and Intergovernmental Relations in the 1990s, *Publius*, (Oxford University Press, 1994) 3, Vol. 24, pp. 83-97.

<sup>48</sup> Jimmy Kim and Gail Sunderman, Expansion of Federal Power in American Education: Federal-State Relationships under the No Child Left Behind Act Year One, *The Civil Rights Project, Harvard University*, February 2004.

<sup>49</sup> No Child Left Behind Act of 2001, 20 U.S.C. 6301, Pub. L. 107-110, January 8, 2002, 115 Stat. 1425.

<sup>50</sup> Title I of the Elementary and Secondary Education of 1965, 20 U.S.C. 2701.

<sup>51</sup> James Antle III, “Leaving No Child Left Behind,” *The American Conservative*, August 1 (2005).

<sup>52</sup> Id.

say that neither traditional camp in the fight over public education is pleased with NCLB.<sup>53</sup>

The U.S. Supreme Court ruled, in 2002, in *Zelman v. Simmons-Harris*<sup>54</sup> that the Ohio Pilot Project Scholarship Program<sup>55</sup> better known as the Cleveland Voucher Program was indeed constitutional. The court stated that the program did not violate the Establishment Clause of the First Amendment because it met the “Private Choice Test.”

### **Education Organizations Influential in Florida**

In order to answer the research question, it was important to understand what organizations in Florida or in the country held the most influence on education policy for state policymakers. A communication was conducted with forty-four elected state legislators from both parties. It also included the executive branch<sup>56</sup> as well as three people from the Capitol staff.<sup>57</sup> The questions asked were: “When making K-12 policy decisions, what group or groups do you turn to for information, pro or con? Are there specific groups whose opinions you respect or trust?”<sup>58</sup> Of the forty-four solicited, twenty responded,<sup>59</sup> citing fourteen different organizations<sup>60</sup> from across the country and in

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<sup>53</sup> Id.

<sup>54</sup> *Zelman v. Simmons-Harris*, 536 U.S. 639, 122 S. CT. 2460 (2002).

<sup>55</sup> Ohio Rev. Code Ann. §§ 3313.974 – 3313.979.

<sup>56</sup> Email to elected officials, 8, 9, 10 June 2009. Telephone call follow-up, 17, 18, 19 June 2009.

<sup>57</sup> Id.

<sup>58</sup> Email to elected officials, 18, 19, 20 June 2009. Telephone call follow-up, 25, 26, 27 June 2009. Also 27 July 2009.

<sup>59</sup> Id.

<sup>60</sup> Id.

Florida as organizations policy makers “turn to for information”<sup>61</sup> and “whose opinions you respect or trust.”<sup>62</sup>

Those chosen came from the entire political spectrum.<sup>63</sup> Understanding each of the influential groups, its mission, its effectiveness, and its specific role in the debate was extremely important. This study researched how each organization viewed its purpose, how the media represented each in the press and oftentimes, how each group’s opponents viewed them.

The fight over the future of public education in Florida is bitter and costly. Some organizations offer intellectual capital for the debates that take place in the media, in committees, and on the legislative floor.<sup>64</sup> Others are associations whose primary purposes are to represent their members’ interests, even at the possible expense of those they purport to be helping.<sup>65</sup> Some hire lobbyists at great expense simply as paid employees; others give vast amounts of money to strategically elect or defeat specific politicians.<sup>66</sup> Some work closely with political coalitions, the media, and social networking groups on messaging.<sup>67</sup> Some litigate as a means of intimidation or of achieving victory.<sup>68</sup> Whatever the tactic, neither side has given any indication that it is

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<sup>61</sup> Id.

<sup>62</sup> Id.

<sup>63</sup> Id.

<sup>64</sup> Thomas Perrin, 2009. Interview by author. Tallahassee, Fla. 23 July.

<sup>65</sup> Robert F. Sanchez, 2009. Interview by author. Tallahassee, Fla. 24 July.

<sup>66</sup> John F. Kirtley, 2009. Interview by author. Tallahassee, Fla. 10 September.

<sup>67</sup> Robert F. Sanchez, 2009. Interview by author. Tallahassee, Fla. 24 July.

<sup>68</sup> Id.

not willing to pour even greater resources into the fight over public education.<sup>69</sup>

### **Conclusions and Implications**

Florida remains the great battlefield and biggest prize of all states regarding the future of public education and possible reforms.<sup>70</sup> It is a microcosm of the entire nation, a bellwether state for the country; its demographics regarding race, wealth, growth, transportation, and population all reflect the nation as a whole.<sup>71</sup> Moreover, it has numerous major and mid-size metropolitan areas that are very different from one another, also reflecting the nation as a whole. The influx of Northeasterners to southeast Florida and Midwesterners to the southwest area of Florida make those education challenges very different from one another. Moreover, the Cuban and Hispanic influence in Miami and the Tampa Bay areas and the international influence in Central Florida require something different of our education resources as North and North Central Florida remain largely rural and traditionally Southern.<sup>72</sup> All of this diversity makes Florida the most important state in the Union in the fight over the future of public education. More critically, it is paramount to answer the research question regarding the role of influence and specific organizations when it comes to establishing education policy. In victory or defeat, both sides will take lessons learned from here and apply those lessons in smaller, more homogenous states.

In 2008, Dan Lips and Matthew Ladner called Florida's education reforms an

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<sup>69</sup> John F. Kirtley, 2009. Interview by author. Tallahassee, Fla. 10 September.

<sup>70</sup> Id.

<sup>71</sup> "2009 Economic Yearbook: Bad Case of the Blues," *Florida Trend*, April 1 2009.

<sup>72</sup> Id.

“ambitious laboratory” revolutionary in nature.<sup>73</sup> Citing major gains by Florida’s students, particularly minorities, on the National Assessment of Educational Progress (NAEP), the authors stated “Policymakers across the country should look to Florida as a model of education reforms that can improve student learning among students.”<sup>74</sup> The authors in their conclusion continued the theme of Florida as a bellwether state saying “Policymakers across the country should study Florida’s model and implement similar systemic reforms”<sup>75</sup> and that “Florida’s success should inspire replication in other states...”<sup>76</sup> Clearly these authors support the reforms and programs based on choice and accountability put forth by former Governor Jeb Bush. Yet whether one agrees or disagrees with their comments, they are, nevertheless, illustrative of the importance of Florida in the national debate over public education.

