



# WEST VIRGINIA

AND EDUCATION SAVINGS ACCOUNTS





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### INTRODUCTION

Kathleen Jones and her husband thought they had their sons' educations figured out.<sup>1</sup> Doctors diagnosed both Samuel and Zachary as being on the autism spectrum, which challenged the Jones to find unique services for them. Yet the initial meetings with educators at their assigned public school were promising.

"We went to the district before we even enrolled and showed them their IEPs [documents explaining interventions to help children with special needs]," Kathleen says. "It turned out that it looked good and looked on paper that it was everything that my boys needed."

"But it was not," Kathleen says.

For example, the school did not offer specialized reading for Zachary, which was important for his progress. "They would agree to things in theory, but in practice it was never enough. It never worked," Kathleen says. She says school leaders would agree in meetings to her requests for different services, but the changes never materialized.

Fortunately for Samuel and Zachary, the Jones' story has a happy ending. Kathleen applied for education savings accounts in their home state of Arizona. Today, she uses the boys' accounts to find educational apps for tablet devices, including Zachary's pocket reader, which helps with his dyslexia.

"Now that we can buy educational apps, that has opened up a whole new window," Kathleen says.

"My ultimate goal is to have them age out of the program and be functional and be able to live as independently as possible. I want them to be natural learners," she says.

With an education savings account, Arizona deposits a portion of a child's funds from the state funding formula into a private bank account that parents use to buy educational products and services for their children. Parents choose one or a variety of learning experiences in place of an assigned district school.

Children with special needs are just the first to benefit from these accounts. Lawmakers in five states have enacted the accounts to help children in failing schools, adopted children, and children in military families, to name a few. Today, more than 6,000 students across Mississippi, Florida, and Arizona are using education savings accounts to take online classes, attend private schools, save for college, buy textbooks, and much more (Nevada and Tennessee families are scheduled to begin using the accounts in the coming year).<sup>2</sup>

West Virginia families that want a bright future for their children would like to have their stories end like the Jones'. Recently, however, state families have watched as media outlets around the world have portrayed a different narrative focused their state's economic challenges—which are indelibly linked to education and the state's future.

In 2014, *The Economist* bemoaned the educational and economic conditions in places like Cabin Creek.<sup>3</sup> Just 6 percent of adult residents living in the area have college degrees. “The local economy is in poor shape,” the paper says, adding that “the median household income...is half the national average.”

A local parent, Melissa, says “her son often comes home from school and announces that he has no homework. She does not believe him, but she cannot stop him from heading straight out across the creek to play with his friends in the woods.”

Families like Michael Estep’s, featured by a *Washington Post* report on the decline of mining jobs in the state, also demonstrate the link between the state’s economic conditions and education.<sup>4</sup> Estep dropped out of school in 9th grade to work in mining. He earned a good salary for most of his career, but when the mine closed, he had to rely on unemployment and food pantries. His son, Jobe, wanted to finish nursing school but may have to take a job in the mines to help the family make ends meet.

“Once he starts in the mines, he’ll be a coal miner,” Estep told the *Post*. “If he goes farther in school, it will amaze me.”

Meanwhile, West Virginia student success is uninspiring. State taxpayers spend more than \$11,000 per student, close to the national average.<sup>5</sup> The gap among students eligible and not eligible for the federal Free and Reduced-Priced Lunch program (an indicator of poverty) in 4th grade math scores is 18 points—a sizeable figure, though below the national average (24 points).<sup>6</sup>

