

# *Special Needs Students Need Education Savings Accounts*



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## **Table of Contents**

|   |    |
|---|----|
| Key Points.....                         | 3  |
| Executive Summary .....                 | 3  |
| Introduction.....                       | 3  |
| Who Benefits .....                      | 5  |
| ESAs in Other States.....               | 6  |
| A Model for Texas .....                 | 8  |
| Conclusion.....                         | 11 |
| Appendix: School Choice in Nevada ..... | 12 |
| Endnotes.....                           | 13 |

# Special Education Students Need Education Savings Accounts

by Jonathan Butcher

## Key Points

- Education savings accounts (ESAs) provide students with special needs options otherwise unavailable to them.
- About a half-million Texas students have special needs.
- The states of Arizona, Nevada, Tennessee, Mississippi, and Florida have passed ESA programs to better help special needs students.
- Texas parents should be able to decide what is best for their child—especially the parents of special needs students.

### Executive Summary

Approximately 13 percent of children attending public schools in the U.S. are children diagnosed with special needs such as autism, speech delays, or vision or hearing impairments. The Texas Education Agency (TEA) reports the state is home to nearly a half-million such students, yet the *Houston Chronicle's* investigative reporting indicates this figure may underestimate children with needs. The *Chronicle* accused the agency and state school districts of limiting the number of students who can receive services. The *Chronicle's* data found that the TEA required schools and districts to limit the percentage of students identified as having special needs at 8.5 percent, regardless of how many children are deaf, blind, or have other needs—35 percent less than the national average.

Inspiring success stories from states that allow parents to use education savings accounts for their children provide a strong contrast to Texas' one-size-fits-all approach.

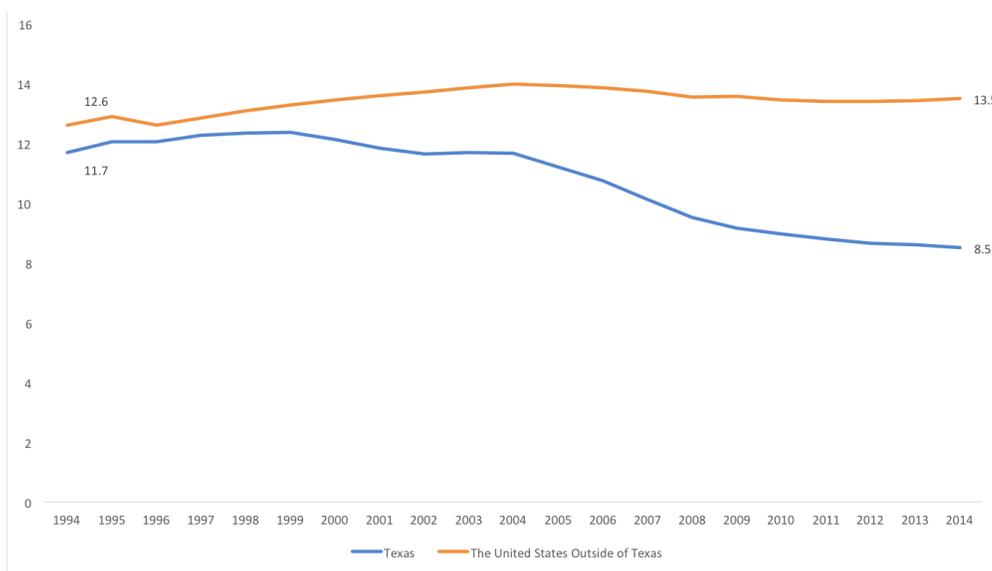
State lawmakers who have enacted education savings accounts have adopted similar designs for each law: With an account, the state deposits approximately 90 percent of a child's funding from the state formula into a private account that parents use to buy educational products and services for their children. As this brief will explain, the

accounts are available to students in Arizona, Tennessee, Mississippi, and Florida. In Tennessee, Mississippi, and Florida, the accounts are only available to children with special needs, giving families the chance to customize their children's education according to their diagnosis and the specifications in their Individualized Education Plans (IEP) (for more information on Nevada's education savings accounts, please see the appendix).

Arizona lawmakers were the first in the nation to make accounts available to families—and children with special needs were the first students given access. This brief will demonstrate how Texas can adopt provisions already in Arizona's education savings account law and better help Texas families that long-standing state policies have not provided for.

### Introduction

After her family moved to a different neighborhood in Arizona, Kathy Visser tried to get her son's assigned school to help her son, Jordan. Kathy and her husband, Cristo, tried to explain that Jordan's previous school adapted teaching practices to help Jordan with his mild cerebral palsy. Jordan struggled with motor coordination and vision, and Kathy hoped his new school could provide services similar to his previous classroom.

**Figure 1: Percentage of Students with Special Needs, Texas v. Other U.S. States**

Source: Brian M. Rosenthal, “*Denied: How Texas keeps tens of thousands of children out of special education*,” *Houston Chronicle*, September 2016.

But the new district refused. Kathy pleaded with school leaders and decided to file a lawsuit so Jordan’s needs would be met according to his Individualized Education Plan (IEP), the document outlining interventions to help Jordan day-to-day.