Though the Opportunity Scholarship Program was abolished via court decision,<sup>77</sup> both the John M. McKay Scholarships Program for Students with Disabilities<sup>78</sup> as well as The Tax Credits for Scholarship Funding Organizations Program<sup>79</sup> continue to grow<sup>80</sup> and neither currently faces any present threat of litigation.<sup>81</sup> Moreover, they

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<sup>73</sup> Dan Lips and Matthew Ladner, *Demography Defeated: Florida’s K-12 Reforms and Their Lessons for The Nation*, Goldwater Institute, 227, September 2008, 2.

<sup>74</sup> Id at 18-19.

<sup>75</sup> Id.

<sup>76</sup> Id.

<sup>77</sup> *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006).

<sup>78</sup> Fla. Stat. § 1002.39.

<sup>79</sup> Fla. Stat. § 220.187.

<sup>80</sup> Florida Department of Education, Office of Independent Education and Parental Choice, “Choice Facts.” [cited 1 October 2009, available from [www.floridaschoolchoice.org/information/mckay](http://www.floridaschoolchoice.org/information/mckay)]. & Florida

continue to serve as models for other state legislatures who have either implemented or plan to implement various forms of school choice.<sup>82</sup> It is clear then that the fights in Florida, detailed in this study, will continue and similar battles will continue as well across the country. At this writing, there is a bitter fight over whether to reauthorize the Washington D. C. voucher program<sup>83</sup> which, if not funded through congressional approval, will end.

Moreover, former Governor Jeb Bush, one of the most recognizable formerly-elected officials in the country today,<sup>84</sup> has taken what he believes to be his positive Florida story across the country, touting his state's improvement in those NAEP test scores as proof that school choice and accountability are effective.<sup>85</sup> He has called a public education system without reform "an eight-track system in an I-pod world."<sup>86</sup> The ability of a well-known policymaker such as Governor Bush to carry his message cannot be underestimated, whether one agrees with his views or not. He has remained highly visible since leaving office, speaking numerous times across the country from Washington State to Washington D.C.<sup>87</sup>

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Department of Education, Office of Independent Education and Parental Choice, "Choice Facts." [cited 1 October 2009, available from [www.floridaschoolchoice.org/information/CTC](http://www.floridaschoolchoice.org/information/CTC)].

<sup>81</sup> Robert F. Sanchez, 2009. Interview by author. Tallahassee, Fla. 25 September.

<sup>82</sup> Robert C. Enlow, 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition.

<sup>83</sup> Washington Revised Code § 28B.10.814.

<sup>84</sup> Robert F. Sanchez, 2009. Interview by author. Tallahassee, Fla. 25 September.

<sup>85</sup> Foundation for Florida's Future, [cited 2 October 2009, available from [www.excelined.org](http://www.excelined.org)].

<sup>86</sup> Id.

<sup>87</sup> Id.

All of these factors matter, and are illustrative of the importance of the debates that occur in Florida. It becomes, then, even more important to understand where Florida policymakers receive their information on education policy, whom do they trust, and to whom do they look to when evaluating serious policy? In answering the research question, one can conclude that most legislators look to two primary state agencies: the Florida Department of Education<sup>88</sup> and the Office of Program Policy Analysis and Government Accountability (OPPAGA).<sup>89</sup> Data of both agencies goes mostly unchallenged by legislators<sup>90</sup> and in the media<sup>91</sup> perhaps because their data are cast within a context of something akin to an uncensored clearinghouse. Rightly or wrongly, both appear to have a tremendous influence to craft education policy in large part because they are seen as neutral<sup>92</sup> by most parties on a topic that is perhaps one of the most hotly debated public policy issues of our time. The nature of a “clearinghouse” under the auspices of two distinct state agencies that are seen as simply reporting data as it is collected may be a very compelling influence for policymakers.

Despite the passionate debates, groups on opposite sides of the issue, however, have distinct missions. Contrary to the perception of OPPAGA and the Department of Education, some believe in choice; others believe in greater funding for traditional public

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<sup>88</sup> Florida Department of Education, [cited 10 July 2009, available from [www.fl doe.org](http://www.fl doe.org)].

<sup>89</sup> Office of Program Policy Analysis and Government Accountability, [cited 12 July 2009, available from [www oppaga.state.fl.us.org](http://www oppaga.state.fl.us.org)].

<sup>90</sup> Bob McClure, Communication with Florida Elected Officials, Table 1, 2009.

<sup>91</sup> Kathy Bushouse, “Florida Changing the Way Its High Schools are Graded,” *South Florida Sun-Sentinel*, 14 August 2009 & “Behind All Those ‘A’ Grades,” *Palm Beach Post*, 22 June 2009. Ami Keller, “A Watch Dog’s Life,” *Florida Trend*, October 1 2008. and “Florida’s Auditors Discover Just How Hard It is to Track Down the Money Trail at School Districts?,” *TC Palm*, 23 January 2008.

<sup>92</sup> Robert F. Sanchez, 2009. Interview by author. Tallahassee, Fla. 25 September.

education. The lawmakers inclined toward one position or the other may look to those organizations, of which they are already previously disposed, to support their arguments. While one may agree or disagree with the mission of any organization, it is difficult to disagree with a government agency perceived as a simple clearinghouse of information and statistics such as the Department of Education or OPPAGA. These two groups appear to be a primary starting point for legislators to then look to other groups or associations for more information or support.

Consequently, opponents are quick to try and marginalize those groups or associations who have missions with whom they may not agree<sup>93</sup> and various groups, associations or lobbyists may at times even neutralize each other in the debate. It is much more difficult to do so to a government entity that is apparently there to collect and provide requested data.<sup>94</sup> Therefore the research question, as well as a very important public policy question is answered. State agencies, primarily two, have tremendous influence on education policy in Florida, and that may have implications for other states who also engage in these debates.

