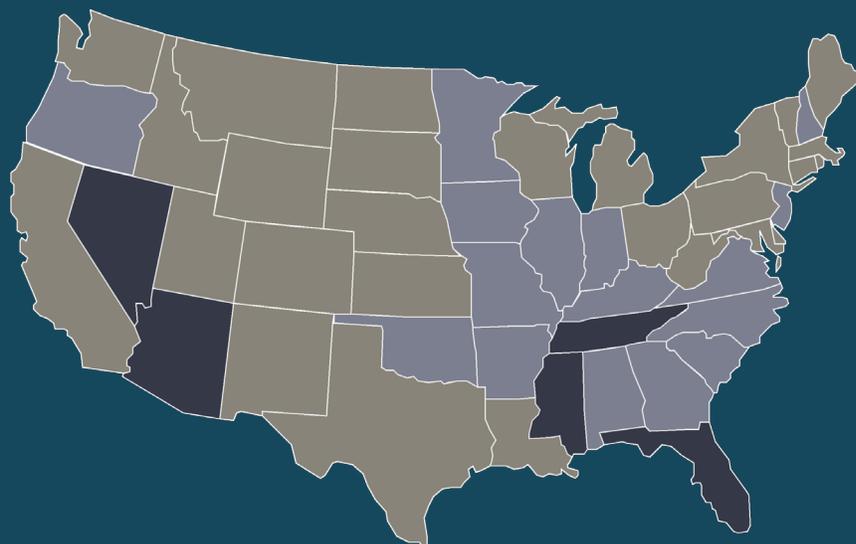


Wisconsin Institute for Law & Liberty



Education Savings Accounts - a Primer for 21st Century Education Policy
a report from the Wisconsin Institute for Law & Liberty

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July 2016



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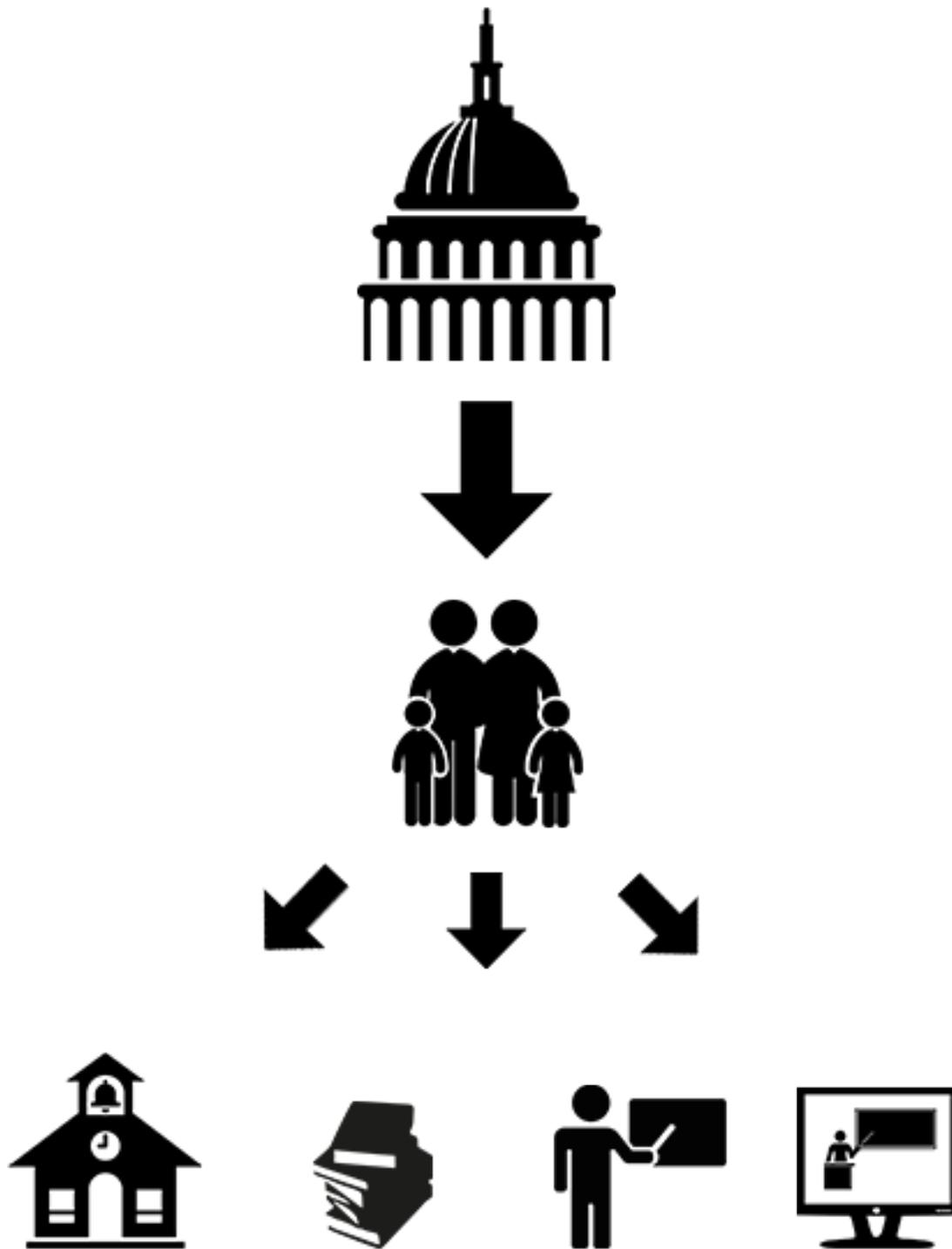
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How dollars move through an Education Savings Account system



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- Identify certain issues and choices that will confront policy makers contemplating a move to ESAs.

We examine how elements of ESA program differ from state to state, focusing our discussion on who is eligible, how much ESAs are worth, how the spending of ESA funds is monitored, on what services or providers ESA dollars may be spent, and which governing body administers the ESA program.

While ESAs are both a substantial departure from traditional public education financing schemes and a significant extension of school choice programs (like that currently existing in Wisconsin), there is an important sense in which ESAs are the present, not the future. The digital age has brought with it an expanded capacity to deliver information that permits choices and provides access to learning that was simply unavailable – even unthinkable – a generation ago. ESAs seek to leverage these possibilities.

Not all families will desire or utilize the flexibility that ESAs provide. Many will choose to use their ESA to enroll at a single school, perhaps at their local public or private school. Other families will be empowered to customize their children's education through ESA dollars at multiple education providers in a way that meets their unique needs and maximizes the use of public and private dollars. For them, this “unbundling” may be crucial. Given human diversity and complexity, one size does not fit all in education. This customization may be of particular importance for students with special needs and gifted students whose needs differ most substantially from the norm.

Executive Summary

Education Savings Accounts (ESAs) give families access to money that can be used only on education-related expenses. In so doing, they give parents greater autonomy to decide what kind of education their children receive. The source of that cash could be a government grant but also might consist - or even be supplemented by - a tax credit or tax sheltered deposit. Parents could use these funds to pay for a wide variety of items and services: e.g., private school tuition, textbook purchases, tutoring, etc. If account balances (or a portion of them) were allowed to “roll over,” they might be used for educational purposes in future years – even to help pay for post-secondary education, such as college or technical school.

ESAs move beyond school vouchers and open enrollment programs because they give parents the power to unbundle educational services and obtain them from a variety of providers. ESAs have received wide national attention: The New York Times has claimed that ESAs are a “redefinition of public education” and the Wall Street Journal quoted Leslie Hiner of the Friedman Foundation as saying that ESAs are a method of “empowering parents to make decisions” about their children’s education.

ESAs can be structured in a number of ways. They can either be the vehicle by which public education is delivered or a supplement to traditional public education. But, whatever their scope, ESAs fund students rather than schools. Arizona, Florida, Mississippi, Tennessee, and Nevada all have ESA programs in various forms with different eligibility restrictions. Research in Arizona, the state with the oldest ESA program, demonstrates high rates of parental satisfaction. For this reason, in addition to the advantages mentioned above, Alabama, Georgia, Indiana, Oklahoma, Georgia, Missouri and many other states have ESA laws on their legislative agendas.

The purpose of this report is threefold to:

- Describe the ESA concept and its rationale;
- Survey the current status of ESAs in the United States and consider some of the more common criticisms; and

I. What is an ESA?

Consider the following story. A mother with a gifted daughter is concerned that her child is not being challenged in school. They live in rural Wisconsin and the local public schools in their town do not offer the courses that she believes her daughter needs to thrive and flourish.

An ESA program – perhaps styled like Arizona’s program in which gifted and other children are eligible, or the universal program in Nevada where nearly all children can receive ESAs– could enable the mom to enroll her daughter in social studies and English classes at the local public school. But she could also use ESA funds to enroll her child in a virtual (online) Mandarin course, taught by a teacher in Green Bay. Then her daughter might see a private tutor who is helping her pass the Advance Placement (AP) English and History exams. She might end her day with an engineering course offered by a local technical college. All this would be paid for using funds in their ESA account with, perhaps, any unused funds being rolled over to the following year, accumulating annually and eventually usable toward college expenses.

But even families who do not desire such detailed educational customization stand to be served by ESAs. One family might use the ESA to enroll their child in public or private school in Green

Bay where a more suitable program is available.¹ Depending on the level of funding, our hypothetical mother might even be able to use the ESAs to keep her daughter enrolled in the local public schools on a full time basis by, as noted above, purchasing the enhanced services she needs from other providers.

Let's consider another example. Kelden, a 15 year old from Show Low, Arizona, is autistic. This neurodevelopmental disorder causes him to struggle with basic social awareness and communication skills. Sadly, this has made him a victim of bullying. One day, after a particularly cruel bullying incident, Kelden hid for self-protection and out of fear. The school called Kelden's mother, Dawn, and eventually the police. An Amber alert was sounded. "The moment I got that call, I knew I was pulling Kelden from public school," Dawn recalls.

Arizona's ESA program made this possible, giving Dawn the flexibility to remove Kelden from an educational setting that, for whatever reason, wasn't working and into a setting more suited to his specific needs. Dawn reflects, "Thanks to the freedom and flexibility that ESAs provide, my son now has the ability to attend a small private school with about ten other students in his class where he is able to get the individualized attention he requires."

While it may sound simplistic, the purpose of public education is to educate children, not support schools or create jobs for teachers. ESAs are a further refinement of Nobel laureate economist Milton Friedman's proposal that public funds be dispersed as "scholarships" to families to pay for their children's education. In Friedman's day, this largely meant an expansion of school choice through vouchers that would be used to pay tuition at a single school.