Approximately 13 percent of children attending public schools in the U.S. are children with special needs, like Jordan.<sup>1</sup> When special education placements do not meet student needs, the lawsuits that follow are often expensive and time-consuming.

Fortunately for Jordan, Kathy was able to sign him up for the nation’s most innovative learning opportunity so that she could help him immediately, without enduring the cost and delay of a lawsuit: Education Savings Accounts (ESAs). Arizona was the first state in the U.S. to enact the accounts, which give parents unprecedented flexibility in their child’s education. With an ESA, the state deposits 90 percent of a child’s funding from the state formula into a private account that parents use to buy educational products and services for their children.

In Arizona, the state issues pre-paid Visa cards to account holders, and parents can pay for online classes, education therapy services (e.g., occupational therapy), public school activities and classes, and even private school tuition. Families can use the flexible spending cards to

simultaneously buy different learning materials and services for their children.

Five states have enacted ESAs and nearly 8,000 children are using the accounts to find a quality education. ESAs give parents the ability to customize their child’s education according to the child’s needs, allowing families to choose how and where a child learns.

The Vissers have combined at-home tutoring and education therapy services to help Jordan succeed. Kathy swipes Jordan’s education savings account card at the credit card readers of different therapists’ offices, which simplifies payment.

Every Texas child should have the opportunity afforded by ESAs. Yet children with special needs require additional services that cost more than traditional public school services. The *Houston Chronicle* reported that the Texas Education Agency set the percentage of students that schools could classify statewide as having special needs at 8.5 percent, irrespective of how many students actually needed treatment, shown in **Figure 1**.<sup>2</sup> According to the report, TEA required districts to keep their percentage of students with special needs low in order to better control costs.

This brief will outline ways that parents in other states help their children succeed, especially children with nontraditional needs, with education savings accounts.

**Table 1:**  
**Arizona Empowerment Scholarship Account Participants**

| Student Eligibility                     | ESA Enrollment | Percent of Enrollment |
|---|----------------|-----------------------|
| Special Needs                           | 1,395          | 58%                   |
| Previously Assigned to a Failing School | 360            | 15%                   |
| Child of Active-Duty Military Family    | 273            | 11%                   |
| Adopted                                 | 182            | 8%                    |
| Native American Students                | 143            | 6%                    |
| Siblings                                | 53             | 2%                    |
| <b>TOTAL</b>                            | <b>2,406</b>   | <b>100%</b>           |

Source: Karla Escobar (Empowerment Scholarship Account Director, Ariz. Dept. of Education), e-mail to author, Sept. 9, 2015; Jonathan Butcher and Lindsey M. Burke, “*The Education Debit Card II*,” Ed Choice, Feb. 2016, 5.

Texas lawmakers can draw on the experience of families and policymakers in Arizona, Mississippi, Tennessee, and Florida to help children in the Lone Star State.

**Who Benefits?**

ESAs have the potential to help students, parents, and taxpayers:

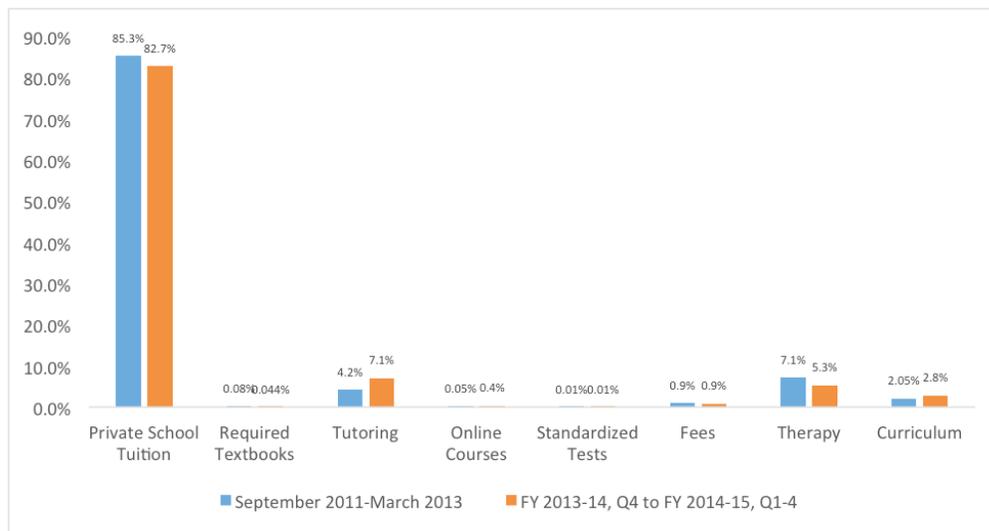
*Students*

Students from all walks of life benefit from ESAs. Arizona lawmakers have expanded access to the accounts since they enacted the nation’s first law in 2011, and figures from the Arizona Department of Education find that 15 percent of current participants were previously assigned to a failing school and 11 percent are children of active-duty military parents as shown in Table 1.