Whatever the immediate future, the battle over public education will continue between those who see government as a tool for improving the system and those who believe improvement of public education comes best from the discipline of market forces primarily through parental choice. Over the next few years, greater evidence will be available in the various states because, as Lips and Ladner have stated, for good or

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<sup>93</sup> Robert F. Sanchez, 2009. Interview by author. Tallahassee, Fla. 25 September.

<sup>94</sup> Id.

for ill, the states remain the fifty great laboratories for the future of public education.<sup>95</sup> It will be up to the various policymakers in these fifty states to look at the evidence and make their decisions based on the merits of the research, and the power of government agencies within the states may hold sway.

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<sup>95</sup> Dan Lips and Matthew Ladner, *Demography Defeated: Florida's K-12 Reforms and Their Lessons for The Nation*, Goldwater Institute, 227, September 2008.

APPENDIX  
CITED CONSTITUTIONS, STATUTES AND CASES

**United States**

**Constitution**

Amendment I.

**Statutes**

403 U.S. 602 (1971).

403 U.S. 612 -613 (1971).

Economic Opportunity Act of 1964, 42 U.S.C. 2701, Pub. L. 88 – 452, August 20, 1964, 78 Stat. 508.

Education Consolidation and Improvement Act of 1981, 20 U.S.C. Sec. 7301 Pub. L. 97 – 35, Aug., 13, 1981, 95 Stat. 469.

Goals 2000: Educate America Act, 20 U.S.C. 5801 Pub. L. 103 – 227, Mar. 31, 1994, 108 Stat. 125 – 191, 200 – 211, 265 – 280.

National Defense Act, 20 U.S.C 401, Pub. L. 85 – 864, September 2, 1958, 72 Stat. 1580.

No Child Left Behind Act of 2001, 20 U.S.C. 6301 Pub. L. 107 – 110, January 8, 2002, 115 Stat. 1425.

Title I of the Elementary and Secondary Education of 1965, 20 U.S.C. 2701.

U.S. Department of Education, *Department of Education Organization Act of 1979*, 20 U.S.C., 3401, 88 – 96, Oct. 17, 1979, 93 Stat.

**Cases**

*Brown v. Board of Education*, 347 U.S. 483 74 S. Ct. 686, (1954).

*Milliken v. Bradley*, 418 U.S. 717 (1974).

*Mueller v. Allen*, 463 U.S. 388, 103 S. Ct. 3062 (1983).

*Pierce v. Society of Sisters*, 268 U.S. 510 (1925).

*Plessy v. Ferguson*, 163 U.S. 537 (1896).

*Swann v. Board of Education*, 402 U.S. 1 (1971).

*Zelman v. Simmons-Harris*, 536 U.S. 639, 122 S. CT. 2460 (2002).

*Zelman v. Simmons-Harris*, 536 U.S. 649, 122 S. CT. 2460 (2002).

### **Arizona**

#### **Statutes**

ARIZ. REV. STAT. § 15 – 1184

ARIZ. REV. STAT. § 15 – 1204

ARIZ. REV. STAT. § 15 – 891

ARIZ. REV. STAT. § 15 – 817

ARIZ. REV. STAT. § 43 – 1089 (2005).

ARIZ. REV. STAT. § 43 – 1089.

ARIZ. REV. STAT. § 43 – 1183.

ARIZ. REV. STAT. ANN. § 43 - 1183 (2006).

#### **Cases**

*Caine et al v. Horne et al*, No. 08 -0189 (Ariz. March, 2009).

### **Florida**

#### **Constitution**

Amendment proposed by Constitution Revision Commission, Revision No. 6, 1998, filed with the Secretary of State May 5, 1998; adopted 1998; Ams. by Initiative Petitions filed with the Secretary of State July 30, 2002, and August 1, 2002; adopted 2002.

Art I § 3.

Art IX § 1.

Art IX § 2.

Art XI § 6.

Florida Association of School Administrators, *Constitution*, Art V § 1-3.

Florida Association of School Administrators, *Constitution*, Art II § 2.

### **Statutes**

§ 1002.39.

§ 11.51.

§ 220.187.

§ 229.0537.

Title XLVIII, Chapter 1008.33.

Title XVI, Chapter 229.0537 (2001).

Florida House. 1999. *A+ Plan*. Florida Legislative Session., H.R. 751, 753, 755.

### **Cases**

*Bush v. Holmes*, 29 Fla. L. Weekly D1877 (Fla. 1<sup>st</sup> Dist. Ct. Aug. 16, 2004)

*Bush v. Holmes*, 767 So. 2d 668 (Fla. District Court of Appeals 2000).

*Bush v. Holmes*, 767 So. 2d 668, 672. (Fla. District Court of Appeal 2000).

*Bush v. Holmes*, 886 So. 2d 340 (Fla. 1<sup>st</sup> Dist. Ct. App. 2004) (Holmes II).

*Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006).

*Bush v. Holmes*, No. CV99-3370, 2002 WL 1809079 (Fla. Cir. Ct. Aug. 5, 2002

*Ford v. Browning*, No. 1D08-3934, 2008-CA-1905 (Fla. Cir. Ct. 2008).

*Ford v. Browning*, SC08-1529 (Fla. 2008).

## **Georgia**

### **Statutes**

Annotated Code § 20-2-2110 – 20-2-2118

Annotated Code § 20-2-2115

Annotated Code § 20-2-2116

Annotated Code §§ 2A. 20-2A-1 – 20-2A-4 & 48-7-29.13.

**Illinois**

**Statutes**

35 ILCS § 201.

35 ILCS 5/201 (m).

**Iowa**

**Statutes**

Annotated Code § 422.12 (2).

Code § 422.11.

Code § 422.12.

**Maine**

**Statutes**

20-A- M.R.S. §§2951-2955; 20-A- M.R.S. §5204; 20-A- M.R.S. §5801; 20-A- M.R.S. §5806.

**Minnesota**

**Statutes**

§ 290.01

§ 290.0674.

§§ 290.01 & 290.0674.

**Ohio**

**Statutes**

Rev. Code § 3310.

Rev. Code § 3310.02.

Rev. Code § 3310.41

Rev. Code § 3313.975

Rev. Code § 3313.979

Rev. Code Ann. §§ 3313.974 – 3313.979.