But Friedman recognized that "[v]ouchers are a means, not an end. The purpose of vouchers is to enable parents to have free choice, and the purpose of having free choice is to provide competition and allow the educational industry to get out of the 17th century and get into the 21st century."² Friedman understood that this might mean moving beyond school choice to educational choice for some families: "Why not let (parents) spend part of a voucher for math in one place and English or science somewhere else?"³

How do ESAs work? The full answer is that they differ slightly from state to state. They are a theme with many variations. Essentially, the government deposits funds into the parent's account and parents are able to use the funds on at whatever education institution or whichever services that their child requires. Parents can shop around for the best services and the best prices. Depending on how an ESA program is structured, whatever funds are unused can be rolled over to the following year.

To be sure, some families might simply use ESA dollars similar to

1 To date, no state permits a child to use an ESA to enroll in a public school. This is addressed in sections III and IV.

2 Milton Friedman, "Public Schools: Make Them Private," Washington Post, February 19, 1995, accessed June 27 2016, <http://www.cato.org/pubs/briefs/bp-023.html>

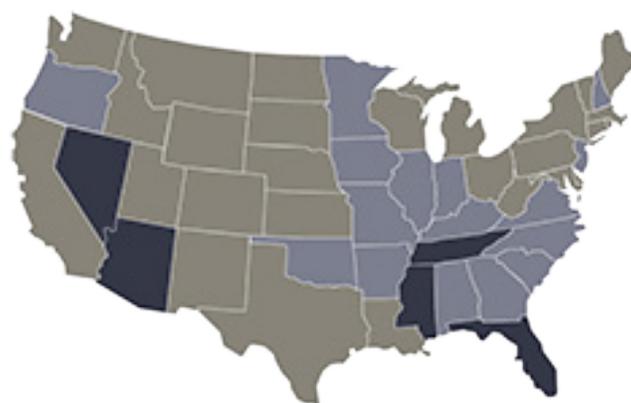
3 "Milton Friedman, the Father of School Choice . . . ESAs?" June 24, 2015, accessed June 27 2016, <http://www.edchoice.org/milton-friedman-the-father-of-school-choice-esas/>

the way a traditional voucher might function and enroll their child in private schools, or use the open enrollment program to attend a different public school. But a significant difference—and some argue improvement—from a voucher is that parents' use of money from their ESA account is not limited to full-time enrollment at any single institution, private or public. While most parents may choose to use some or all of their ESA dollars on a single institution, ESAs also allow families to tailor their children's education from an a la carte menu of options if that is what they prefer.

The purpose of exploring the implementation of ESAs in Wisconsin is not that there is one "best" model that should be imposed on everyone. The point is to allow multiple models and opportunities for educational choice so that everyone can find what works for them.

Called "School Choice 2.0" by some, ESAs are not the future of education reform; for some states, they are the present. As Figure 1 shows, ESA programs are being implemented and proposed all across the country. These programs have received national attention, with the New York Times claiming that they are a "redefinition of public education shifting the debate from the classroom to the pocketbook."⁴

FIGURE 1. ESAs in the U.S.



Dark states indicate existing ESA program
Lightened states indicate proposed program
Drab states indicate no proposals offered

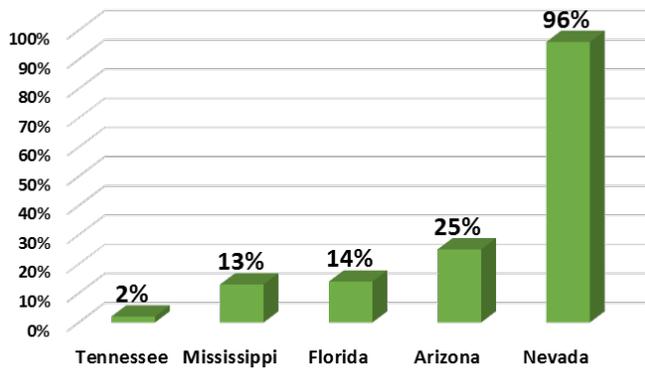
These programs differ from state to state in a number of ways, including student eligibility, regulation of the use of funds, the manner in which funds are disbursed and how – and to what extent – ESAs are funded.

For example, in Mississippi and Tennessee, ESAs are available only to children with disabilities, while in Nevada, all students are eligible for an ESA, provided that they have been enrolled in pub-

4 Erica E. Phillips, "Schooling on a 'Debit Card,'" Wall Street Journal, April 16, 2014, <http://www.wsj.com/articles/SB10001424052702304819004579490120210688350>; Fernanda Santos and Motoko Rich, "With Vouchers, States Shift Aid for Schools to Families," New York Times, March 27, 2013, <http://www.nytimes.com/2013/03/28/education/states-shifting-aid-for-schools-to-the-families.html>.

lic school for at least 100 days in the previous year. As Figure 2 below demonstrates, the number of students eligible to receive ESAs in each state varies greatly.

FIGURE 2. Percent of Students Eligible for ESAs



In addition to differences in eligibility requirements, ESAs can also be funded in several different ways. Some states have used an annual grant from the government. This grant might be dispersed upfront or on a periodic basis. It might be accessed with a debit card or providers might bill the government. Other states, like Florida, reimburse families for qualifying expenses. It has also been proposed that tax credits be used to fund ESA programs. This means that parents would be able to credit qualifying educational expenses against their tax bill. Those whose tax bill does not exceed these expenses might receive a rebate. Alternatively, instead of ESAs being publicly funded as is currently the case in the five states with ESA, corporations and individuals would receive a tax credit, potentially dollar-for-dollar, for contributions to non-profit ESA-granting organizations that would provide ESAs to qualifying students.

This report will explain how these programs are different, and also describe the successes and challenges they have encountered.

II. Why ESAs?

Some may argue that Wisconsin already has enough of choice—from charter schools, private schools, vouchers, and public education, among other forms of schooling. Why do we need more? ESAs provide an array of choices and opportunity for customization that goes beyond selection of a single provider—whether public or private. Are these additional choices a good thing? We think so.

A. Customization of a Child's Education

The main argument for educational choice is two-fold. Contrary to common notions, the principal value of choice is not rooted in a belief that private schools are inherently superior to public ones (although the mediocre performance of public schools has been an impetus for choice.) Instead, the central case for choice is that deciding what educational options are “best” is not a collective, but an individual decision. It is rooted in the recognition that there is not a single answer for all children. Choice advocates believe, moreover, that parents know better than the government what is

best for their children.⁵

There is evidence, which will be discussed in more detail later in this paper, that shows that parents seek information to make educational choices and use the information that they are provided to make decisions.⁶ Therefore, *ceteris paribus*, policies that empower parents to make decisions about their children's education – that create choices and provide the information for making them – are to be preferred to policies which limit that power.

If this is so, why stop at only allowing parents to choose between schools? Might not the benefits of school choice extend to factors such as curriculum, method of teaching, or venue? This “unbundling” of education services means a move away from the model of a single school delivering a single curriculum often in a single classroom with teachers employed by the school and working in the building. It allows parents and students to effectively tailor their education to their specific requirements and interests.

Unbundling would not only facilitate the demand for diversified services, it might stimulate the supply of those services. It would lead to greater competition amongst service providers to meet this newly released demand. That competition will result in further innovation and efficiency—as has been the case in other sectors, such as of Uber for transportation and Airbnb for the hotel industry. Writing in *National Affairs*, Jason Bedrick and Lindsey Burke explain that, “Someday, instead of centrally managed schools, students may attend ‘education malls’ in which multiple providers specializing in different subjects compete to educate students. Students could select different providers for different subjects based on their learning needs and preferences.”⁷

The unbundling of educational services has been facilitated by technology, as demonstrated in higher education. Non-traditional universities, such as University of Phoenix, offer a combination of campus and online degree programs.⁸ Traditional “brick and mortar” institutions like Arizona State have significantly augmented their online offerings; over the last decade, the number of students taking at least one distance learning course at private non-profit higher education institutions grew by 11.3%.⁹ Even such venerable institutions as Harvard or Yale now have a significant online presence that allows people to take full courses

5 Jon Valant, “Better Data, Better Decisions: Informing School Choosers to Improve Education Markets,” American Enterprise Institute, June 2014, accessed June 17 2015, <https://www.aei.org/wp-content/uploads/2014/11/Better-Data-Better-Decisions-4.pdf>

6 Ibid.

7 Jason Bedrick and Lindsey M Burke, “The Next Step in School Choice,” *National Affairs* 2105, accessed Feb 12 2016, <http://www.nationalaffairs.com/publications/detail/the-next-step-in-school-choice>

8 “Why Phoenix,” accessed June 19 2016, <http://www.phoenix.edu/>

9 Babson Study: Distance Education Enrollment Growth Continues, February 09, 2016, accessed June 18 2016, http://onlinelearningconsortium.org/news_item/babson-study-distance-education-enrollment-growth-continues-2/

for free and opt into exams to receive credit for the course.¹⁰ It makes sense for these institutions to do so; research suggests that younger students—or the college graduates of tomorrow—are increasingly drawn to online learning.¹¹

In fact, some universities have recorded the content of college classes and made them openly available online. The ability to deliver course content digitally to a virtually unlimited audience has undercut the traditional notion that a student must be in a classroom in front of a professor in order to learn. Open courses can bring the world's greatest minds from the most renowned schools, from Oxford to MIT, right into people's homes. While there may be elements of these traditional classroom environments that are lost—in-person interaction among students and instructors is valuable and will not disappear—not all content must be delivered in that way. Students now have the choice between enrolling in traditional brick and mortar schools and learning all or some of the content they desire online at a fraction of the cost. They have the ability to learn when they—and not the instructor and classmates—are available. Technology makes it less important to create a physical location where students sit in a classroom and receive instruction from—and only from—employees of the institution who run it. This way of learning is not about to disappear—nor should it—but it is no longer the exclusive model.

Education no longer needs to be mediated by a single gatekeeper. Allowing parents to unbundle their children's education creates demand for innovation, especially the specialized services that education entrepreneurs will supply. While public institutions could, in theory, demand such innovation, it is often not in their interest to do so. Nor is it clear that these institutions are in a better position to know what to demand for individual children than parents.

The potential conflict between the interests of those providing a service and those receiving it do not go away because the government is providing the service. "Public" is not equivalent to "wise" or "selfless." As we have seen in the example of school districts burdened by excessive administration, feather bedding and crippling legacy costs,¹² (and as public choice theory predicts)¹³, those who work in a system—administrators, teachers,

etc.—will, no matter individuals' good intentions, tend seek to maximize their own gains. It is not at all clear that attempting to control this inherent conflict through politics—by giving a vote to many people with little at stake in an electoral process that is dominated by insiders who are self-interested—works better than empowering families for whom, after all, the system exists. Even if one assumes the selflessness of educational officials, their desire to maximize the dollars spent on education is not the same as that of a parent who wishes to ensure their child receives the best education possible.