Yet children with special needs still account for the largest segment of participants at 58 percent of account holders. The cards’ flexibility allows parents to educate children at home if they choose, a helpful option for children who may be homebound or cannot function (physically or emotionally) in a traditional classroom, for example. The government frequently asks military families to transfer to different locations, and education savings accounts can allow these families’ students to continue to use the same educational services as before the move. For Native American students living on reservations, the accounts can help disadvantaged families access private options designed to serve children in these communities.

A large body of research indicates that children who can choose between public and private educational options have more positive outcomes than their peers. Studies find higher high school graduation rates, college attendance, and college persistence for students with these opportunities.<sup>3</sup>

**Figure 2: Arizona Empowerment Scholarship Account Spending Comparison**



Source: Ariz. Dept. of Education Restricted-Use Data; Lindsey Burke, “*The Education Debit Card: What Arizona Parents Purchase with Education Savings Accounts*,” Friedman Foundation for Educational Choice, 2013, 12; Jonathan Butcher and Lindsey M. Burke, “*The Education Debit Card II*,” Ed Choice, February 2016, 5.

### Parents

Likewise, parents have more ways to meet their child's unique needs with an ESA. Arizona's law, for example, allows parents to choose between public school classes and extracurricular activities and online classes, to name a few.<sup>4</sup> District and charter schools are recognizing the advantages of such self-paced practices and adopting these teaching styles. In California, the number of students attending school in a blended-learning format increased 74 percent between 2011-12 and 2013-14.<sup>5</sup> With education savings accounts, parents can merge activities from separate learning providers and create a hybrid system customized for the needs of each child.

### Taxpayer

According to the U.S. Department of Education, Texas taxpayers spend nearly \$10,000 per student in district schools.<sup>6</sup> As will be described below in "A Model for Texas," other states with education savings accounts fund students' accounts at approximately half of their state's per student amount. A similar design is provided below for Texas and could save taxpayers on average 40-50 percent per account compared to traditional school-per-student expenditures.

Furthermore, education funding is notoriously difficult to follow from a taxpayer's wallet to the classroom. Texas' school funding formula is complex and varies based on a number of indicators, including a child's district of residence and whether the child has special needs.

With an ESA, parents could see precisely how much money the state deposits in their child's account. In Arizona, parents must complete expense reports each fiscal quarter before the state funds the accounts. These data provide policymakers and taxpayers with a clear picture of what parents are purchasing to educate a child as indicated in **Figure 2** (page 5).

Taxpayers, parents, and lawmakers can follow how much money is spent from each account and what families purchase—bringing a refreshing level of transparency to an otherwise convoluted process.<sup>7</sup>

**Education Savings Accounts in Other States** (for more information on Nevada's education savings accounts, please see the appendix)

### Arizona

Initially, Arizona lawmakers enacted ESAs in order to help the more than 125,000 state children with special needs.<sup>8</sup> Families with children assigned an IEP or 504 plan were eligible to apply.

This eligibility criteria, along with two other provisions, have become commonplace in the account laws enacted in subsequent years. First, the accounts are distinct from private school vouchers or tax credit scholarships because children and families can purchase multiple educational products or services simultaneously with an account (generally parents can only use school vouchers to pay for private school tuition). Families can choose a personal tutor for their student, pay for an online class, save for college expenses, or buy textbooks—all at once—for example.

Second, children must be attending a public school at the time that they apply for an account. This requirement allows the state to award accounts without having to draw new money from the state general fund in order to fund the accounts. In this way, state money follows a child from an assigned district school to a savings account.

With few exceptions, lawmakers have deviated only slightly from these provisions (the state profiles included in this brief will highlight some of the significant differences).

State lawmakers fund Arizona children with special needs using a weighted formula. For example, a child with a hearing impairment has a multiplier of 4.771 according to a list already in state law. In FY 2015, Arizona's base student funding was \$4,169.<sup>9</sup> The child's state portion of funding—the funding that would be used to calculate their education savings account if they chose to use an account—would be determined beginning with an equation such as:

$$4.771 \times \$4,169 = \$19,890.$$

Additional calculations based on a child's district of residence are involved in determining the child's education savings account (each account is worth just 90 percent of what would have been used at a charter school, generating a cost savings for taxpayers with ESAs, for example).

Since lawmakers enacted the original law, Arizona legislators have expanded eligibility to include children assigned to failing public schools, children adopted from the state foster care system, Native American students attending public schools on Arizona Native American reservations, siblings of existing account holders, children of active duty military families, and incoming kindergarten students that meet any of these criteria, along with preschool children with special needs.<sup>10</sup>

Approximately 3,000 Arizona students are using ESAs in the 2016-17 school year.<sup>11</sup>

### Mississippi

Mississippi lawmakers enacted education savings accounts, called “Education Scholarship Accounts,” in 2015.<sup>12</sup> Legislators created a pilot program exclusively for children with special needs, capped at 500 participants in the first year. In each year thereafter, only 500 new students can be added to the total (the state department of education must hold a lottery if the number of new applications exceeds 175). To be eligible, children must have an IEP.

The law specifies that each account will be funded with \$6,500 and adjust according to changes in the base student funding formula. This provision is similar to the funding formulas for education savings accounts in all of the other states that have enacted the accounts except Arizona. As explained above, the funding for each account for Arizona children with special needs is based on a child’s diagnosis and Individualized Education Account (for more on education savings account funding in Arizona and proposals for Texas, see “A Model for Texas” below).