Rev. Code Ann. § 3310.41 and Ohio Rev. Code Ann. § 3310.01 – 3310.17.

Rev. Code Ann. § 3313.974 – 3313.979 (Baldwin Supp. 2001).

Rev. Code Ann. § 3313.974 – 3313.979 (Baldwin Supp. 2001).

### **Oregon**

#### **Statutes**

Oreg. Ls., § 5259.

### **Pennsylvania**

#### **Statutes**

24 P.S. §§ 20 – 20005 – B, & 20-2007B.

24 P.S. §§ 20 – 20005 – B, & 20-2007B.

24 P.S. §§ 2001 – 20005 – B, & 20-2007B.

24 P.S. § 2005 – B.

### **Rhode Island**

#### **Statutes**

Gen. Laws § 44-62-1

Gen. Laws Article 24 § 44 – 62

Gen. Laws Article 24 §§ 44 – 62 – 2 & 44 – 62 – 3

### **Utah**

#### **Statutes**

Annotated Code § 53A-1a-705

Annotated Code § 53A-3-410

Annotated Code §§ 53A-3-410 & 53A-1A-701 – 53A-1a-710

### **Vermont**

#### **Statutes**

16 V.S.A. Ch. 3 §166; V.S.A. Ch. 21 § 821-833 (§830-833 repealed).

**Washington**

**Statutes**

Washington Revised Code § 28B.10.814.

**Wisconsin**

**Statutes**

§ 119.23.

§ 119.23 (1995-96).

§ 119.23 (2001).

## LIST OF REFERENCES

- "2009 Economic Yearbook: Bad Case of the Blues," *Florida Trend*, April 1 2009.
- American Federation of Teachers, "Just How Private Are Private Schools?" *Policy Brief*, December 1998.
- "The Accountability Dilemma," *Policy Brief*, December 1998.
- "Vouchers and the Accountability Dilemma," *Policy Brief*, December 1998.
- "What Kind of Accountability Would the Public Expect Under a Voucher Program?" *Policy Brief*, December 1998.
- American Legislative Exchange Council, [cited 24 July 2009, available from [www.alec.org/AM/Template.cfm?Section=About](http://www.alec.org/AM/Template.cfm?Section=About)].
- [cited 24 July 2009, available from [www.alec.org/AM/Template.cfm?Section=Board](http://www.alec.org/AM/Template.cfm?Section=Board)].
- [cited 24 July 2009, available from [www.alec.org](http://www.alec.org)].
- Antle III, W. James, "Leaving No Child Left Behind," *The American Conservative*, August 1 (2005).
- Astuto, Terry and David Clark, "Reagan's Report Card," *Society*, 4, Vol. 26, May 1989.
- Baxley, Representative Dennis, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.
- Bender, Louis W. Letter to the Editor, *Tallahassee Democrat*, 24 December 2008.
- Berry, Matthew, Highlights of testimony by Institute for Justice, to the Florida House Select Committee on Transforming Florida Schools, 23 February, 1999.
- Blumfield, Samuel L. *Is Public School Necessary?* (Old Greenwich Ct.: The Devin-Adair Company, 1981) 11.
- Brandl, John E. "Choice, Religion and Community", *Liberty and Learning: Milton Friedman's Voucher Idea at Fifty*, ed. Lenore T. Ealy & Robert C. Enlow (Washington D.C.: Cato Institute, 2006) 26.
- Brouillette, Matthew J. *The Case for Choice in Schooling: Restoring Parental Control of Education*, Mackinac Center for Public Policy, February 2001, 9-10.
- Bucher, Representative Jordan, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session

- Bush, Jeb, "Here's How to Transform Education," *Miami Herald*, 1 July 2009.
- "Will Public Schools Suffer Under Vouchers? No: Choice Forces Educators to Improve," *Atlanta Journal Constitution*, 4 March 2009.
- Bushouse, Kathy, "Behind All Those 'A' Grades," *Palm Beach Post*, 22 June 2009.
- "Florida Changing the Way Its High Schools are Graded," *South Florida Sun-Sentinel*, 14 August 2009
- "State Set to Intervene in Two South Florida Schools," *South Florida Sun-Sentinel*, June 26 2009.
- Brummer, Representative Fred, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.
- Cavanagh, Sean, "Reagan's Legacy: A Nation at Risk, Boost for Choice," *Education Week* 40, vol. 23 (2004): 35-38.
- Chaker, Anne Marie, "Amid Shortage, States Scramble to Hire Teachers" *The Wall Street Journal*, 17 August 2006.
- Chinoy, Ira and Robert G. Kaiser, "Decades of Contributions to Conservatism," *The Washington Post*, 2 May 1999.
- Colavecchio-Van Sickler, Shannon, "Jeb Campaigns for Education, not Office," *St. Petersburg Times*, 15 June 2008.
- Colson, Elizabeth, "Something New: A 4-Year Degree at a 2-Year College," *New York Times*, December 14 2005.
- "Community Colleges Endorse Seminole Compact for Education," *Naples Daily News*, 24 April 2009.
- Corporate America's Trojan Horse in the States: The Untold Story Behind the American Legislative Exchange Council, *Defenders of Wildlife and Natural Resources Defense Council* 28 February 2002..
- Coulson, Andrew J. *Market Education: The Unknown History*, (New Brunswick: Transaction Publishers, 1999), 75, 78, 83, 113.
- Cremin, Lawrence A. ed. *The Republic and the School: Horace Mann on the Education of Free Men*. New York: Teachers College Press, 1957.
- Date, S. V. "What Would Jeb Do?," *The Washington Post*, 21 January 2007.

Detert, Representative Nancy, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.

Dillon, Sam, "Florida Supreme Court Blocks Vouchers," *New York Times*, January 6, 2006.

Education Commission of the States, [cited 27 July 2009, available from [www.ecs.org/ecsmain.asp?page=htmlaboutECS/home\\_aboutECS.htm](http://www.ecs.org/ecsmain.asp?page=htmlaboutECS/home_aboutECS.htm)].

--- [cited 27 July 2009, available from [www.ecs.org](http://www.ecs.org)].

--- "Legislative Activities Involving Open Enrollment," *Clearinghouse Notes*, December 1994, 91.