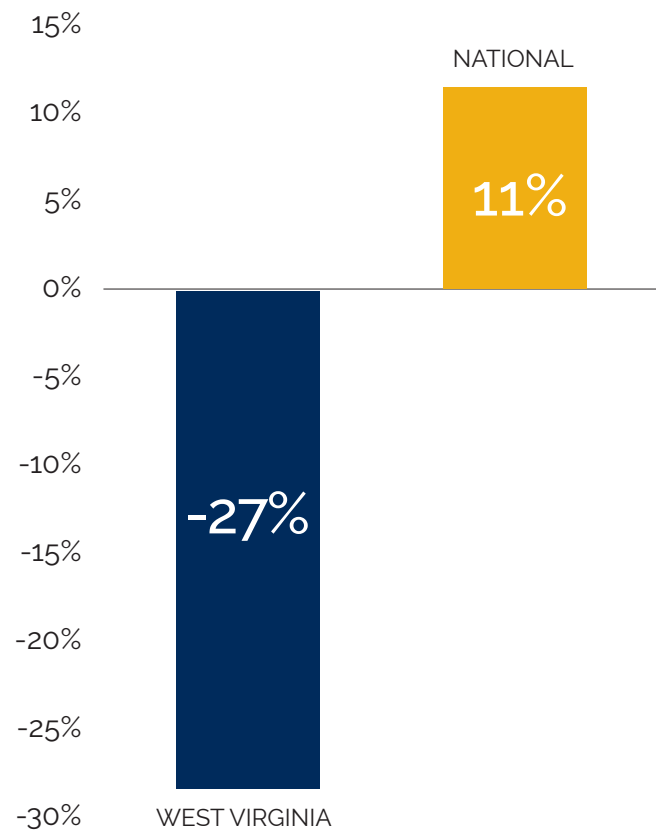
More troubling are the data that show average scores in 4th and 8th grade reading and math for all students fall among the bottom 10 states in national comparisons. The differences in average scores between students in the higher-scoring states and those at the bottom can be approximated in terms of years of learning. For example, when Massachusetts 8th graders score an average of 297 in math on the nation’s report card and students in the same grade in West Virginia score a 271, the West Virginia students are approximately 2 years behind the students in Massachusetts.<sup>7</sup>

Test scores only provide a partial picture of the state’s challenges. While West Virginia’s graduation rate is slightly higher than the national average (84.5 percent v. 82.3 percent), the state ranks 47th nationally in terms of unemployment with one of the highest unemployment rates in the U.S.<sup>8</sup> Graduates may be finishing school, but they find few places to work in-state.

See Figure 1: Unemployment Rates by State, May 2016

West Virginia’s other educational concern is also an economic one: The out-migration rates over the past 40 years have forced schools to make difficult budget decisions.<sup>9</sup> Schools that enroll fewer students from year to year see their appropriations decrease accordingly. U.S. Department of Education data show West Virginia has 273,355 students in K-12, a 27 percent decrease since the 1969-70 school year, when state schools enrolled 372,278 students.<sup>10</sup> During this period, total enrollment in U.S. public schools grew by approximately 11 percent.<sup>11</sup>