A marketplace for unbundled services has already emerged since the implementation of ESAs in Arizona. Lindsey Burke has discovered that families are using a variety of different services: all-girl or all-boy schools, Catholic schools, Jewish schools, or Montessori schools. Significantly, while the overwhelming majority of families used ESA funds to enroll in a single school, 34% of parents used ESA funds to "unbundle" some of their child's education, purchasing educational products such as online programming, textbooks, therapies, or tutoring services. Furthermore, the fact that 26% of ESA funds in Arizona went unspent indicates that families are rolling-over their ESA dollars for future education expenditures.

B. Cost-Savings

In their seminal book, *Free to Choose*, Milton and Rose Friedman described four ways that people spend money.¹⁴ People spend their own money or someone else's money; and they spend money on themselves or on others.¹⁵

		Beneficiary	
		...On Yourself	...On Someone Else
Benefactor	You Spend Your Own Money...	Economize and seek highest value. \$ 😊	Economize but don't/can't seek highest value. \$ 😊
	You Spend Someone Else's Money...	Don't economize but seek highest value. \$\$ 😊	Don't economize and don't/can't seek highest value. \$\$ 😊

Source: Milton and Rose Friedman, *Free to Choose*, image sourced from Aaron Hoffman's blog, *Political Infographic*: <http://www.politicalinfographic.com/2013/07/17/free-to-choose-the-four-ways-money-can-be-spent/>

public (i.e., a teacher's union), ultimately acts in so as to protect and advantage the industry it is intended to regulate instead of the public. In this context, the needs of teacher's unions are prioritized over the needs and interest of the public. For more information, see "Preventing Regulatory Capture: Special Interest Influence and How to Limit it" edited by Daniel Carpenter and David A. Moss, 2013.

14 Milton and Rose Friedman. "Free to Choose: A Personal Statement", New York: Mariner Books, 1980.

15 Ibid.

10 Marguerite Ward, "How to get a free Ivy education...and boost your career", CNBC, Wednesday, 6 Apr 2016, accessed June 25 2016, <http://www.cnbc.com/2016/04/05/how-to-get-a-free-ivy-education-and-boost-your-career.html>

11 "Younger Students Increasingly Drawn to Online Learning, Study Finds: Prospective online students are drawn to local schools and are skewing younger," US News, July 17 2015, accessed June 27 2016, <http://www.usnews.com/education/online-education/articles/2015/07/17/younger-students-increasingly-drawn-to-online-learning-study-finds>

12 For more information, see Terry M. Moe's "Special Interest: Unions and America's Public Schools", Brookings Institution Press, 2011.

13 Regulatory capture is a form of government failure wherein a regulatory agency, one that was created to act in the interest of the

politicalinfographic.blogspot.ca/2012/12/the-four-ways-money-can-be-spent-by.html

This is a useful framework within which to think about ESAs. People are more likely to economize when spending their own money as opposed to someone else's. Furthermore, people are more likely to maximize value, or ensure they get the biggest bang for the buck, when they spend money on themselves (or their own children). If parents can save whatever they do not spend for educational expenses in future years, they have an additional incentive to "shop around" and find the best deal for educational services.

C. Better Education for Students with Special Needs, Gifted Students, and the Impact on Home Schooled students

Children with special needs are often those who suffer the most from the one-size-fits-all educational models in many schools. They are, therefore, among those who stand to benefit the most from ESAs. ESAs afford complete customization to students with special needs.

ESAs give parents the ability to enroll their children in private schools and to use educational options that could have a positive impact on students' educational development. In addition, ESAs allow parents of students with special needs to hire tutors, physical therapists, or paraprofessionals to work independently with their child based on their unique needs.

ESAs would also allow parents of gifted students – who also may not be served well by standardized offerings – to ensure their children are challenged and grow to their full potential.

ESAs could also benefit families that choose to educate their students at home. ESAs are distinct from other types of school choice programs because students with ESAs do not have to enroll full-time in a private school. Rather, parents can use the funds deposited in their student's ESA to educate their child utilizing any one of, or any combination of, the educational goods or services authorized by the program. As a result, a parent could purchase curricula with ESAs funds and educate their student entirely at home. Alternatively, an ESA student could study history at home, pay for a chemistry course from a nearby private school, take Spanish from an online private school, and pay for a math class from her local public high school.

III. Existing ESA Programs

A. Arizona

The Grand Canyon State's ESA program, called the Empowerment Scholarship Accounts, was the first to be implemented and has the most number of participants.

Eligibility: When the Empowerment Scholarship Accounts were created in 2011, they were only available to students with special needs. In 2012, eligibility expanded to active duty military families, foster children, and parents with children in public schools rated D or F. In 2013, eligibility was extended further to include

incoming kindergarten students who met the aforementioned criteria. ESAs are also currently available to all students living on Native American reservations.¹⁶ There is a limit on the number of new students who may enroll in the ESA program each year: 0.5% of the total number of previous year public school students, or about 5500 additional new students each year. This cap will be eliminated in 2019. Students who renew their ESAs do not count against the annual cap.

Funding: Eligible families can choose to remove their children from public schools and access funds the state would have spent on their children if they had stayed in the public school system.

As of the 2015-2016 academic school year, the Empowerment Scholarship Accounts are valued at 90% of charter school per pupil base funding and were worth on average \$4,645 for students in kindergarten through 8th grade, and \$4,904 for students in grades 9 through 12. These amounts are for students without special needs.¹⁷

Students with disabilities are given funding, called "weighting," in addition to the base amount. This additional funding is determined according to the estimated costs of optimally meeting the needs of the student's unique disability. For example, in Arizona a student with a hearing impairment can expect to receive an estimated \$15,785; visually impaired student will receive \$15,901; a student with autism will receive approximately \$19,299; and a student with multiple disabilities and sensory impairments will receive upwards of \$26,293. In 2013, parents were given accounts and prepaid cash cards to improve ease of use and access to ESA funds. The cards also attempted to foster spending accountability, as the cards work only at approved vendors and on merchants that have approved codes. For added security, regular audits ensure funds are spent on appropriate expenses.

Disbursement: The Arizona Department of Education deposits the ESA funds directly into a privately managed bank account, and parents can access the funds through a pre-paid cash card, which has some merchant restrictions. Families can spend the money on any qualifying education-related service or provider they wish, including private school tuition, therapy, textbooks, private online learning, AP exams, tutoring, curriculum, college tuition, college textbooks, or individual public school classes.¹⁸ Regular audits of expenditures are conducted.

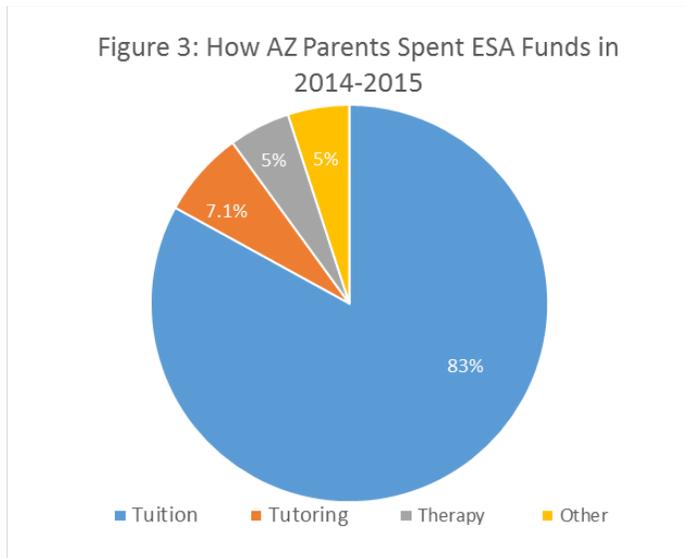
Discussion: A recent study of Arizona parents' use of ESAs suggests that participants are utilizing the freedom provided by ES-

¹⁶ "Empowerment Scholarship Account: Minimum Qualifications." Accessed January 5 2016, <http://www.azed.gov/esa/minimum-qualifications/>

¹⁷ Arizona Empowerment Scholarship Account, Friedman Foundation for Educational Choice, accessed July 1 2016: <http://www.edchoice.org/school-choice/programs/arizona-empowerment-scholarship-accounts/>

¹⁸ Lindsey M Burke, "The Education Debit Card: What Arizona Parents Purchase with Education Savings Accounts," Friedman Foundation for Educational Choice, August 2013, accessed June 10 2016: <http://www.edchoice.org/wp-content/uploads/2013/08/2013-8-Education-Debit-Card-WEB-NEW.pdf>

As.¹⁹ The results can be found below in Figure 3:²⁰



A study by Jonathan Butcher and Lindsey Burke showed that, in 2015, 83% of all ESA funds were used for tuition costs. Far fewer parents used ESA funds for tutoring (7.1% of spending), therapy (5%), or curricula (2.8%). These results may be compared to an earlier study by the same researcher published in 2013 which found that, of the 316 families participating, 109 (34%) chose to spend ESA dollars on multiple education options.²¹ This included supplementing private school education with additional curricula, tutoring, and therapies that the private school did not provide.

Arizona's ESA program was challenged as unconstitutional by the head of the State School Boards Association, who claimed it violated Arizona's Religion Clauses by permitting parents to use the funds to pay tuition at private and religious schools.²² In the case, *Niehaus v. Huppenthal*, the Arizona Court of Appeals rejected the argument that ESAs were unconstitutional and concluded that the crucial fact was that the program did not mandate where the funds were to be spent, but instead relied upon parental choice.²³ According to the court, "[t]he ESA is a system of private choice that does not have the effect of advancing religion. Where ESA funds are spent depends solely upon how parents choose to educate their children."²⁴ The Arizona Supreme Court refused to

19 Jonathan Butcher and Lindsey Burke, "The Education Debit Card II," Friedman Foundation for Educational Choice, 2015, accessed Feb 26 2016: http://www.edchoice.org/research/the-education-debit-card-ii/?utm_source=research-release-email-state&utm_medium=email&utm_campaign=ed-debit-card-ii

20 Jonathan Butcher and Lindsey Burke, "The Education Debit Card II," Friedman Foundation for Educational Choice, 2015, accessed Feb 26 2016: http://www.edchoice.org/research/the-education-debit-card-ii/?utm_source=research-release-email-state&utm_medium=email&utm_campaign=ed-debit-card-i

21 Lindsey M Burke, "The Education Debit Card: What Arizona Parents Purchase with Education Savings Accounts," Friedman Foundation for Educational Choice, August 2013.