E-mail to elected officials, 18, 19, 20 June 2009. Telephone call follow-up, 25, 26, 27 June 2009, 27 July 2009.

E-mail to elected officials, 8, 9, 10 June 2009. Telephone call follow-up, 17, 18, 19 June 2009.

Enlow, Robert C. 2008 Grading School Choice: Evaluating School Choice Programs by the Milton Friedman Gold Standard. *School Choice Issues In Depth*. Winter Edition

Farrington, Brendan, "Teachers' Union a Factor in Florida," *Associated Press*, 25 September 2002. [cited 13 July 2009, available from [www.freerepublic.com/focus/news/756840/posts](http://www.freerepublic.com/focus/news/756840/posts)].

"FEA Takes Issue with OPPAGA Report on Corporate Tax Voucher Program 'savings'." *Press Release*, December 16 2008.

Fine, Lisa, "Florida's Other Voucher Program Taking Off," *Education Week* 43, vol. 20 (2001): 28, 35.

Fineout, Gary, "Florida Supreme Court Hears Voucher Arguments," *The Miami Herald*, June 8, 2005.

Finkelstein, Linda, "Don't Abandon our Public Schools," *Pensacola News Journal*, 14 February 1999.

Finn, Jr., Chester F. "The Original Education President: Reagan's ABC's," *National Review*, June 9, 2004. Available at <http://www.nationalreview.com/comment/finn200406090839.asp>.

"Florence High Receives Regional Honor," *The Clarion Ledger*, 8 July 2009.

Florida Association of District School Superintendents, [cited 21 July 2009, available from [www.fadss.org/mission.htm](http://www.fadss.org/mission.htm)].

--- [cited 21 July 2009, available from [www.fadss.org](http://www.fadss.org)].

Florida Association of School Administrators, [cited 23 May 2009, available from [www.fasa.net](http://www.fasa.net)].

--- [cited 27 July 2009, available from [www.fasa.net](http://www.fasa.net)].

Florida Department of Education, [cited 10 July 2009, available from [www.fl doe.org](http://www.fl doe.org)].

--- 2007-2008 Five-Year District Graduation Rates, *Education Information & Accountability Services, Data Report*. [cited 13 July 2009, available from [www.fl doe.org/eias/eiaspubs/pdf/gradgde.pdf](http://www.fl doe.org/eias/eiaspubs/pdf/gradgde.pdf)].

--- Financial Profiles of Florida School Districts, *Office of Funding and Financial Reporting*, April 2009. [cited 13 July 2009, available from [www.fl doe.org](http://www.fl doe.org)].

--- Office of Independent Education and Parental Choice, “Choice Facts.” [cited 1 October 2009, available from [www.floridaschoolchoice.org/information/CTC](http://www.floridaschoolchoice.org/information/CTC)].

--- Office of Independent Education and Parental Choice, “Choice Facts.” [cited 1 October 2009, available from [www.floridaschoolchoice.org/information/mckay](http://www.floridaschoolchoice.org/information/mckay)].

--- Office of Independent Education and Parental Choice, “Choice Facts.” [cited 30 December 2008, available from [www.floridaschoolchoice.org/information/mckay](http://www.floridaschoolchoice.org/information/mckay)].

--- Office of Independent Education and Parental Choice, “Choice Facts.” [cited 8 January 2009, available from [www.floridaschoolchoice.org/information/CTC](http://www.floridaschoolchoice.org/information/CTC)].

--- Office of Independent Education and Parental Choice, “Choice Facts.” [cited 9 January 2009, available from [www.floridaschoolchoice.org/information/CTC](http://www.floridaschoolchoice.org/information/CTC)].

Florida Education Association, [cited 23 May 2009, available from [www.feaweb.org/cms/FEA=Leadership/24.html](http://www.feaweb.org/cms/FEA=Leadership/24.html)].

--- [cited 23 May 2009, available from [www.feaweb.org](http://www.feaweb.org)].

--- “FEA Takes Issue with OPPAGA Report on Corporate Tax Voucher Program ‘savings.’” *Press Release*, December 16 2008.

--- *Legislative Summary*, 2009.

Florida School Board Association, [cited 1 July 2009, available from [www.fsba.org/beliefs.asp](http://www.fsba.org/beliefs.asp)].

- [cited 1 July 2009, available from [www.fsba.org](http://www.fsba.org)].
- “FSBA Boarder-Line,” *Official Legislative Bulletin*, March 27 2009.
- “Leaders,” *Newsletter* 4, vol. 10 (2009).
- “Florida’s Auditors Discover Just How Hard It is to Track Down the Money Trail at School Districts?,” *TC Palm*, 23 January 2008.
- Forster, Greg, *A Win-Win Solution: The Empirical Evidence on How Vouchers Affect Public School*, February 2009.
- *Lost Opportunity: An Empirical Analysis of How Vouchers Affected Florida Public Schools*, The James Madison Institute, March 2008.
- Forster, Greg and Bob McClure, “Work to Offset Loss of School Vouchers,” *The Lakeland Ledger*, 28 April 2009.
- Foundation for Excellence in Education, [cited 1 July 2009, available from [www.excelined.org/Default.aspx](http://www.excelined.org/Default.aspx)].
- [cited 1 July 2009, available from [www.excelined.org/Program/Viewpage.aspx?pr=4&pc=21](http://www.excelined.org/Program/Viewpage.aspx?pr=4&pc=21)].
- [cited 1 July 2009, available from [www.excelined.org/ViewPage.aspx?pc=13](http://www.excelined.org/ViewPage.aspx?pc=13)].
- [cited 1 July 2009, available from [www.excelined.org](http://www.excelined.org)].
- [cited 23 July 2009, available from [www.excelined.org/ViewPage.aspx?pc=13](http://www.excelined.org/ViewPage.aspx?pc=13)].
- Foundation for Florida’s Future, [cited 23 July 2009, available from [www.foundationforfloridasfuture.org/who\\_we\\_are.php?sub\\_page\\_id=9](http://www.foundationforfloridasfuture.org/who_we_are.php?sub_page_id=9)].
- [cited 12 July 2009, available from [www.foundationforfloridasfuture.org](http://www.foundationforfloridasfuture.org)].
- [cited 2 October 2009, available from [www.excelined.org](http://www.excelined.org)].
- Franklin, John Hope, “The National Responsibility for Equality of Opportunity,” *Education Week*, Online Edition, (2007), [cited 16 April 2009, available from [www.edweek.org/ew/articles/10/31/1984/05610021.ho4.html?s=Department+Health,+Education+Welfare](http://www.edweek.org/ew/articles/10/31/1984/05610021.ho4.html?s=Department+Health,+Education+Welfare)] 1953.
- Friedman, Milton, *Capitalism and Freedom*, Chicago, Il., The University of Chicago, 1962.