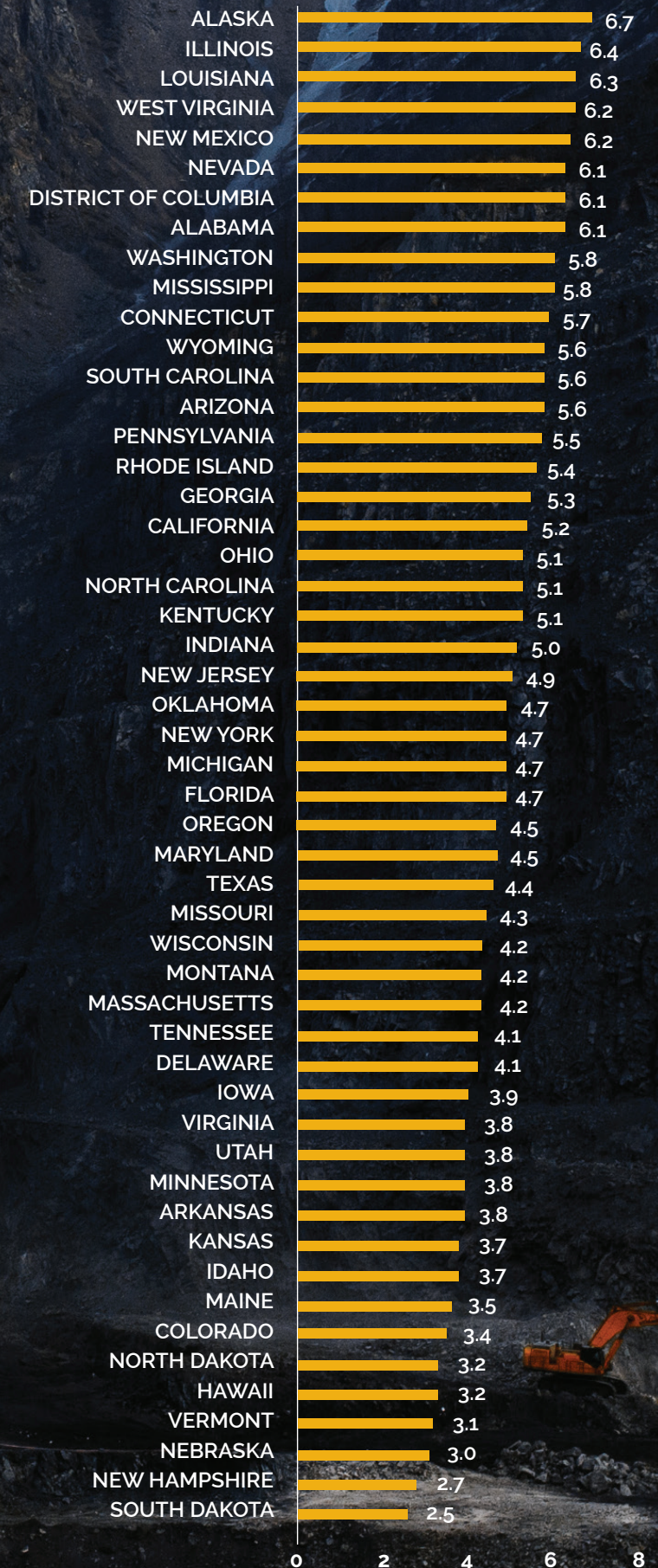
FIGURE 2:  
PERCENT CHANGE IN STUDENT ENROLLMENT, 1969-70 TO 2011-12



Source: U.S. Department of Education, National Center for Education Statistics, 2014 Digest of Education Statistics, Table 203.80, Average daily attendance (ADA) in public elementary and secondary schools, by state or jurisdiction: Selected years, 1969-70 through 2011-12, [https://nces.ed.gov/programs/digest/d14/tables/dt14\\_203.80.asp](https://nces.ed.gov/programs/digest/d14/tables/dt14_203.80.asp).

# UNEMPLOYMENT RATES BY STATE

MAY 2016



More recently, West Virginia enrollment has continued its downward trend: Between 2014-15 and 2015-16, the state saw a net loss of more than 1,500 students in K-8, while enrollment plateaued in 9-12.<sup>12</sup> Local media reports that more than half of the state's counties saw declining enrollment from 2008-12.<sup>13</sup>

A West Virginia University analysis projects that the state will lose 1 percent of its total population between 2010 and 2030, with the decline expected to begin in 2016.<sup>14</sup> Yet for residents aged 20 years or below, the decline is projected to be 4.6 percent.<sup>15</sup> As a result, West Virginia's population is aging—and quickly.

Researchers documented that rural school districts were particularly susceptible to declining enrollment in the mid-1990's (the U.S. Department of Education considers 61 percent of West Virginia school districts to be rural based on population<sup>16</sup>). Writing for the Education Commission of the States, Kathy Christie listed West Virginia as one of the states with rural schools that recorded the highest percentage of student loss.<sup>17</sup>

She notes that improvements in technology and the increasing availability of classrooms equipped with computers that have internet access are “expanding academic opportunities and broadening horizons for high school students” in remote areas like Wetzel County.<sup>18</sup> Such developments in educational technology are important to note as lawmakers consider making education savings accounts available to state families because the accounts give students greater access to online content (for more, see “Education Savings Accounts” below).