22 *Niehaus v. Huppenthal*, 310 P.3d 983, 233 Ariz. 195 (Ariz. App. 1st Div. 2013) (review denied 2014)

23 *Niehaus v. Huppenthal*, 310 P.3d at 986.

24 *Niehaus v. Huppenthal*, 310 P.3d at 987.

take the case for further review.

As is always the case with the expenditure of public funds, fraud prevention is important. Using cash card to access ESA funds (in much the same manner as federal SNAP benefits) has presented some challenges.²⁵ These challenges include recent allegations of fraudulent use of ESA funds in spite of the restrictions on the ESA cash cards. To help mitigate the opportunities for fraud, Arizona lawmakers passed HB2458 in 2013, which gave the Arizona Department of Education the authority to prevent the abuse and fraudulent use of ESA account funds. This bill endows the Department of Education with the ability to conduct audits of ESA accounts and has generated a fraud-reporting system to track use of ESA dollars.²⁶

At A Glance: Arizona ESAs

- 2,503 students in the 2015–16 academic year
- Average account valued at \$11,400
- Eligibility includes children who live in a failing school district or have a disability.
- Vast majority of spending is on tuition
- Funds accessed using debit card and program administered by Department of Education

B. Florida

In 2014, Florida implemented ESAs by making Gardiner Scholarships, previously known as Personal Learning Scholarship Accounts (PLSA), available to students with disabilities.

25 In recent months, there have been charges of fraudulent uses of ESA funds brought against a woman who used ESA dollars to purchase a television for herself, and paid for an appointment at a woman's health clinic. This fraudulent use of ESA funds was paid for with a prepaid ESA cash card and caught through an audit. The women's health clinic provided services that were eligible under ESA merchant codes.

26 The bill also provides the Department of Education with the ability to employ surety bonds with account holders. Parents buy a surety bond using account funds, not normally more than \$25, and the department uses the funds from the purchase of these bonds to finance investigations into fraudulent activity or to recoup lost account funds if parents make ineligible purchases. See for more information: *A New Day for School Choice: Education Savings Accounts Turn 3 Years Old*. January 6 2016: <http://goldwaterinstitute.org/en/work/topics/education/education-savings-accounts/new-day-school-choice-education-savings-accounts-t/>

Eligibility: Students are eligible for a Gardiner Scholarship if they are residents of Florida and are eligible to enroll in kindergarten through 12th grade. They must also have an Individualized Education Plan, or has a disability as defined below:

Autism spectrum disorder, cerebral palsy, Down syndrome, an intellectual disability, Phelan-McDermid syndrome, Prader-Willi syndrome, Spina bifida, muscular dystrophy, Williams syndrome or three, four or five year-olds who are deemed high-risk due to developmental delays, or the subject of an IEP that was written in accordance with the State Board of Education, or has received a diagnosis from a physician or psychologist licensed in Florida. Eligibility has recently been extended to include three and four year olds with disabilities.²⁷

Florida is the largest ESA program in the United States with 3,814 students participating in 2015–16.²⁸ State wide, 12% of students meet the eligibility requirements, and 174 schools participate.

Funding: The average account value per student in the PLSA program in 2015 was \$10,111, with a maximum of 90% of the state and local funds dedicated to each student.

Disbursement: Eligible families must apply to the program through one of two state-approved not-for-profits: Step Up for Students and the AAA Scholarship Foundation. Parents may choose which fund administrator they wish to use between the two providers, each of which may appeal to parents in different ways. AAA Scholarship Foundation, for example, is much smaller than Step Up for Students and some parents may prefer to use AAA expecting to get more individualized attention. Step up for Students, however, has an online application and account system, which may be attractive to some parents. The fund administrator has a list of items and services that have been pre-approved as authorized uses. Should the parents wish to use the funds for something not listed, they must seek pre-approval for those education related expenses. Parents may make purchases out of pocket and send the receipts for the pre-approved expense to the fund administrator for reimbursement. Additionally, an approved provider can submit an invoice directly to the fund administrator for payment. Parents must approve the provider’s invoice before funds are distributed from the parents account. Alternatively, payments may be made directly to the approved provider once the parent has approved the invoice.

Florida’s Gardiner Scholarship may be used to pay for tuition and fees at any eligible private school or eligible postsecondary institution or program, applied behavior analysis services, speech-language pathologists, occupational therapy, physical therapy, services from listening and spoken language specialists, private tutoring from a certified teacher, virtual programs or online courses, exam fees, contracted services from school districts, contributions to the state prepaid college program, instructional

27 Florida Department of Education, “McKay Scholarship Program FAQs: Definition & Eligibility,” accessed June 20 2016, <http://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/mckay/mckay-faqs.stml>

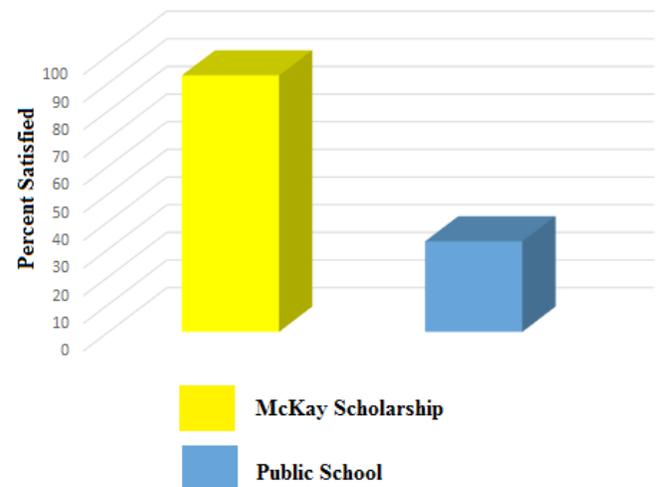
28 Teach Choice: 2015-16 School Choice Yearbook Released, The American Federation for Children, accessed July 10 2016, www.federationforchildren.org/teach-choice-2015-16-choice-yearbook-released/

materials such as digital devices and assistive technology and training for the use of such, and curriculum materials.²⁹ Funds remaining at the end of the year may be carried forward in the account and used for approved educational expenses in subsequent years for up to 3 years after the student is no longer eligible for the program.

Discussion: In addition to the ESA program, Florida has a voucher program, the McKay Scholarship Program, for children with disabilities.³⁰ There are some differences between the programs. The McKay program is available to more students while the Gardiner ESA is only available to students with specific disabilities. The funds from the ESA can be used for more purposes, like speech therapy or innovative virtual training technology. Because both provide similar opportunities for customization and parental choice, research on the McKay Scholarships is relevant to our discussion of ESAs.

A study by the Manhattan Institute, “Vouchers for Special Education Students: An Examination of Florida’s McKay Scholarship Program,” observed the effect of vouchers for disabled students who were enrolled in the McKay Scholarship Program for Students with Disabilities.³¹ Satisfaction levels of students on McKay scholarships at private schools exceeded 92.7%; this can be contrasted to the 32.7% of those satisfied at the public schools they attended previously. Class sizes decreased from 25.1 on average to 12.8 when students went to McKay schools. Less than 30.2% of disabled students in public schools reportedly had all of their needs met, whereas 86% of all McKay schools provided all services they promised to students.

FIGURE 4. Parental Satisfaction with McKay Scholarship vs. Public Schools



Furthermore, it is far less likely that students enrolled in a participating private school on a McKay Scholarship will be harassed

29 The Gardiner Scholarship. Step Up for Students. Accessed July 1 2016: <https://www.stepupforstudents.org/wp-content/uploads/2016/05/2016-May-Gardiner-factsheet.pdf>

30 Ibid.

31 Jay P. Greene and Greg Forster, “Vouchers for Special Education Students: An Examination of Florida’s McKay Scholarship Program,” Manhattan Institute Civic Report No 38 (June 2003), http://www.manhattan-institute.org/pdf/cr_38.pdf

or assaulted for their disability: 46.8% were frequently harassed and 24.7% were assaulted in public schools. This dropped to 5.3% who were harassed and 6.0% who were assaulted after they transferred to a McKay school.³²

At A Glance: Florida ESAs

- Gardiner Scholarships were first made available in 2014
- The scholarship is only available to students with disabilities
- In 2015, ESAs in Florida were worth on average \$10,000
- ESAs are administered by government-approved non-profits *Step up for Students* and the *AAA Scholarship Foundation of Education*
- Parents make purchases out of pocket and then are reimbursed by the two non-profits above

C. Nevada

Nevada's Education Savings Program was passed and signed by Governor Brian Sandoval in June 2015. It is the only program with near-universal eligibility.

Eligibility: Nearly 93% of all students in Nevada are eligible to receive ESAs. The only requirement is that a student must be enrolled in public school for 100 days prior to obtaining ESA funds.³³ A parent may renew their child's ESA annually without meeting this 100-day requirement again.

Children who are home schooled are not eligible for the ESA Program.³⁴ However, students classified as "opt in" students by the ESA law may be educated at home using ESA funds in a manner very similar to a homeschooled student (see below for more). Homeschoolers are legally distinct because they required being separate.

Funding: Accounts are approximately \$5,100, or on average about 90% of per pupil public school spending. There is no limit to how many students may have ESAs, and there are no enrollment caps on institutions. If the participating student is disabled or is a member of a household with income of less than 185% of the federal poverty level, the student will receive 100%

32 Ibid.

33 Friedman Foundation, "Nevada—Education Savings Accounts," accessed June 2 2016, <http://www.edchoice.org/school-choice/programs/nevada-education-savings-accounts/>

34 Nevada SB 302, Section 7(10)

of the funds spent by the state per student that year (\$5,700 in 2015-2016).³⁵

Disbursement: Nevada will not use a debit card. Instead the account balances will be accessed online, and a mixed system of direct payments to select vendors (mostly private schools) and reimbursements for approved uses will be used similar to the Florida ESA. The funds can then be used for education related expenses at approved participating entities.