- *Free to Choose*, San Diego, California, Harcourt Trade Publishers, 1980.
- "The Role of Government in Education." From *Economics and the Public Interest*. ed. Robert A. Solo, (New Brunswick, N.J. Rutgers University Press, 1955) 124.
- Fuhrman, Susan H. Clinton's Educational Policy and Intergovernmental Relations in the 1990s, *Publius*, (Oxford University Press, 1994) 3, Vol. 24, p. 83-97.
- Fund, John "He's Throwing Away My Dream," *The Wall Street Journal*, 16 January 2006.
- Highlights of speech in Jacksonville to The James Madison Institute , October, 2008.
- Gotlieb, Representative Ken, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.
- Graham, Phil and Mike Solon, "If You Like Michigan's Economy, You'll Love Obama's," *The Wall Street Journal*, 13 September 2008.
- Green, Stephen, Highlights of testimony by Legal Director for Americans United for Separation of Church and State, to the Florida House of Representatives, K-12 Education Committee, 1999
- Gryphon, Marie, "High Court Decision Reflects True Spirit of the Constitution," *Milwaukee Journal Sentinel*, July 6 2002.
- Hafenback, Josh, "Florida Supreme Court Takes Property Tax Cut and Vouchers Off the Ballot," *South Florida Sun-Sentinel*, September 4 2008.
- Hallifax, Jackie, "Vouchers a Priority for GOP Lawmakers," *Tallahassee Democrat* , March 3, 1999.
- Hance, Brandy, 2009. Interview by author. Tallahassee, Fla. 22 July.
- Hardman, PhD, Patricia K. Let the Record Stand for Itself: Know Your Candidates Before You Go to the Polls, *The Coalition of McKay Scholarship Schools*, (2006).
- Heffernan, Patrick, to the Florida House of Representatives, K-12 Education Committee, memorandum, February 1999.
- Hegarty, Stephen, "Voucher Flaws and Fixes Revealed," *St. Petersburg Times*, October 17 2003.
- Hegarty, Stephen & Kelly Ryan Gilmer, "Once Mighty Teacher Union's Influence on the Wane," *St. Petersburg Times*, 25 March 2002.

Hentschke, Guilbert C. "The Role of Government in Education: Enduring Principles, New Circumstances and the Question of 'Shelf Life'."

"Highlights from the text of Gov. Jeb Bush's State of the State Address," Associated Press, 2 March 1999.

"Highlights from the text of President George Bush's State of the Union Address," 4 January 2000. [cited 20 May 2009, available from [www.c-span.org/executive/stateoftheunion.asp](http://www.c-span.org/executive/stateoftheunion.asp).]

"Highlights from the text of President Jimmy Carter's Department of Education Organizational Act Statement," 17 October 1979.

"Highlights from the text of President Lyndon Johnson's Special Message to Congress," 16 March 1964. [cited 9 May 2009, available from [www.npr.org/templates/story/story.php?storyId=158966](http://www.npr.org/templates/story/story.php?storyId=158966).]

"Highlights from the text of President Lyndon Johnson's State of the Union Address," 4 January 1965. [cited 9 May 2009, available from [www.c-span.org/executive/stateoftheunion.asp](http://www.c-span.org/executive/stateoftheunion.asp).]

Highlights of floor speech by Chair Alex Diaz de la Portilla to the Florida House of Representatives, 1999.

Highlights of installation speech by President Joy Bowen to the Florida School Board Association, 2009.

Highlights of speech by Chair Alex Diaz de la Portilla to the Florida House of Representatives, K-12 Education Committee, 1999

House Republican Leadership, "A High Quality Education System," Memorandum, 1999.

--- "Opportunity Scholarship Program Subject to the Lemon Test," *Policy Brief*, 1999  
Jacobson, Linda, "Governor's Voucher Effort Loses Steam in Florida," *Education Week* 36, vol. 25 (1999): 22.

Jones, Jeffery, "Terrorism, Economy Rank as Top Election Issues" *Gallup News Service*, 27 October 2004.

--- "Terrorism Tops List of Key 2004 Election Issues: education, Iraq and economy also prominent" *Gallup News Service*, 29 December 2003.

"Jury Convicts Florida Man in K-12 Scholarship Scam," *Education Week* 10, vol. 25 (2005): 5.

Justice, Representative Charlie, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.

Keller, Ami, "A Watch Dog's Life," *Florida Trend*, October 1 2008.

Keogh, Larry, Highlights of testimony by Florida Catholic Conference, to the Florida House of Representatives, K-12 Education Committee, 1999.

Kim, Jimmy and Gail Sunderman, Expansion of Federal Power in American Education: Federal-State Relationships under the No Child Left Behind Act Year One, *The Civil Rights Project, Harvard University*, February 2004.

Kirtley, John F. 2009. Interview by author. Tallahassee, Fla. 10 September.

--- 2009. Interview by author. Tallahassee, Fla. 15 June.

Knepper, Lisa, Institute for Justice, *press release*, 5 January 2006

Laffer, Art and Steve Moore, "Soak the Rich, Lose the Rich," *The Wall Street Journal*, 18 May 2009.

"Lessons from Florida: School Choice Gives Increased Opportunities to Children with Special Needs," Cato Institute, March 2003.

Levanti, Natasha, "Newton Children Deserve a Better Education," *Sarasota Herald Tribune*, July 13 2009.

Levesque, Patricia 2008. Interview by author. Tallahassee, Fla. 10 December.