What do economic and employment challenges, average or below-average student achievement scores, schools with shrinking budgets, especially in rural areas, and an aging state population mean for residents?

First, lawmakers should find cost-effective educational solutions. As this paper will explain, education savings accounts cost a fraction—sometimes as little as half—of district school expenditures per student.<sup>19</sup> On average, taxpayers spend \$144,000 per student in West Virginia over the course of a child's elementary and secondary education career. In Arizona and Nevada, taxpayers fund a K-12 experience for children using education savings accounts at \$65,000.

Education savings account families also have access to more choices and learning experiences, which leads to the second important response for West Virginians and their

policy challenges: Students need flexible learning options to prepare students for an economic future that will not rely on mining. Rural residents, in particular, need these alternatives. Parents are using education savings accounts around the country to buy online content like educational apps (like the Jones family cited above), along with online classes, personal tutors, private school tuition, and much more.

Every child should have the chance at a quality education and a bright future, no matter where they live or the condition of their state's economy. This brief explains how education savings accounts can offer hope to West Virginia families and a successful future for their children.

### PARENTAL CHOICE IN EDUCATION GROWS ACROSS THE U.S., EXCEPT IN WEST VIRGINIA

While 43 states and the District of Columbia have enacted charter school laws over the past 25 years, West Virginia has remained on the sidelines.<sup>20</sup> Likewise, while more than half of all U.S. states now allow parents to choose a private school using an education savings account, school voucher, or private school scholarship funded by tax credit-eligible charitable contributions to scholarship organizations, West Virginia families do not have these options.<sup>21</sup>

What decisions can families in other states make for their child's education that West Virginia families cannot?

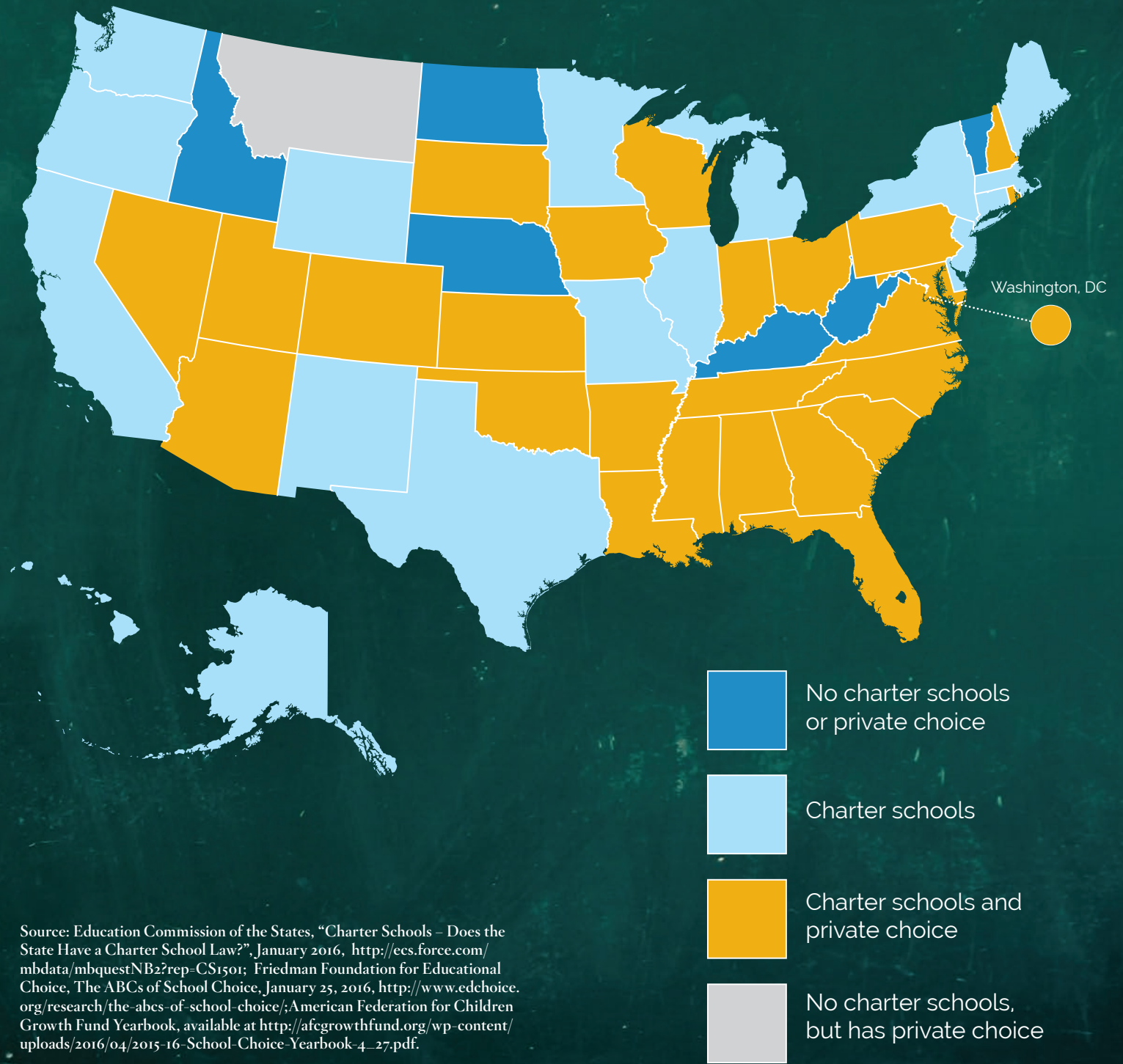
1. **CHARTER SCHOOLS.** Lee Rudolph's two children, Austin and Jennie, attend Carpe Diem Charter School in Yuma, Arizona. Carpe Diem is an independent public school that does not charge tuition and must enroll any student that applies, subject to classroom space. As a charter school, Carpe Diem can choose its own textbooks and instructional methods.