For the 2016-17 school year, 425 Mississippi students will use education savings accounts.<sup>13</sup> The state department of education held the first lottery to determine student participation on July 20, 2016.

### Florida

In 2014, Florida lawmakers enacted “Personal Learning Scholarship Accounts” (now called Gardiner Scholarships) for children with a specific list of special needs.<sup>14</sup> Florida’s Gardiner Scholarships have five provisions that make the accounts distinct from Arizona’s accounts:

- *Students with a select list of special needs are eligible.* Arizona’s accounts are available to all children with an IEP, along with children assigned to failing schools and the other categories listed above, while Florida’s scholarship accounts are available to children with autism, cerebral palsy, Down syndrome, Prader-Willi syndrome, Spina bifida, certain other categories of intellectual needs, and Williams syndrome.
- *Children do not have to attend a public school before applying for an account.* Florida’s scholarship accounts are available to children already attending a private school. In all of the other states where accounts are available to families, the students using the accounts must have attended a public school prior to using an account.
- *Accounts are funded at a set amount appropriated per student each year.* Arizona’s accounts are part of the school funding formula, which means that students using education savings accounts are funded within the public school funding mechanism each year. In Florida, Gardiner Scholarships must be appropriated each year. Furthermore, Arizona’s account awards are based on student characteristics. Students with certain special needs are awarded larger accounts. Florida’s accounts are approximately \$10,000 per child.
- *Private organizations administer Florida’s accounts.* Step Up for Students and AAA Scholarship Foundation award Florida’s scholarship accounts. These two organizations also award tax credit scholarships in the state, private school scholarships governed by a law separate from Gardiner Scholarships.<sup>15</sup>
- *Florida families do not use a card.* As explained above, Arizona families use a pre-paid Visa card to make purchases with a student’s education savings account. Florida families participate in the program by seeking pre-approval of most purchases through an online web portal. Once Step Up for Students/AAA confirm that the purchase is for an eligible educational item, families buy the materials or pay for the service with their own money. Step Up for Students/AAA reimburse families for their purchase using funds stored in their child’s account.

In some cases, educational service providers have registered with the state and Step Up for Students/AAA process payments directly with the provider. Parents never have to exchange money with these vendors (these transactions are less common than reimbursements).<sup>16</sup> Step Up for Students’ unique approach to education savings account implementation demonstrates how policymakers can design savings account laws to adapt to different policy environments state to state.

As of this writing, approximately 4,000 students are using Gardiner Scholarships.<sup>17</sup>

### Tennessee

In 2015, Tennessee lawmakers enacted SB 27 (HB 138), creating “Individualized Education Accounts” (IEAs).<sup>18</sup> Student eligibility in this law resembles Florida’s account law, as the provisions list children with specific special needs who are eligible for the accounts (deaf and blind

students; autistic children; students with other “intellectual disabilities”; children with orthopedic needs; and children who have had a “traumatic brain injury”).

Tennessee’s accounts give parents similar flexibility to purchase multiple items as other states’ account laws, including educational therapy and private school tuition. However, Tennessee does not have a weighted student funding formula for students, and law specifies that students will receive an amount equal to the “basic education program” (BEP) funds awarded per student in district schools—approximately \$6,300, according to the Tennessee Department of Education.<sup>19</sup>

The state department of education began accepting applications in August 2016 for the 2017-18 school year.

**A Model for Texas**

**Eligibility**

As the examples from other states demonstrate, children with special needs are uniquely suited to benefit from the various options available to them with an account. Children with special needs often need services outside the home or classroom, such as speech therapy or occupational therapy. Education savings accounts are designed to help families pay for multiple services at the same time, so that their student can attend a school designed to help children with specific diagnoses and receive services from a specialist after school, for example.

Holland Hines and her son, Elias, are an example of how customized learning can help a child with special needs.<sup>20</sup> Doctors diagnosed Elias as being on the autism spectrum and having hyperlexia (a precocious reading ability). Holland uses Elias’ education savings account to afford multiple learning experiences for Elias. She writes,

*Elias is now happily attending a private school that was created for children of all abilities, with a fantastic teaching staff who have years of training. He has an adapted schedule that allows him to attend school half time to work on academics, social interaction, and classroom etiquette. The other half of his school week is spent attending speech, occupational, physical, and music therapies that his doctor prescribes. And all of this is perfectly tailored to his needs.*

Texas is home to nearly a half-million students with special needs, including more than 54,000 children who are diagnosed with autism like Elias in Arizona.<sup>21</sup>