Liberty and Learning: Milton Friedman's Voucher Idea at Fifty, ed. Lenore T. Ealy & Robert C. Enlow (Washington D.C.: Cato Institute, 2006) 13.

Lips, Dan and Matthew Ladner, *Demography Defeated: Florida's K-12 Reforms and Their Lessons for The Nation*, Goldwater Institute, 227, September 2008, 2.

McClure, Bob Communication with Florida Elected Officials, Table 1, 2009

McCollum, Bill, Attorney General of the State of Florida, Memorandum, September 6, 2007.

Mellor, Chip, "Vouchers Give the Poor Access to Better Schools," *Florida Times Union*, 24 January 1998

Mintrom, Michael and Sandra Vergari, Education Reform and Accountability Issues in an Intergovernmental Context, *Publius*, (Oxford University Press, 1997) 2, Vol. 27, p.143-166.

Montford, Bill Florida Association of District School Superintendents, Memorandum to District School Superintendents, August 6, 2009.

Nash, George H. *Books and the Founding Father*, (Louisville: Butler Books, 2007), 13.

--- *Books and the Founding Father*, (Louisville: Butler Books, 2007), 14

National Coalition for Public Education, "The Truth about Vouchers," *Position Paper*. [cited 30 December 2008, available from [www.pta.org/documents/vouchers.doc](http://www.pta.org/documents/vouchers.doc)].

National Commission on Excellence in Education. *A Nation at Risk: The Imperatives for Education Reform*. Washington D.C.: U.S. Government Printing Office, 1983.

National Conference of State Legislatures, [cited 29 July 2009, available from [www.ncsl.org/Aboutus/tabid/305/Default.aspx?TabID=305&tabs=1027,77,548&77](http://www.ncsl.org/Aboutus/tabid/305/Default.aspx?TabID=305&tabs=1027,77,548&77)].

--- [cited 29 July 2009, available from [www.ncsl.org/Aboutus/tabid/305/Default.aspx](http://www.ncsl.org/Aboutus/tabid/305/Default.aspx)].

--- [cited 29 July 2009, available from [www.ncsl.org/documents/DiscoverNCSL\\_07\\_OrgChart.pdf](http://www.ncsl.org/documents/DiscoverNCSL_07_OrgChart.pdf)].

--- [cited 29 July 2009, available from [www.ncsl.org](http://www.ncsl.org)].

National Education Association, [cited 27 July 2009, available from [www.nea.org](http://www.nea.org)].

--- "Vouchers," *Position Paper*. [cited 29 December 2008, available from [www.nea.org/vouchers./index.html](http://www.nea.org/vouchers./index.html)]

National Governors' Association, Time for Results: The Governors' 1991 Report on Education (Washington D.C., National Governors' Association, 1986.)

Negron, Representative Joe, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.

"Nine Lies about School Choice: Proving the Critics Wrong," The Center for Education Reform. [electronic journal], 1 September 2005. [cited 6 June 2008, available from [www.edreform.com/index.cfm](http://www.edreform.com/index.cfm)].

Northwest Land Ordinance of 1787. Continental Congress. [cited 26 March 2009, available from [www.earlyamerica.com/earlyamerica/milestones/ordinance/text.html](http://www.earlyamerica.com/earlyamerica/milestones/ordinance/text.html)].

Office of Program Policy Analysis and Government Accountability, [cited 12 July 2009, available from [www.oppaga.state.fl.us.org](http://www.oppaga.state.fl.us.org)].

- [cited 12 July 2009, available from [www.oppaga.state.fl.us/shell.aspx?pagepath=about/whatwedo.htm.org](http://www.oppaga.state.fl.us/shell.aspx?pagepath=about/whatwedo.htm.org)].
- "School Districts Can Take Steps to Substantially Reduce Their Transportation Costs," *Report No. 04-10*, February 2004.
- "Some Progress Achieved in Addressing Factors Contributing to Teacher Attrition," *Report No. 09-11*, February 2009.
- "Statement by Secretary Moore on OPPAGA Findings," *Press Release*, January 3 2001.
- "The Corporate Income Tax Credit Scholarship Program Saves State Dollars," *Report No. 08-68*, December 2008.
- Ornstein, Allan C. "The Changing Federal Role in Education," *American Education*, December, 1984.
- Perrin, Thomas, 2008. Interview by author. Tallahassee, Fla. 23 July.
- 2009. Interview by author. Tallahassee, Fla. 23 July.
- Telephone call, June 2009.
- Phelps, John B. Clerk of the House, ed., Clerk's Manual (compiled and published on a desktop publishing system in conjunction with the Office of the Secretary of the Senate, 1998), 20.
- "Poor Student Hypocrisy," *Palm Beach Post*, April 20 2008.
- "Quality Counts 2008: Tapping into Teaching," *Education Week* 18, vol. 27 (2008).
- "Reform Commission: Opportunity Wasted in Florida," *Lakeland Ledger*, September 5 2008.
- Report Card on American Education: A State-by-State Analysis, *American Legislative Exchange Council*, 2009.
- Richard, Alan, "Florida Cracks Down on Voucher Schools," *Education Week* 13, vol. 23 (2003): 14-15.
- "Florida Sees Surge in Use of Vouchers," *Education Week* 1, vol. 22 (2002): 34-35.
- "Florida Vouchers Move Towards Tighter Rules," *Education Week* 3, vol. 23 (2003): 1, 23.

Richardson, Representative Curtis, Floor Testimony, Journals of the Florida House of Representatives. 103<sup>rd</sup> Congress, 2001 Regular Session.

Rigdon, Mark E. and John F. Witte, Education Choice Reforms: Will They Change American Schools?, *Publius*, (Oxford University Press, 1993) 3, Vol. 23, p. 95-114.

Robelen, Erik, "Florida Lawmakers Float New Voucher Plans; Amending Constitution, Corporate Financing are Among Strategies," *Education Week* 30, vol. 25 (2006): 25, 31.

Roberts, Diane, "Repeating the Past Won't Save the Future," *St. Petersburg Times*, 19 April 2009.

Ross, Janet, "Tennessee's College Graduation Rate is Third Worst," *The Tennessean*, 11 July 2009.