Permitted expenses for the ESA are tuition, tutoring, fees for standardized tests (for example, Advanced Placement exams), therapies and services for students with disabilities, transportation up to \$750 each year, and supplemental curriculum needs.³⁶

Any money that remains in the ESA at the end of the school year rolls over to the next school year if the ESA is renewed by the parent. If the ESA is not renewed, then the funds revert back to the State General Fund at the end of the last day of the school year. Both students in public schools and those participating in the ESA Program must take certain standardized examinations in mathematics and English language arts each year while receiving a grant.³⁷

In order to prevent fraud, Nevada's ESAs are subject to an annual random audit by a certified or licensed public accountant. If the State Treasurer has determined that there is substantial misuse of the funds, the State Treasurer may freeze the account or give notice to the Attorney General.³⁸ If the entity is accepting payments from the ESA, the State Treasurer's Office (STO) may also refuse to allow a school or service to continue to participate in the ESA program if it routinely fails to comply with the law or has failed to provide any educational services required by law to a child receiving instruction from the entity. In this circumstance, the STO must provide immediate notice to each parent of a child receiving education from the entity.³⁹

Discussion: Nevada's ESA bill has been challenged in state court on constitutional grounds in two lawsuits. In a lawsuit filed by a group of parents backed by a group called Educate Nevada Now, the Nevada Supreme Court is reviewing a trial court ruling that temporarily halted the program for allegedly using funds which the plaintiffs asserted could only be used to fund public schools.⁴⁰ The challenge was brought under Article 11, Section 6 of the Nevada Constitution and the issue is whether the Nevada legislature's decision to fund the ESA program at the same time as it funded public schools and in a single appropriation of \$2 billion violated the section of the Nevada Constitution which requires the legislature to appropriate money for public education as its first appropriation when passing a new budget. The plaintiffs' argument is that combining an appropriation for other educational

35 http://www.nevadatreasurer.gov/uploadedFiles/nevadatreasurergov/content/SchoolChoice/NVESA_FAQ.pdf

36 Nevada SB 302, Section 9(1)

37 Nevada SB 302, Section 12

38 Nevada SB 302, Section 10(3)

39 Nevada SB 302, Section 11(5) and (6).

40 *Schwartz v. Lopez*, First Judicial District Court, Carson City, Order dated January 16, 2016 on appeal to the Nevada Supreme Court as Case No. 69611

purposes with the appropriation for public schools was a violation of the Nevada Constitution. This case has been fully briefed and is awaiting oral argument in the Nevada Supreme Court, but there is currently a motion to consolidate this case with the Duncan case (described below) which may delay the oral argument and decision date.

In the second case, the American Civil Liberties Union (ACLU) of Nevada filed a lawsuit challenging the constitutionality of Nevada's ESA program claiming (1) that it furthers religious and sectarian purposes by allowing parents to use public resources to pay for religious educational options for their children; and (2) that the ESA program creates a separate, non-uniform system of public education.⁴¹ The trial court dismissed the ACLU's complaint and found that the ESA program is within the legislature's power and did not constitute the use of funds for sectarian purposes.⁴² The two cases will likely be consolidated and heard together in the Nevada Supreme Court this summer.

Nevada's ESA program has been criticized for requiring students to be enrolled in public schools for 100 days before they are eligible for an ESA.⁴³ Although there are some exceptions,⁴⁴ this requirement is thought by many to be overly cumbersome and prohibitive.⁴⁵

The 100-day requirement is also a burden on children who are homeschooled. A registered homeschooler is not eligible for this program, but a parent can choose to receive an ESA and utilize these services without having to enroll the child in a full-time private school program.⁴⁶ Section 7(10) prohibits a family from

41 Duncan v. State of Nevada, District Court, Clark County, Case No. A-15-723703-C., Order dated May 18, 2016.

42 Duncan v. State of Nevada, District Court, Clark County, Case No. A-15-723703-C, Order dated May 18, 2016.

43 The 100-day requirement was inspired by a past Arizona voucher bill and was put in place in attempt to make the bill fiscally neutral. It has, however, caused confusion. Enrollment in public schools has sky-rocketed in some municipalities and is expected to drop after students have met the 100-day requirement. Furthermore, this has been unfairly punitive on students currently in private school. In order to be eligible for the new ESA in Nevada, they must both dis-enroll from their current institution and re-enroll in public school or otherwise forego the opportunity to receive ESA funds. This is unfortunate since attending private school does not mean a student is from a wealthy family and does not need public assistance. It often means that a lower-middle class family must make sacrifices to ensure their child receives the best education possible. In the future, requirements such as this, and others that discriminate against those currently enrolled in private schools, should be avoided at all costs

44 The exceptions include students who have not been absent more than 15 consecutive school days during that period of 100 school days; children at least five, but not more than seven years' old who have not attended public or charter school and children of active duty military families stationed at a base in Nevada. http://www.nevadatreasurer.gov/uploadedFiles/nevadatreasurergov/content/SchoolChoice/Forms/2015-11-19_R061-15_Regs_updated.pdf.

45 Nevada Education Savings Account Enrollment, Nevada Treasury, Accessed July 2 2016: <http://www.nevadatreasurer.gov/SchoolChoice/Home/>

46 Nevada State Treasury Office: Nevada's Education Savings

establishing an ESA for a child who will be "homeschooled." This basically means that a parent whose child has an ESA should not file the "notice of intent to homeschool" that is required by Nevada law for "homeschooled" students. This section thus keeps "homeschool" students and "ESA" students legally distinct and separate.

Of course, the ESA allows students to receive instruction from a "participating entity" and a parent can be a participating entity. That means that an ESA student can be educated at home by a parent and does not have to be enrolled full-time in a brick and mortar, or online private (or public) school. So, what type of child is in practice a homeschool student, but who is not recognized, legally, as a homeschool student? That is essentially what the Nevada ESA law defines as an "Opt-in child" (although this definition is broad enough to encompass an ESA student who receives all of his or her instruction from an eligible institution as well as from a parent). Nevada created the "opt-in" category so that ESA students educated at home by a parent, although legally distinct from registered homeschool students, could participate in the same types of things that homeschoolers participate in.⁴⁷

At A Glance: Nevada ESAs

- Nevada ESAs were signed into law January 2016
- The near-universal ESA program is available to all students who have been enrolled in public school for over 100 days
- Each ESA is valued at approximately \$5,100
- Nevada's Treasury Department is set to administer the ESA program and disperse funds to parents' accounts on a quarterly basis
- The ESA program is currently being challenged in court and an injunction was placed on the program in one of the cases

Account Program. Accessed January 6 2015: <http://www.nevadatreasurer.gov/SchoolChoice/Home/>

47 Defined in Sec. 15.1(5)

D. Mississippi

Mississippi created an ESA program, targeted for children with disabilities, under the Equal Opportunity for Students with Special Needs Act in April 2015.

Eligibility: Initially, to qualify for the program, a student must have had an Individualized Education Plan (IEP) in his or her last 18 months at a public school. But, recently, eligibility requirements have been extended to include any student with an IEP in the last 5 years. Students in private schools may also enroll for the program if they enroll for in public school for a period of time. If there is a need for a lottery, preference will be given to students with current IEP's who attend public school. Once enrolled in the program, you are automatically enrolled for the following year.

The program is limited to 500 students the first year. Each year after that, 500 additional students will be eligible for the duration of the 5-year pilot period of the program.⁴⁸

Funding: Each Education Scholarship Account is valued at \$6,500.⁴⁹

Disbursement: The program is administered by the Mississippi Department of Education.⁵⁰ Once enrolled, students are automatically approved and re-enrolled in the program the following year. ESA funds can be used towards private school tuition and fees, private tutoring, educational therapy, assistive technology, textbooks, online courses, and transportation.

Discussion: Because the ESA program is capped at 500 students the first year, many students with special needs do not have access to the program. There are over 64,000 public school students in Mississippi with IEP's.

Mississippi encountered some difficulties with the rollout of the ESA program in July 2015. Many parents of students with special needs were frustrated with the restrictive 10-day window in which they had to enroll their child. Furthermore, there was outright rejection of incomplete applications, and the acceptance of applications sent only through the U.S. Postal service posed additional challenges to parental satisfaction with the program.⁵¹

Several bills have been introduced to expand the availability of ESAs in Mississippi beyond students with special needs, but these bills have not yet garnered enough support for enactment.

At A Glance: Mississippi ESAs

- The Equal Opportunity for Students with Special Needs Act was enacted in 2015
- Available to students with disabilities
- Each scholarship is valued at approximately \$6,500
- The Mississippi Department of Education ESAs administers the program and pays schools directly
- Parents must register with the state, make education related purchases out of pocket, and then are reimbursed by the Department of Education

E. Tennessee

Tennessee was the fourth state to implement an ESA program with their Individualized Education Act (IEA). Although signed into law in May 2015, the program has not yet been implemented. Students will begin to receive funds under the IEA in January 2017.

Eligibility: In order to be eligible, students must have one of the following disabilities: autism, deaf-blindness, hearing impairments, intellectual disability, orthopedic impairments, traumatic brain injury or visual impairments, as well as an IEP.

Students must also have attended a Tennessee public school immediately preceding their receipt of an IEA, or must be first time enrollers in public school.⁵² Students who are eligible remain so until they graduate or reach the age of 22, whichever occurs first.⁵³

Funding: The IEA gives parents on average \$6,600 per student and has helped 18,000 special education students in Tennessee.⁵⁴ The Funds are dispersed on a quarterly basis, as is the case with the ESA programs in most states.⁵⁵ ESA funds will be

⁵² for more information on the specifics of the bill, visit Tennessee legislature's website that has the most extensive and accurate information on the IEA: <https://www.tn.gov/education/section/iea>

⁵³ "Explaining Tennessee ESA Bill," The Friedman Foundation for Educational Excellence, accessed Nov 10 2015, <http://www.edchoice.org/explaining-tennessees-esa-bill/>

⁵⁴ Goldwater Institute, "Tennessee's Haslam Signs Individualized Education Act" accessed June 27 2016, <http://goldwaterinstitute.org/en/work/topics/education/education-savings-accounts/tennessees-haslam-signs-individualized-education-a/>

⁵⁵ Track Bill, TN - SB27, accessed June 5 2016, <https://trackbill.com/bill/TN/109/SB27/education-as-enacted-enacts-the-individualized-edu>

⁴⁸ <http://www.edchoice.org/mississippi-esa-bill-breakdown/>

⁴⁹ http://www.mde.k12.ms.us/docs/special-education-library/esa-faq_20150729154901_105375.pdf?sfvrsn=2

⁵⁰ <http://www.mde.k12.ms.us/TD/news/2015/06/08/mde-releases-information-on-special-needs-scholarship-program>

⁵¹ Grant Callen, "Department Disregards Key Provisions in Law" Empower Mississippi, June 9 2015, accessed June 15 2016:

<http://empowerms.org/special-needs-esa-application-process-released/>

deposited quarterly into accounts with the Department of Education maintaining the right to withhold the next quarter's deposit if they have evidence of funds being misused. Debit cards are expected to be distributed in December 2016, and January 2017 will be the first month of eligible spending.⁵⁶