Carpe Diem leaders took advantage of the school's autonomy and designed hybrid classrooms where students spend part of the day working at their own pace using online content. They spend the rest of the day working in small groups or with teachers.

More than 6,000 charter schools enroll some 2.5 million students across 43 states and Washington, D.C.<sup>22</sup> Like most charter schools, Carpe Diem has its own school board, and school leaders and teachers decide how to measure student success.

FIGURE 3:

# PARENTAL CHOICE IN EDUCATION AROUND THE U.S.



Yuma (population 200,022) has approximately twice as many Hispanic residents as White residents.<sup>23</sup> Eighty-three percent of Hispanic K-12 students there live in poverty.<sup>24</sup>

In 2010, 60 percent of Carpe Diem students qualified for the federal Free and Reduced Lunch program, yet the school ranked first in the district in terms of student achievement in math and reading.<sup>25</sup>

Charter schools are different from state to state, but research demonstrates significant achievement gains among charter students compared to their peers. For example, in Arizona, more charter schools earned an “A” rating on the state report card system than district schools, though more also earned the state’s lowest grade, a “D.”<sup>26</sup> Fortunately for students, children are not required to attend low-performing charter schools and state lawmakers can close such schools if charter performance does not improve. Research conducted in New York City and Boston also found positive results for charter students compared to their peers.<sup>27</sup>

Charter school students demonstrate long-term success compared to students with similar characteristics in district schools. A 2016 *Journal of Policy Analysis and Management* study finds that students that graduated from Florida charter schools were more likely to enroll in college and stay for at least two years, an important indicator of long-term success.<sup>28</sup> Charter school students in this study earned \$2,000 more each year after college between the ages of 23 and 25.