Rushing, J. T. "Educators Fear Budget Storm," *Jacksonville Times-Union*, 10 July 2007

"Safeguarding Educational Freedom: Latest Legal Showdown for School Choice Heads to Supreme Court," Institute for Justice. [electronic journal], May 2005. [cited 5 December 2008, available from [www.ij.org./index.php?option=com\\_content&task=view&id=1097&Itemid=165](http://www.ij.org./index.php?option=com_content&task=view&id=1097&Itemid=165)].

Sanchez, Robert F. 2008. Interview by author. Tallahassee, Fla. 23 July.

--- 2009. Interview by author. Tallahassee, Fla. 24 July.

--- 2009. Interview by author. Tallahassee, Fla. 25 September.

--- 2009. Interview by author. Tallahassee, Fla. 27 August.

Sandham, Jessica L. "Florida Lawmakers Poised to Decide Fate of Voucher Plan," *Education Week* 18, vol. 34 (1999): 1, 21.

--- "Florida Debates Expanding Its Voucher Program," *Education Week* 20, vol. 28 (2001): 18, 22.

--- "Florida House Approves Bush's Voucher Plan; Senate Action Likely," *Education Week* 18, vol. 30 (1999): 22

--- "Vouchers Front and Center in Florida Legislature," *Education Week* 18, vol. 28 (1999): 17-19.

Sorman, Guy, "Remembering Rose Friedman," *Forbes*, August 19, 2009.

Southern Regional Education Board, [cited 1 July 2009, available from [www.sreb.org](http://www.sreb.org)].

--- [cited 24 July 2009, available from [www.sreb.org/main/SREB/index.asp](http://www.sreb.org/main/SREB/index.asp)].

--- [cited 24 July 2009, available from [www.sreb.org/main/SREB/index.asp](http://www.sreb.org/main/SREB/index.asp)]. See Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia.

--- "Rising to the Challenge," *Annual Report*, 2009.

"Special-Needs Tax Credit Program Unveiled, *City-Sentinel*, 8 July 2008.

Stein, Letitia "Voucher Programs in Vulnerable Position," *St. Petersburg Times*, 8 May 2006.

Steinberg, Jacob, "Voucher Backers See Opening for Wider Agenda," *The New York Times*, 28 June 2002.

Stern, Sol, "School Choice Isn't Enough," *City Journal* 18, no. 1 (2008).

*The Empire Strikes Back*, *The Wall Street Journal*, 25 March 2004, sec. A.

The Florida Corporate Income Tax Credit Scholarship Program: Updated Analysis, *Collins Center*, February 2007.

The Florida House of Representatives, "Key Lawmakers and Premier Think Tanks Unveil 'F' Grade on National Insurance Report Card, Study Outlining Florida's Insurance Ills," *Press Release*, February 4 2008.

The Friedman Foundation for Educational Choice, [cited 29 July 2009, available from [www.friedmanfoundation.org/about/whatwedo.jsp](http://www.friedmanfoundation.org/about/whatwedo.jsp)].

--- [cited 29 July 2009, available from [www.friedmanfoundation.org/friedmans/friedmansbio.jsp](http://www.friedmanfoundation.org/friedmans/friedmansbio.jsp)].

--- [cited 29 July 2009, available from [www.friedmanfoundation.org/howtohelp/donate.jsp](http://www.friedmanfoundation.org/howtohelp/donate.jsp)].

--- [cited 29 July 2009, available from [www.friedmanfoundation.org](http://www.friedmanfoundation.org)].

The James Madison Institute, [cited 15 July 2009, available from [www.jamesmadison.org](http://www.jamesmadison.org)].

--- [cited 23 July 2009, available from  
[www.jamesmadison.org/category.php/1.html?PHPSESSID=fd8f16ef42698d01df8ef2be87e18690](http://www.jamesmadison.org/category.php/1.html?PHPSESSID=fd8f16ef42698d01df8ef2be87e18690)].

--- [cited 23 July 2009, available from [www.jamesmadison.org](http://www.jamesmadison.org)].

--- "Allan Bense Assumes Chairmanship of The James Madison Institute," *Press Release*, January 5 2009.

The Progress of Education Reform, *Education Commission of the States* 1, vol. 10 (2009).

--- *Education Commission of the States* 3, vol. 10 (2009).

--- *Education Commission of the States* 6, vol. 9 (2009).

Tomsho, Robert, "For College Bound, New Barriers to Entry" *The Wall Street Journal*, 2 December 2008.

Tyack, David "Choice options: School choice, yes-but what kind?" *The American Prospect*, vol. 10, 42, January, 1999. Available at <http://www.prospect.org/print-friendly/print/V10/42/tyack-d.html>.

U.S. Commission on Civil Rights. *Racial Isolation in the Public Schools*. Washington: Government Printing Office, 1967.

U.S. Department of Education, "The Federal Role in Education." [cited 26 March 2009, available from [www.ed.gov/about/overview/fed/role.html](http://www.ed.gov/about/overview/fed/role.html)].

U.S. National Archives & Records Administration. 1995. Morrill Act. (1862) (1869). [cited 26 March 2009, available from [www.ourdocuments.gov/doc.php?doc+33](http://www.ourdocuments.gov/doc.php?doc+33)].

Vote-smart 1998 Florida NPAT 2 July 1998, quoted in Jesse Gordon, Ontheissues.org [electronic journal] [cited 21 December 2007].

Warford, Jim, Florida Association of School Superintendents, Letter to Florida Legislators, 2009. and Florida Association of School Administrators, *Official Legislative Platform*, 2009.

Wood, R. Craig, telephone call, 20 June 2008.

--- Telephone call, June 2009.

Zehr, Mary Ann, "No More Vouchers for Florida Islamic School," *Education Week* 43, vol. 22 (2003): 3.

## BIOGRAPHICAL SKETCH

Bob McClure was born and raised in Tallahassee, Florida. A 5<sup>th</sup> generation Floridian, he is currently the President and CEO of The James Madison Institute (JMI), a Florida-based think tank located in Tallahassee. Bob received his undergraduate degree from Furman University in Greenville, SC and later earned his master's degree for educational leadership from Florida State University in Tallahassee. He is married and has two daughters.