Discussion: There have recently been two bills introduced in attempt to improve the IEA. The Senate Education Chair Dolores Gresham and House Education Administration and Planning Vice Chair Debra Moody filed Senate Bill 1735 and House Bill 1568 in attempt to clarify the eligibility of kindergarten students and the frequency of IEA account payments. Senate Bill 1735 passed the Senate Education Committee on February 10 and the program is set to launch in early 2017.⁵⁷ This passed and became law on 3/31/2016, Pub Ch.620.⁵⁸

At A Glance: Tennessee ESAs

- The Individualized Education Act was made law in 2015
- ESAs are only available to students with disabilities
- Each scholarship is valued at approximately \$6,200
- The Tennessee Department of Education administers the ESA program and disperses funds to parents on a quarterly basis

F. States With ESA Bills Introduced

Several other states have also introduced ESA legislation, but so far none of them have passed.⁵⁹ These bills include:

- Washington, D.C.: U.S. Senator John McCain recently introduced SB 2711 in Congress that would help states create an ESA account for Native American students across the country.⁶⁰ Separately, the Education Freedom Accounts Act, which would provide ESAs to children in Washington D.C., was introduced by Senator Ted Cruz on January 21, 2015.⁶¹
- Alabama: State Representative Ken Johnson introduced a bill to create an ESA program for students who have an Individualized Education Plan, have a parent who is a member of the Armed Forces who is either on active duty or was killed in the line of duty, or a foster child who has either been adopted or placed with a guardian. The program would be limited to 1,000 new students each year.⁶²
- Georgia: State Representative David Clark introduced a bill which would create the Blue Star Family Scholarship which would give ESAs to children who have parents in the military.⁶³
- Missouri: Numerous ESA bills have been filed in the Missouri. One would have, like Nevada, provided universal ESAs.
- Oklahoma: A universal ESA bill – similar to Nevada – passed two Senate committees. It did not have enough support to go further.

59 Alabama, Arkansas, Delaware, Georgia, Iowa, Illinois, Indiana, Kentucky, Oklahoma, Oregon, Minnesota, Missouri, New Hampshire, New Jersey, North Carolina, Rhode Island, South Carolina and Virginia. The 21st Century Education Savings Accounts: Peer Reviews, Branding, and Consumer Reports as a Parent Tool accessed June 10 2016, <https://www.alec.org/app/uploads/2016/05/2016-05-18-ALEC-State-Factor-The-21st-Century-Education-Savings-Accounts.pdf>

60 Lennie Jarratt, "Bringing Education Freedom to Native Americans," Desert News, May 3, 2016. <http://www.deseretnews.com/article/865653448/My-view-Bringing-education-freedom-to-Native-Americans.html?pg=all>

61 Senate Bill To expand school choice in the District of Columbia. Accessed July 1 2016: http://www.cruz.senate.gov/files/documents/Bills/20160122_EducationalFreedomAccountsAct.pdf

62 The Newest School Choice Has Arrived: Education Savings Accounts, HB694, Alabama connection, May 24 2015, accessed July 1 2016: <http://alabamaschoolconnection.org/2015/05/24/the-newest-school-choice-has-arrived-education-savings-accounts-hb694/>

63 David Clark, HB 848 - "Blue Star Family Scholarship Act", Georgia Association of Educators, accessed July 1 2016: <http://pv.gae2.org/content.asp?ContentId=4717>

56 For more information, visit the Tennessee Legislature's Office of Fiscal Review, which scores the fiscal impact of bills: <http://www.capitol.tn.gov/Bills/109/2016>, pub Ch.620

57 Tennessee – Individualized Education Account Program, The Friedman Foundation for Educational Choice, accessed May 5 2016, <http://www.edchoice.org/school-choice/programs/tennessee-individualized-education-account-program/>

58 For more information on the Bill History visit <http://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=SB1735>

IV. What the Critics Are Saying

Bold reforms in education inevitably lead to criticism. The status quo has its adherents – anyone who works in education can attest to that – and any new paradigm raises questions and challenges. Here are some common criticisms and responses.

A. School choice – including ESAs— increases inequality

Critics of educational choice often claim that such policies promote social inequality because they disproportionately benefit students with engaged parents who are willing to take advantage of them while allowing children with disengaged parents to suffer. This argument has also been made against ESAs.⁶⁴ But there is little evidence to support the claim that the success of these children will somehow harm those whose parents are less involved. In fact, research suggests that the more choice in a given area, the higher the overall academic achievement: inter-district choice has a statistically significant, positive impact on overall educational attainment.⁶⁵

It is certainly true that parents who are disengaged and disinterested in their child's education are a sad reality. To be sure, children of engaged parents may be the most likely to benefit from ESAs. But there is no evidence to support the claim – or reason to believe – that the success of these children will somehow harm those whose parents are less involved. In fact, research suggests that the more choice in a given area, the higher the overall academic achievement. For example, inter-district choice has a statistically significant, positive impact on overall educational attainment.⁶⁶

More fundamentally, increasing parental involvement by expanding choice is not a bad thing. Research suggests that the more parents are involved in their children's education, the higher the educational outcomes.⁶⁷ Indeed, a recent Harvard University meta-analysis of over 70 studies thoroughly corroborated this finding.⁶⁸ While school choice policies, including ESAs, cannot

64 David Osborne, "The Wrong School Choice: Nevada's new school voucher law will make inequality worse," US News, June 6 2015, accessed February 12 2016: <http://www.usnews.com/opinion/knowledge-bank/2015/07/06/nevadas-new-voucher-law-will-worsen-educational-inequality>

65 Caroline Hoxby, "National Bureau of Economic Research: School Choice and School Productivity. Could School Choice Be a Tide that Lifts All Boats?," see pp. 311, accessed June 5 2016, <http://www.nber.org/chapters/c10091.pdf>

66 Caroline Hoxby, "National Bureau of Economic Research: School Choice and School Productivity. Could School Choice Be a Tide that Lifts All Boats?," see pp. 311, accessed June 5 2016, <http://www.nber.org/chapters/c10091.pdf>

67 Parent Engagement: Crucial Element of Successful Schools by Daniela Yu and Tim Hodges www.gallup.com/businessjournal/186026/crucial-element-successful-schools-parent-engagement.aspx

68 William H. Jeynes, "Parental Involvement and Student Achievement: A Meta-Analysis," Harvard Family Research Project, accessed June 5 2016, <http://www.hfrp.org/publications-resources/browse-our-publications/parental-involvement-and-student-achieve->

guarantee that parents will be actively involved in their children's education, they can create an incentive for – and a culture of – parental engagement. While school choice policies, including ESAs, cannot guarantee that parents will be actively involved in their children's education, they can create an incentive for – and a culture of – parental engagement.

Even if ESAs do not increase parental engagement, there is evidence to suggest that school choice policies break the link between where you live and what sort of education you receive—which is important to long term outcomes.⁶⁹ If that is so, choice, including ESAs, will remedy inequality along racial and social lines instead of, as the critics say, making it worse.

B. ESAs are an unconstitutional funding of religious schools.

Many school choice critics assert that the public funding of religious schools, either through vouchers or ESAs, are constitutional violations of the First Amendment's prohibition of laws respecting the establishment of religion. However, as far as the United States Constitution is concerned, the Supreme Court has made clear that this simply isn't so. In *Zelman v. Simmons-Harris* (2002), the Court ruled that a school choice voucher program in Cleveland, Ohio, was not in violation of the First Amendment's establishment clause. The program was upheld because it was neutral between religious and nonreligious alternatives and the choice to use a voucher at a religious school was made by parents who had both sectarian and secular alternatives.

The constitutionality of choice programs under state constitutions may vary from state to state. Many states have so-called "Blaine amendments," born of the nativist and anti-Catholic fervor in the 1800s, which contain language that may ban using public funds for sectarian instruction. Many states have followed *Zelman* in interpreting these amendments, but some have not. The Wisconsin Supreme Court anticipated *Zelman* in interpreting the Wisconsin Constitution, holding that, if money spent on religious school is merely an incident of private, parental choice, Wisconsin's constitutional restriction on the use of public funds for sectarian instruction is not violated. While results may vary from state to state, Blaine Amendments, when properly interpreted, should not be a barrier to religiously neutral educational aid programs implemented through private choice.

C. ESAs are a solution in search of a problem and are simply is not necessary.

Most people across the political spectrum are inclined to acknowledge there is room to improve the status quo when it comes to education. Many believe that we must simply double down on the traditional model of public education and spend more mon-

ment-a-meta-analysis

69 Anna J. Egalite and Jonathan N. Mills "The Louisiana Scholarship Program," Education Next, December 2005, accessed June 5 2016, <http://educationnext.org/the-louisiana-scholarship-program/>

ey doing the same thing. Yet a recent WILL study shows that more spending does not yield better educational results.⁷⁰ This is true over time in Wisconsin – spending increases have not improved outcomes – and also in comparison with other developed countries that spend less money and obtain similar or superior results. These findings are consistent with the great weight of the research.⁷¹

Critics believe that we can get all the innovation we need within the public system without disrupting traditional labor relations, bureaucratic control and the prerogatives of local school districts and state regulators. As noted above, there is reason to believe that control of education by those who supply it will not result in optimal levels of innovation. Parental empowerment and competition are required. As Jason Bedrick and Lindsey Burke recently wrote:

“Centralized standards, especially in the form of state testing mandates, induce conformity that can undermine the innovation and diversity that give educational choice its value. Whereas government-run schools are primarily accountable to elected school boards and unelected state education bureaucrats, private education providers are accountable directly to parents, and the same market forces that place competitive pressure on other kinds of businesses operate on these education providers as well.”⁷²

ESAs offer greater opportunities for customization – even within the public sector. A single teacher cannot customize the educational experience for each student in his or her class. There is an understandable tendency to teach to the median student. ESAs can help us move us beyond that. They can also supplement the curriculum on offer, especially in smaller districts. It may make little sense to offer classes in Arabic in the Durand School District or certain types of advanced placement courses or special education in Bayfield when only students within those districts can enroll in the courses. But, with ESAs, a district can attract students from elsewhere. Perhaps Durand can offer Arabic if students from the larger region – or even across Wisconsin – can enroll. Not only are families who need something different empowered obtain it, it will become possible for someone somewhere to provide it.