**Table 2:**  
**Texas Children with Special Needs, by Primary Disability**

| DIAGNOSIS                             | # OF STUDENTS  |
|---------------------------------------|----------------|
| OI (Orthopedic Impairment)            | 3,806          |
| OHI (Other Health Impairment)         | 62,714         |
| AI (Auditory Impairment)              | 7,046          |
| VI (Visual Impairment)                | 3,967          |
| DB (Deaf/Blind)                       | 229            |
| ID (Intellectual Disability)          | 46,329         |
| ED (Emotional Disturbance)            | 26,725         |
| LD (Learning Disability)              | 159,503        |
| SI (Speech Impairment)                | 91,917         |
| AU (Autism)                           | 54,098         |
| DD (Developmental Delay)              | 51             |
| TBI (Traumatic Brain Injury)          | 1,325          |
| NCEC (Noncategorical Early Childhood) | 5,475          |
| <b>TOTAL</b>                          | <b>463,185</b> |

Source: Texas Education Agency, *Special Education Reports, “Primary Disabilities: Codes and Descriptions,”* and Texas Education Agency, *“2015-16 Special Education Reports, All Texas Public School Districts Including Charter Schools: Students Receiving Special Education Services.”*

As noted above, 58 percent of Arizona education savings account participants were children with special needs. Even as Arizona’s law has expanded to include children from different walks of life, the accounts still serve as an important option for children with unique needs.

**Funding**

Texas’ school funding formula has been debated in courts of law and public opinion for some 40 years.<sup>22</sup> Court rulings in 1989 and 2005, in particular, pushed lawmakers to enact provisions that force wealthier districts to redistribute tax revenue to areas with a lower tax base. Finally, in 2016, the state Supreme Court upheld lawmakers’ most recent iteration of the funding formula, admitting the system’s flaws but finding that current law does not violate the state constitution. In the court’s opinion, Justice Don Willet wrote, “Our Byzantine school funding ‘system’ is undeniably imperfect, with immense room for improvement. But it satisfies minimum constitutional requirements.”<sup>23</sup>

The state’s school finance laws remain opaque and confusing, with multi-step equations involving “subsystems” and student weighting. Court rulings of more than 100 pages mean little to parents who just want to find the best learning environment for their child.

Education savings accounts as enacted in the five states with laws as of 2016 help to simplify infinitely complex state education funding formulas. Parents know exactly how much the state deposits in their child’s account. Since parents and their students are the only individuals with purchasing power using an account, families know precisely how much is spent on a child’s education.

Generally, in states around the country, education funding comes from three sources: the federal government, local taxes, and the state general fund. Federal money is notorious for being attached to a litany of rules and regulations, so every state that allows parents to use an education savings account does not include federal money in students’ awards. In this way, only state rules and regulations apply to private educational options.

What do these funding systems and rules mean for Texas families? On average, Texans spend about \$9,022 per child for maintenance and operations [M&O] expenses alone<sup>24</sup>. In the education savings account laws as enacted in Arizona, Tennessee, and Mississippi only a portion of the basic state aid is included in the accounts.

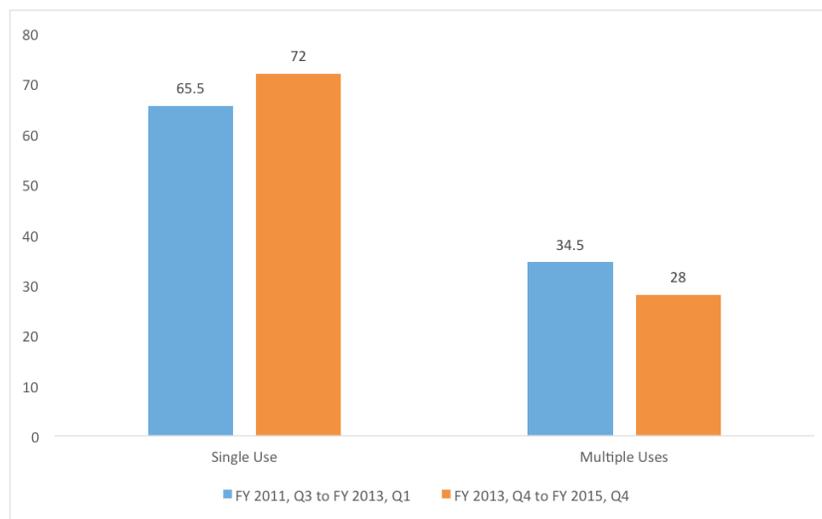
If Texas followed a similar education savings account model as in other states, each student would receive a basic account deposit of approximately \$5,140 in 2016-17 (this figure may vary—see the Endnotes for more details).<sup>25</sup>

For children with special needs, Texas has a weighted student funding calculation that provides additional resources for children that require exceptional services.<sup>26</sup> This calculation is based, in part, on a district’s tax rate and another rate set by law. For the purposes of education savings accounts, Texas lawmakers may want to consider simplifying the funding calculation for children with special needs. Arizona’s funding formula described above is one example.<sup>27</sup>

**Allowable Expenses**

Education savings accounts’ distinctive feature is that parents and students can choose from a list of allowable educational products and services to meet their child’s needs. For more than two decades, private school vouchers, other scholarship programs, charter schools, and open enrollment laws have allowed parents to choose another school for their child. Education savings accounts, though, provide the first way for parents to simultaneously choose more than one educational option.

**Table 3: Percentage of Empowerment Savings Account Holders Who Used an Account for Single vs. Multiple Uses**



Source: Jonathan Butcher and Lindsey M. Burke, “*The Education Debit Card II*,” *Ed Choice*, February 2016, 9.