This is not simply a theoretical possibility. We have little experience with ESAs, although early evidence is promising.⁷³ As a general proposition, choice works. Despite claims to the con-

trary, it can improve outcomes for families who exercise it. A recent meta-analysis of gold standard randomized control trials on school choice programs around the world found that choice has a statistically significant positive impact on student outcomes.⁷⁴ Supporters also say that ESAs will implicitly conserve taxpayer dollars by increasing the competition and encouraging all educational providers to do more with less while improving educational outcomes for students.⁷⁵

There is a growing body of research that shows how non-traditional public schools are doing more in terms of student achievement with less resources available to them. For example, A 2016 WILL report shows how independent public charter schools in Milwaukee have higher student outcomes relative to taxpayer dollars spent on the schools when compared to traditional public schools.⁷⁶ Research has shown that simply having multiple private and government options for education in one area increases educational outcomes and efficient educational systems.⁷⁷ Furthermore, researchers Jay P. Greene and Marcus Winters concluded that students with disabilities in Florida “eligible for vouchers who remained in the public schools made greater academic improvements as their school choices increased.”⁷⁸

D. Parents are unable to make choices for their children.

Some argue that most – or many – families lack the information or capacity to make educational choices for their children. They will be bamboozled by slick operators and snake oil salesmen. They will choose poorly. Private vendors, it is argued, will not offer quality services. “For profit” operators will exploit children.

⁷⁴ Patrick Wolf, M Danish Shakeel, Kaitlin P. Anderson, “The Participant Effects of Private School Vouchers across the Globe: A Meta-Analytic and Systematic Review,” University of Arkansas, May 10 2016, accessed July 11 2016, www.uaedreform.org/downloads/2016/05/the-participation-effects-of-private-school-vouchers-across-the-globe-a-meta-analytic-and-systemetic-review-2.pdf

⁷⁵ Greg Forster released an evaluation in 2011 of the evidence behind school choice and noted that 18 of the 19 empirical studies on the competitive effect of school choice on public schools found that voucher programs improved the performance of public-school students: Greg Forster, “A Win-Win Solution: The Empirical Evidence on School Vouchers,” The Foundation for Educational Choice, March 2011, <http://www.edchoice.org/CMSModules/EdChoice/FileLibrary/656/A-Win-Win-Solution---The-Empirical-Evidence-on-School-Vouchers.pdf> (accessed Nov 30, 2015).

⁷⁶ Will Flanders and CJ Szafir. “Bang for the Buck: Which Public Schools in Milwaukee produce the best outcomes per dollar spent?” Wisconsin Institute for Law and Liberty, May 19 2016, www.will-law.org/wp-content/uploads/2016/05/bang-for-the-buck-FINAL.pdf

⁷⁷ Anders Böhlmark and Mikael Lindahl. “Independent Schools and Long-Run Educational Outcomes: Evidence from Sweden’s Large Scale Voucher Reform.” Institute for the Study of Labor (IZA) 6683 (2012): 1-48.

⁷⁸ Jay P. Greene and Marcus A. Winters, “The Effect of Special Education Vouchers on Public School Achievement: Evidence from Florida’s McKay Scholarship Program,” Manhattan Institute for Policy Research Civic Report No. 52, April 2008, http://www.manhattan-institute.org/html/cr_52.htm (accessed September 29, 2011).

⁷⁰ Martin F. Lueken, Rick Esenberg, CJ Szafir. Diminishing Returns in K-12 Education. The Wisconsin Institute for Law & Liberty, April 2015, accessed July 1 2016: <http://www.will-law.org/wp-content/uploads/2016/02/2015-04-03-WILL-Report-Diminishing>Returns-in-Education.pdf>

⁷¹ Ibid.

⁷² The Next Step in School Choice by Jason Bedrick and Lindsey M Burke, <http://www.nationalaffairs.com/publications/detail/the-next-step-in-school-choice>

⁷³ Lindsey M Burke, “The Education Debit Card: What Arizona Parents Purchase with Education Savings Accounts,” Friedman Foundation for Educational Choice, August 2013.

In assessing this argument, it is important not to compare the actual world of choice – or its worst case scenarios – with an idealized and fictional version of public education in which there is no venality or self-serving behavior, no regulatory capture, no waste, and no failure. While not all private schools succeed, this is true of public schools as well.

We already trust parents to make choices for their children. We have long “permitted” private schools. Our experience with school choice demonstrates that these fears are overstated.⁷⁹ There are bad schools in all sectors but studies repeatedly show that private schools in choice programs do as well or better than public schools. Parents must be making good choices.

We even allow families to home school their children. If we already allow parents to teach their children, it is hard to make the case that we should not permit them to choose educational providers. One recent study found that students who were educated at home with structured lesson plans scored consistently higher on standardized tests than those students who attend traditional public schools.⁸⁰ Research shows, moreover, information can be structured in a way that helps parents make improved decisions. Parents are more responsive to A–F letter grades than performance labels (for example, labels like “advanced” or “basic”) on an academic report card. Parents also heavily look to recommendations from other parents, instead of government data, when making decisions about their child’s education and are likely to be influenced by “narrative comments” that pertain to the quality of a school. A recent study out of the American Enterprise Institute found that including narrative comments on a report card was “stunningly influential.”⁸¹ A parent who observed two positive comments regarding a school ended up grading that school nearly a full letter grade higher than a parent who encountered two negative comments.

As noted above, most parents may not wish to take advantage of the more extensive customization that ESAs make possible. This is no reason not to make it available for those who do. How much regulation should govern the choices parents do make is something that each ESA program will need to address. See pp. 29 *infra*.

79 M. Danish Shakeel Kaitlin P. Anderson Patrick J. Wolf, “The Participant Effects of Private School Vouchers across the Globe: A Meta-Analytic and Systematic Review,” University of Arkansas, May 10 2016, accessed July 1 2016: <http://www.uaedreform.org/downloads/2016/05/the-participant-effects-of-private-school-vouchers-across-the-globe-a-meta-analytic-and-systematic-review-2.pdf>

80 Martin-Chang, Sandra; Gould, Odette N.; Meuse, Reanne E. “The Impact of Schooling on Academic achievement: Evidence From Homeschooled and Traditionally Schooled Students.” *Canadian Journal of Behavioral Science*, Vol 43(3), Jul 2011, 195-202, accessed June 25 2016, <http://psycnet.apa.org/journals/cbs/43/3/195/>

81 Jon Valant, “Better Data, Better Decisions: Informing School Choosers to Improve Education Markets”, 2014: <https://www.aei.org/wp-content/uploads/2014/11/Better-Data-Better-Decisions-4.pdf>

E. ESAs drain resources from public schools.

ESA might result in fewer resources for public schools. But if this turns out to be the case, it is because parents chose something else. That is not a bug of school choice. It’s a feature. But unlike vouchers, ESAs may mean that school choice is no longer an all-or-nothing decision. Parents may choose to enroll their child in the local public school’s physical education class, take advantage of an art class taught by an excellent teacher at a local charter school, and hire a tutor in public speaking to come to their home. Depending on how the program is structured, they may even use ESAs to choose a different public school. In any event, Wisconsin’s experience with school choice so far belies the argument that spending on public schools will diminish. In Wisconsin, even though both test scores and the number of students have remained relatively stagnant, per pupil spending in public schools has increased in real terms during the period in which school choice has existed.⁸²

V. Lessons Learned for Wisconsin

Other states’ experiences with ESAs have yielded some lessons for Wisconsin to consider.

Ideally, all students would receive their per-pupil funding to use on their education as they see fit, similar to the proposed universal ESA program in Nevada. It may be politically prudent to look to Arizona’s incremental approach to implementing ESAs. This method has proven effective in terms of its political palatability by not asking for too much change too quickly. In addition, an incremental approach can facilitate change through improvement by trial and error.

So an appropriate first step for Wisconsin might be to make ESAs available for students with special needs, gifted students, and those within the state foster care system. These students are among those most in need of the individualized education that ESAs can provide.

On the other hand, the benefits of ESAs extend well beyond these populations and universal programs are more likely to attract universal support. In addition, if the goal is to stimulate a market for unbundled services, the creation of robust demand by enabling all families to enter that market will help.

ESAs should be able to be “spent” at public schools. Of course, ESAs are not intended to “replace” local school districts. In fact, that would not be permissible under Art. X of our state constitution. Public schools will continue to exist both as a matter of legal obligation and because many parents will continue to choose them. So ESA funds should be available for use at public, and charter – as well as private – schools. The “obligation” of one school district to make services available to students from another – and on what terms – would require development and, perhaps, be modeled on Wisconsin’s existing open enrollment law. Alternatively, the existing open enrollment law could be retained but parents could be free to “purchase” supplemental courses

82 William Flanders, “Administrated,” 2016: <http://www.will-law.org/will-blog-flanders-administrated/>

from public school districts who wish to provide them. ESAs are about parents not schools. Eschewing “sector wars” belies the notion that the objective is to drain resources from public schools.

A successful example of the “unbundling” of education is the Louisiana’s Supplemental Choice Academy (SCA).⁸³ This initiative is available to students in low performing or failing schools and offers these students public dollars to pay to enroll in college courses, Advanced Placement classes, STEM education classes, industry specific certifications, virtual school, private tutors, and online education providers—all of their own choosing. Joe from New Orleans, for example, has used the SCA resources to take his English from a local tutor, pay for SAT prep from the Kahn Academy, learn the basics of car mechanics from the class offered at his local high school, and enroll in the Spanish class offered at local charter school.

How would ESAs affect preexisting voucher programs in Wisconsin? Were Wisconsin to implement an ESA program, it would be the only state to have both ESAs and a broad statewide voucher program. There is no way to predict how an ESA would interact with the current municipal or state wide voucher programs. It would depend on a variety of factors, including the dollar amount of the ESA, who is eligible to receive ESA dollars, and the restrictions on how ESA dollars are used.

If ESAs are limited to students with specific characteristics – say those with special needs or who are gifted or home schooled – then vouchers will remain the mechanism by which other families (at least those below a certain income level) exercise choice. To the extent that ESAs are universally available, and funded at levels comparable to vouchers, they might be expected to subsume existing voucher programs.

The dollar amount of ESAs is another question that would require careful attention. Some states have set the ESA amount at the average state expenditure per pupil. This may not work in a state, like Wisconsin, with significant local funding and ESAs might be set at the average expenditure from all sources or some percentage of that figure. As with vouchers, determining how the “local” portion of the ESA’s cost will be funded will be an important question. In general, there is no reason why local taxpayers should not contribute something to the ESAs of students residing within their district.

Another question to consider is the mechanism by which ESA funds would be dispersed. Arizona utilizes a pre-paid cash card that has some merchant code restrictions, similar to a prepaid Visa card, which allows state officials to follow every dollar spent. These cards function in much the same way as food stamp debit cards; their use is restricted in a similar same way that electronically accessed food stamps can only be used to purchase certain product codes (i.e. milk’s code is eligible, while beer’s code is not).⁸⁴

83 Supplemental Course Academy, accessed June 19 2016, <http://www.louisianabelieves.com/courses/supplemental-course-academy>

84 Inez Feltscher, “The 21st Century Education Savings Accounts: Peer Reviews, Branding and Consumer Reports as Parent Tools,” ALEC, May 2016.

Use of an ESA cash card, debit card or direct payment to providers would likely be more efficient and more user friendly. In Florida, Gardiner Scholarship ESAs require the parent to pay out of pocket after the authorizing nonprofit approves the purchases through a web portal. The authorizing agency then reimburses families, and in some cases the agency pays a provider directly. In Tennessee, the Department of Education reimburses parents after they make purchases.⁸⁵ However, some education expenditures may be too expensive for certain families to make out of pocket and this method is therefore potentially prohibitive. Furthermore, in Florida and Tennessee the reimbursement process can take up to months on some occasions and can be bureaucratic. However funds are disbursed, a state implementing an ESA will have to decide what type of oversight it wishes to deploy over services and curricular materials. While a light regulatory hand is better than a heavy one, it is possible that a state would want some approval or preclearance of vendors and products.

Transportation remains another important issue to consider. Wisconsin state law requires education providers to provide transport to their students and therefore a Wisconsin ESA could allow for the costs of transportation to be covered using ESA funds. If a parent is driving their child to and from educational services, receipts must be kept and mileage tracked to ensure reimbursement legitimacy in the case of an audit.

Administration of ESAs will require careful attention. It is not clear that ESAs ought to be regulated by an agency like the Department of Public Instruction which has historically has been subject to regulatory capture. The legal landscape, however, is still unclear in light of the Wisconsin Supreme Court’s confused and divided decision in *Coyne v. Walker*.

It is possible that the movement of money to non-district schools could simply be managed by the Department of Revenue (or a nonprofit) or reduced to a ministerial role. In Arizona, for example, the state Department of Education administers the education related parts of the program and the State Treasurer administers the financial parts of the program.

Alternatively, it could be administered by a not-for-profit, like in Florida. A not-for-profit’s sole mission is to advance and foster an education choice program, unlike state agencies, which must deal with multiple obligations.

Accountability and the level of regulation must be addressed. Ensuring the quality of educational service is paramount. But ESAs should not be eviscerated by overregulation. Regulations are more easily promulgated than rescinded and tend to accumulate, which can suppress creativity inside and outside of the classroom.⁸⁶

In light of the above hazards of over regulating educational programs, it might be best practice for Wisconsin to air on the side of

85 The Department is still vacillating on this but currently their position is that there will be an IEA debit card - See <https://www.tn.gov/education/topic/iea-faq> explanation at “How do I access funds.”

86 By John Bailey, “The ESA Administrator’s Dilemma: Tackling Quality Control” Foundation for Excellence in Education: https://www.aei.org/wp-content/uploads/2016/05/Bailey-education_savings_accounts_conference.pdf

less regulation to begin with, adding regulatory measures as they become necessary. As a baseline, service providers of education should be subject to background checks and credit checks. Another way to ensure quality would be the use of online platforms that allows parents to rate service providers.

These two measures, online rating systems and background checks, breed trust and quality control all in one. Similar measures have made users comfortable ride sharing in cars with strangers through Uber, and staying in the homes of people they don't know when traveling through the room-sharing platform Airbnb.

It is likely, however, that policymakers will want more. It is possible, for example, that parents will be required to purchase certain types of services just as homeschoolers must teach certain subjects. The extent of permitted "customization" might vary by grade level with certain "base" requirements.

However, the home school example is instructive. Home schooling families are required only to provide 875 hours in instruction in a "sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, socials studies and science and health."⁸⁷ There are no "approved" or "certified" curricula or providers. If, as seems to be the case, Wisconsin has successfully used a light touch in the homeschooling context, then there is reason to believe little regulation is required.

Schools – and most parents will still use schools – might be subject to accreditation requirements to ensure the school's academic rigor. They might also be required to demonstrate verifiable financial viability. Schools might be required to use a nationally norm-referenced test or administer a state assessment with results publicly reported.⁸⁸ This sort of results-based accountability ensures outcomes without micro-managing method or curriculum, and therefore respects the educational freedom of individual schools. And there might be more. The state – or local school districts – might fund family counselors to assist in the identification and assessment of educational options.

Allowing markets, consumer ratings and reviews, norm-referenced testing⁸⁹ and state accountability measures to assist in quality control is the optimal method to ensure students and parents have the information and flexibility to make good decisions about what educational services will work best for them.

Expanding ESAs for K-12 education would incentivize families in more states to save for education. The federal government already does this by giving families an incentive to save for both K-12 and higher education expenses through programs like the

Coverdell ESA.⁹⁰ Although over 30 states offer tax breaks for contributions to 529 college savings plans, few states provide such incentives for K-12 education.⁹¹

ESAs are not only the future of education; they are the present. They effectively do what school choice and voucher proponents aspire to: children are funded instead of institutions and funding follows students wherever they choose to go. Today, more than 835,000 students across the country are eligible for ESAs in Arizona, Nevada, Florida, Mississippi, and Tennessee—and there are millions more who stand to benefit from the customized education ESAs allow.⁹² ESAs foster competition among public, private, and alternative educational institutions. This raises overall quality and increases the different ways that children's specific educational needs and preferences can be met. It is now more important than ever that we do all we can to improve upon the status quo.

But to do so, we must deviate from it; ESAs are the powerful shake-up necessary to bring education to the 21st century.

87 Wis. Stat. §§ 115.001(3g); 115.15(4); 118.165(1)

88 Ibid.

89 Norm-referenced testing refers to "standardized tests that are designed to compare and rank test takers in relation to one another. Norm-referenced tests report whether test takers performed better or worse than a hypothetical average student, which is determined by comparing scores against the performance results of a statistically selected group of test takers, typically of the same age or grade level, who have already taken the exam." For more information, visit <http://edglossary.org/norm-referenced-test/>

90 IRS on Coverdell Education Savings Account (ESA): <https://www.irs.gov/publications/p970/ch07.html>

91 In 2006, the College Board reported that Americans had invested \$93 billion in 529 college savings plans.

92 Jonathan Butcher, "The Future of Money and Giving Every Child the Chance at a successful Future" May 9 2016, accessed May 15 2016, <http://goldwaterinstitute.org/en/work/topics/education/education-savings-accounts/the-future-of-money-and-giving-every-child-the-cha/>

Appendix

State	Date Enacted	Eligibility requirements	ESA amount	Overseer of program	Mechanism	Caps on program
Arizona	Empowerment Scholarship Accounts (ESA) —2011	<p>Must be a resident of Arizona and either:</p> <ul style="list-style-type: none"> • Disabled student, • foster child • child of active-duty military personnel, • enrolled in a failing schools that scored a 'D' or 'F' on state evaluation , • student of Native American descent, • siblings of all of the above.¹ <p>students (about 5500 additional new students each year)</p>	<p>Average funding for students who do not have special needs is \$4,645 (K-8) and \$4,904 (9-12). This is 90 percent of charter per pupil base funding.</p> <p>ESA amount for disabled students is dependent on their disability.</p>	Arizona Department of Education and Arizona State Treasurer's Office	<p>-pre-paid cash card with limited uses at certain outlets;</p> <p>-ESA funds are deposited in Empowerment Scholarship Accounts quarterly</p>	<p>-0.5% of the total number of previous year public school students, or about 5500 additional new students each year. Cap will be eliminated in 2019.</p>
Florida	Personal Learning Scholarship Program (PLSA)—2014	<p>-A Resident of Florida, and,</p> <p>-have an Individualized Learning Plan or a diagnosis of: autism, Down syndrome, an</p>	<p>Average account value in 2015 was \$10,111, with a maximum of 90 percent of the state and local funds</p>	Step Up for Students and AAA Scholarship Foundation, a government funded, not-for-profit	<p>Applications submitted to either Step up for Students or AAA Scholarship Foundation. Preapproval from one of the organizations is required before purchase. Parents make</p>	No cap.

¹ Qualifications for Arizona's Empowerment Scholarship Account 2016-2017: <http://www.azed.gov/esa/minimum-qualifications/>

Appendix

Mississippi	Equal Opportunity for Students with Special Needs Act in— April 2015	intellectual disability, Prader-Willi syndrome, spina-bifida, or Williams syndrome, or be kindergartners who are considered high-risk. No cap.	dedicated to each student.	State Department of Education	purchases out of pockets and are reimbursed by the organization they signed up with.	
Tennessee	Individualized Education Act (IEA)—May 2015	Must have had an Individualized Education Plan (IEP) in last 5 years. Students in private schools are eligible, but preference given to disabled students in public school. Students must have any of the following disabilities: autism, deaf-blindness, hearing impairments, intellectual disability, orthopedic impairments, traumatic brain injury or visual impairments, as well as an IEP. Students must also have attended a Tennessee public school immediately preceding their receipt of an IEA, or	Each Education Scholarship Account is valued at \$6,500.00 Average account value: \$6,200	State Department of Education	Department of Education pays schools directly. Parents register as vendors with the state, pay independent service providers directly, (tutors, therapists etc.) and are then are reimbursed by the Dept of Education. The Tennessee Department of Education will disburse payments to the student's Individualized Education Account (IEA) on a quarterly basis, and parents will access the funds using a debit card ⁴	Current cap of 500 students the first year; 500 additional students will be enrolled each year during the 5 year pilot program. No cap.

Appendix

Nevada	Education Savings Account (ESA) Program - January 2016 but currently held up on court for the time being	must be first time enrollers in public school. ² Students who are eligible remain so until they graduate or reach the age of 22—whichever occurs first. ³	-public school for 100 days before being able to transition to receiving ESA funds. No income limit. No cap. Who is not eligible: Children who are homeschooled, who receive education outside of Nevada and who remain enrolled full-time in public school, regardless of whether that child receives education from a participating entity	-Approximately \$5,100, or on average about 90 percent of per pupil public school spending. -If the student is disabled or has a household income less than 185% of the federal poverty level, the student will receive 100% of the funds spent by the state per student that year. For 2015-2016, this was \$5,700. ⁵	Department of Treasury	TBD	No Caps
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⁴ <http://www.edchoice.org/explaining-tennessees-esa-bill/>

² For more information, visit: <https://www.in.gov/education/section/fea>

³ "Explaining Tennessee ESA Bill," The Friedman Foundation for Educational Excellence. Accessed Nov 10 2015: <http://www.edchoice.org/explaining-tennessees-esa-bill/>

⁵ For more information, visit the website of the Nevada Treasurer: http://www.nevadatreasurer.gov/uploadedFiles/nevadatreasurer.gov/content/SchoolChoice/NVESA_FAQ.pdf