Ed Choice research from Arizona indicates that parents are taking advantage of these options. Between the last fiscal quarter of 2013 and the final quarter of 2015, 28 percent—nearly one-third—of account holders used their account for multiple educational products and services shown in **Table 3**.

Texas lawmakers should consider allowing parents to choose between a variety of educational expenditures, including:

- Private school tuition and fees;
- Textbooks;
- Educational therapies;
- Fees for a paraprofessional or educational aide;
- Tuition for vocational and life skills programs;
- Educational and psychological evaluations, assistive technology rentals and braille services;
- Accredited tutoring services;
- Curricula;
- Online classes for K-12 or higher education;
- Standardized test fees/college entrance exam fees;
- College savings account deposits;
- College tuition;
- College textbooks;
- Fees for management of the accounts;
- Public school classes/extracurricular programs;
- Insurance or surety bond payments;
- Computer hardware or software;<sup>28</sup>
- School uniforms.<sup>29</sup>

The availability of options benefits students and parents by giving them a wide variety of educational choices, and it prevents the accounts from raising the same constitutional concerns as some courts have expressed with vouchers. In the court ruling that upheld Arizona's education savings accounts (*Niehaus v. Huppenthal*), Judge Jon W. Thompson cited the inclusion of different educational options as a reason that the accounts did not violate the state constitution as courts decided vouchers do.<sup>30</sup> Previously, judges had ruled that vouchers were not constitutional in Arizona.<sup>31</sup> But Judge Thompson wrote that education savings accounts were different (and lawful) because “[t]he parents are given numerous ways in which they can educate their children suited to the needs of each child with

no preference given to religious or nonreligious schools or programs.”<sup>32</sup> Though most courts have not expressed the same constitutional concerns for vouchers, this is an important distinction to be aware of.

Thus, there are practical reasons and potentially state constitutional reasons for state lawmakers to include multiple items as possible uses for ESAs in Texas.

### ***Preventing Fraud***

In the St. Joseph School District, 55 miles north of Kansas City, Missouri, a superintendent pled guilty to wire fraud for illegally increasing his salary in order to improve his pension payments.<sup>33</sup> His actions temporarily earned him \$660,000 more in retirement payments between 2005 and 2016—and a year in federal prison (he has to pay back the money). Across the U.S., school and school district officials' misuse of student funds are altogether too common.

Texas is not immune. Recently, a former Beaumont Independent School District official admitted to endorsing school booster club checks for personal use and gifts to family members (she also allowed staff to manipulate student test scores).<sup>34</sup>

Eradicating fraud from any system using public money is impossible. However, there are three ways education savings accounts have helped to limit the misuse of money meant for students' educations:

- *Quarterly deposits.* In Arizona, the state deposits funds into students' education savings accounts every fiscal quarter.<sup>35</sup> This way, those intent on misdeeds cannot misuse all of a child's education money at one time, forcing the state to try to recover all of the funds. When Arizona's agency uncovers misuse, the state can suspend or close an account until the discrepancy is resolved.<sup>36</sup>
- Parents must complete an expense report before Arizona makes the next quarter's deposit to a child's account. In 2016, the Arizona Auditor General said this process has helped the agency prevent fraud and identify when other fraudulent actions have occurred.<sup>37</sup>
- *Audit the accounts, enact fraud prevention measures.* Lawmakers should include provisions in the law that require random, quarterly, and annual audits of the accounts to track usage over time. A 1-800 number and online fraud reporting tools should

be standard for education savings accounts, as such services are in other policy sectors such as health care.

- *Use financial contractors.* Florida and Nevada lawmakers outsourced education savings account implementation to private firms.<sup>38</sup> For Nevada's education savings accounts, education service providers will register with the state before participating. Savings account holders will make purchases through an online portal or mobile application, and a financial contractor processes the payments.<sup>39</sup> In this format, there are taxpayer protections at the beginning of a transaction (account holders must complete an application with the state before participating) and the end of a purchase (the financial firm must confirm that a vendor has registered with the state).

Florida's and Nevada's contractors have more experience processing individual financial transactions than state agencies. By outsourcing these account responsibilities, state agencies will not have to perform fiduciary and audit-related actions for which an agency is not designed.

### **Conclusion**

Across five states, education savings accounts are helping children with unique needs and from different family backgrounds find a quality education. Parents of account holders can choose multiple learning experiences—or just choose one option—to help their child succeed. Texas families should have the same freedom to choose where and how their children learn so that every child has a chance to reach the American Dream.

The recent *Houston Chronicle* report on the problems with state policies for students with special needs indicates that the time is now to consider better opportunities for these families. Parents can best decide what is best for their child. Education savings accounts can give families access to quality learning experiences for their students today. Texas children, especially those with special needs, should all have this opportunity. ★

### ***Appendix: School Choice in Nevada***

In 2015, Nevada lawmakers also enacted education savings accounts. However, in September 2016, the Nevada Supreme Court ruled that lawmakers could not use the funding source specified in statute to award the accounts. Lawmakers will need to revise the statute with legislation in order for the program to commence. After the 2016 election, Gov. Brian Sandoval said he is “committed to putting the funding for ESAs” in his 2017-19 budget.<sup>40</sup>

#### ***Nevada’s Original Plan***

Nevada lawmakers made more children eligible for education savings accounts than any other savings account law in the country. Passed in 2015, Nevada’s accounts are available to every child assigned to a public school in the state—some 440,000 children.<sup>41</sup>

Nevada’s law awards approximately \$5,700 to each savings account student from a household with income less than 185 percent of the federal poverty line and \$5,100 to all other participating students.<sup>42</sup>

Nevada’s account implementation contains elements of both Arizona’s and Florida’s account law. While a state agency (in Nevada’s case, the state treasurer) retains oversight authority over the accounts, the state has contracted with a Health Savings Account (HSA) financial processing company to manage individual purchases and other transactions.<sup>43</sup>

Educational service providers—personal tutors, private schools, online schools, etc.—register with the state in order to participate. Students using the accounts will make a purchase using an online system, such as a mobile application. The HSA contractor will confirm the student is enrolled in the program and that the vendor has registered with the state before processing payment.<sup>44</sup>

As of July 29, 2016, more than 7,800 families had applied to the state treasurer for accounts.<sup>45</sup>

## Endnotes

- <sup>1</sup> ["Children and Youth with Disabilities,"](#) National Center for Education Statistics, The Condition of Education, last updated May 2016.
- <sup>2</sup> Brian M. Rosenthal, ["Denied: How Texas keeps tens of thousands of children out of special education,"](#) *Houston Chronicle*, September 2016.
- <sup>3</sup> See University of Arkansas Department of Education Reform School Choice Demonstration Project, ["Evaluation of the DC Opportunity Scholarship Program,"](#) and Matthew M. Chingos and Paul E. Peterson, ["Experimentally estimated impacts of school vouchers on college enrollment and degree attainment,"](#) *Journal of Public Economics*, 122(February 2015): 1-12.
- <sup>4</sup> Arizona Revised Statutes, Title 15, Chapter 19, [Article 1, 15-2402.](#) .
- <sup>5</sup> Apex Learning, ["Apex learning once again listed among top providers in California,"](#) PR Newswire, July 8, 2014.
- <sup>6</sup> U.S. Department of Education, National Center for Education Statistics, 2015 Digest of Education Statistics, [Table 236.75.](#)
- <sup>7</sup> Ed Choice has documented how Arizona families use their child's accounts. For the most recent report, see Jonathan Butcher and Lindsey Burke, ["The Education Debit Card II,"](#) Ed Choice, February 2016.
- <sup>8</sup> Arizona Legislature, 2011 First Regular Session, [SB 1553.](#)
- <sup>9</sup> Arizona Joint Legislative Budget Committee, ["K-12 Funding \(M&O, Capital and All Other\), FY 2008 through FY 2017 est: All Funding,"](#) July 20, 2016; Arizona Department of Education, ["The Equalization Formula for Funding School Districts and Charters in the State of Arizona,"](#) available at <https://www.azed.gov/finance/files/2011/12/equalization-formula-funding.pdf>.
- <sup>10</sup> Arizona Revised Statutes, Title 15, Chapter 19, [Article 1, 15-2401.](#)
- <sup>11</sup> E-mail correspondence with the Arizona Department of Education, August 8, 2016.
- <sup>12</sup> Mississippi Legislature, 2015 Regular Session, [SB 2695.](#)
- <sup>13</sup> Mississippi Department of Education, ["MDE Announces Lottery for Special Needs Scholarship Program Applications,"](#) News Release, July 11, 2016.
- <sup>14</sup> Florida Senate, 2014 Session, [SB 850.](#)
- <sup>15</sup> Under Florida's tax credit scholarship law, businesses make charitable donations to nonprofit organizations (Step Up for Students and AAA). The nonprofit organizations use the donations to award private school scholarships to low-income students. Donors receive a tax credit for their contribution. For more information, see Florida Legislature Online Sunshine, ["Florida Tax Credit Scholarship Program."](#)
- <sup>16</sup> For more information, see Step Up for Students, [Parent Handbook: Personal Learning Scholarship Account \(PLSA\) Program, 2015–16](#) (Jacksonville, FL: Step Up for Students, 2015).
- <sup>17</sup> E-mail correspondence with Step Up for Students, July 11, 2016.
- <sup>18</sup> Tennessee General Assembly, 2015 Session, [SB 27.](#)
- <sup>19</sup> Tennessee Department of Education, ["Individualized Education Account Program, Parent Handbook,"](#) July 2016, 6 and Tennessee Department of Education, ["Per Pupil Funding Amounts for the Individualized Education Account \(IEA\) Program Jan. 1 – July 31, 2017."](#) Note that the "Per Pupil Funding Amounts" document only accounts for two of the four fiscal quarters for which the state will fund the accounts.
- <sup>20</sup> See Holland Hines, ["One Mom's Story,"](#) Goldwater Institute Liberty in Action, Fall 2012.
- <sup>21</sup> ["2015-16 Special Education Reports, All Texas Public School Districts Including Charter Schools: Students Receiving Special Education Services,"](#) Texas Education Agency.
- <sup>22</sup> ["Tribpedia: Public School Funding in Texas,"](#) *Texas Tribune*.
- <sup>23</sup> Kiah Collier, ["Texas Supreme Court Upholds School Funding System,"](#) *Texas Tribune*, May 13, 2016.
- <sup>24</sup> ["Total Operating Expenditures 2015,"](#) Texas Education Agency, accessed September 27, 2016.
- <sup>25</sup> A review of Texas finance is beyond the scope of this paper, but for more information, see Texas Education Agency, Office of School Finance, ["School Finance 101: Funding of Texas Public Schools,"](#) Texas Education Agency, January 2013, 8.
- <sup>26</sup> ["School Finance Topics—One Page Descriptions: Student Weighting,"](#) Texas Education Agency.

- <sup>27</sup> See Jonathan Butcher, [“Dollars, Flexibility, and an Effective Education: Parent Voices on Arizona’s Education Savings Accounts”](#), Goldwater Institute, October 3, 2013, 15-16.
- <sup>28</sup> To prevent fraudulent use of the accounts, lawmakers should consider limiting the purchase of computer hardware or software to once every three years (for example) so that parents do not have the incentive to resell the items.
- <sup>29</sup> This list is modified from [Arizona Revised Statutes, Title 15, Chapter 19, Article 1, 15-2402](#).
- <sup>30</sup> Arizona Court of Appeals, [Niehaus v. Huppenthal](#), October 1, 2013.
- <sup>31</sup> Arizona Supreme Court, [Cain v. Horne](#), March 25, 2009.
- <sup>32</sup> Arizona Court of Appeals, [Niehaus v. Huppenthal](#). As of this writing, a similar case is underway in Nevada. For more information, see Marti Glaser and Joyce Lupiani, [“Future of education savings account now in hands of NV Supreme Court”](#), ABC13 Action News, July 29, 2016.
- <sup>33</sup> Sam Zeff, [“St. Joseph School District Asks Court to Hike Former Superintendent’s Fraud Fine”](#), KCUR 89.3, September 13, 2016.
- <sup>34</sup> Mike Kennedy, [“Former administrator in Beaumont, Texas, district convicted of theft, fraud”](#), American School & University, January 4, 2016.
- <sup>35</sup> Arizona Revised Statutes, Title 15, Chapter 19, Article 1, 15-2402.
- <sup>36</sup> [Arizona Revised Statutes, Title 15, Chapter 19, Article 1, 15-2403](#).
- <sup>37</sup> Arizona Auditor General, [“Performance Audit: Arizona Department of Education”](#), Report No. 16-107, State of Arizona Office of the Auditor General, June 2016.
- <sup>38</sup> Florida Senate, 2014 Session, SB 850 and Nevada Legislature, 2015 Session, SB 302.
- <sup>39</sup> For more information, see Jonathan Butcher, [“The Future of Money and Giving Every Child the Chance at a Successful Future”](#), Goldwater Institute, May 9, 2016.
- <sup>40</sup> Sean Whaley, [“Gov. Sandoval plans to put school choice item in Nevada’s proposed 2017-19 budget”](#), *Las Vegas Review-Journal*, November 14, 2016.
- <sup>41</sup> Nevada Legislature, [“2015 Nevada Education Data Book”](#), 2015, 14.
- <sup>42</sup> Nevada Treasurer, [“Education Savings Account Parent Handbook”](#), September 2016, 7.
- <sup>43</sup> Jonathan Butcher, [“The Future of Money and Giving Every Child the Chance at a Successful Future”](#), Goldwater Institute, May 9, 2016.
- <sup>44</sup> Ibid.
- <sup>45</sup> Nevada State Treasurer, [“Treasurer Dan Schwartz Issues Statement After Dual ESA Hearings at Nevada Supreme Court”](#), News Release, July 29, 2016.



## About the Author



**Jonathan Butcher** serves as education director for the Goldwater Institute. He has researched and testified on education policy and school choice programs around the U.S. His work has appeared in journals such as *Education Next* and the *Georgetown Journal of Law and Public Policy*, and he has appeared on local and national TV outlets, including C-SPAN and Fox News. He has also been a guest on many radio programs, and his commentary has appeared nationally in places such as RealClearPolicy.com, *National Journal*, and Townhall.com, along with newspapers around the country.

Butcher is a member of the Arizona Department of Education's Steering Committee for Empowerment Scholarship Accounts, the nation's first education savings account program. He is also a Senior Fellow with The Beacon Center of Tennessee, a nonpartisan research organization.

Prior to joining Goldwater, he was the director of accountability for the South Carolina Public Charter School District, South Carolina's only statewide charter school authorizer. Butcher previously studied education policy at the Department of Education Reform at the University of Arkansas and worked with the School Choice Demonstration Project, the research team that evaluated voucher programs in Washington, D.C. and Milwaukee, Wisc.

Butcher studied education and family policy at The Heritage Foundation, a research institute in Washington, D.C. He holds a B.A. in English from Furman University and an M.A. in economics from the University of Arkansas.