2. **PRIVATE SCHOOL CHOICE.** Parents in 25 states and Washington, D.C. can choose between public and private learning options for their children.<sup>29</sup> Such offerings take different forms:

a. **School voucher.** With a school voucher, the state provides eligible parents with a coupon that covers all or part of the cost of enrolling their child in a private school. Today, eligible parents in 13 states and Washington, D.C. can use a voucher (often eligibility is determined by family income level).<sup>30</sup> To date, 18 studies have used the most reliable method of social science research to study private school scholarships, and 14 of these reports find that private school scholarships have a positive impact on student outcomes.<sup>31</sup>

b. **Tax credit scholarship.** Tax credit scholarship systems allow individuals and/or businesses to make charitable contributions to non-profit organizations that use the donations to pay for K-12 private school scholar-

ships. Donors receive a credit on their state tax returns for their donations.

Arizona and Florida have the nation’s largest scholarship programs, with more than 120,000 children using scholarships in these two states.<sup>32</sup> Alabama, Georgia, Indiana, Iowa, Kansas, Louisiana, Montana, Nevada, New Hampshire, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, and Virginia have similar laws.<sup>33</sup>

c. **Education savings account.** As described above, with an education savings account, the state deposits a portion of a child’s funds from the school funding formula into a private bank account that parents use to customize their child’s learning experience.

Parents can buy online classes, save for college, pay private school tuition, or hire personal tutors for their child in most states that have enacted such accounts (see the next section for more).

Education savings accounts are distinctly different from charter schools and private school scholarships because parents can take advantage of multiple learning options simultaneously for their children. A student can use their account to take a class online and pay for a personal tutor—while enrolled in a community college. This feature allows families to use an account to meet the unique needs of their child.

## EDUCATION SAVINGS ACCOUNTS

Arizona lawmakers enacted the nation’s first education savings account law in 2011, and since that enactment, four more states have given parents the freedom to use accounts: Florida, Mississippi, Tennessee, and Nevada.<sup>34</sup> Families remove their child from an assigned district school to take advantage of the accounts’ flexibility.

In Arizona, parents and students can choose from

- Private school tuition.
- Textbooks.
- Educational therapies.
- Personal tutors.
- Curriculum.
- Online classes.
- Standardized test fees.
- College savings plans.
- College tuition and textbooks.
- K-12 public school classes or extracurricular activities.
- Insurance or surety bond payments

“Charter schools are different from state to state, but research demonstrates significant achievement gains among charter students compared to their peers.”



(to protect against fraud).<sup>35</sup> These flexible purchasing options are similar in the other states that have enacted the accounts.

Every child should have the opportunity to use an education savings account, in the same way that every child has access to district public schools. In Nevada, lawmakers enacted a law that allows all district or charter school students to apply for an education savings account (nearly a half-million students).<sup>36</sup> Arizona officials enacted a savings account law for children with special needs in 2011, but since that time, lawmakers have expanded eligibility to include children from failing schools, adopted children,

and children from active duty military families, to name a few.<sup>37</sup> Approximately one in five students attending Arizona public schools are eligible for an account.

Education savings accounts save taxpayer money compared to district public schools. In Arizona, for example, district school students are funded at approximately \$9,000 per student.<sup>38</sup> For a child that does not have special needs and uses an education savings account, that child's account is worth approximately \$5,000.<sup>39</sup> For children with special needs, education savings accounts are worth 90 percent of what the state would spend on that child from state funds (not including district or federal sources) plus an "addition-

TABLE 1:

EDUCATION SAVINGS ACCOUNTS V. DISTRICT PER STUDENT FUNDING STATE TO STATE		
State	Education Savings Account Average Per Student	District Per Student Funding
Arizona	\$4,800 (non-special needs student)	\$8,949
Florida	\$10,000 (children with special needs)	\$9,403
Mississippi	\$6,500 (children with special needs)	\$8,637
Nevada	\$5,100 (\$5,700 for low-income students)	\$8,997
Tennessee	\$6,628 (children with special needs)	\$9,336

Source: See Jonathan Butcher, "Education Savings Accounts State by State Comparison," 2016, available in Appendix B. For Arizona special needs students, education savings accounts are worth 90 percent of what the state would spend on that child from state funds (not including district or federal sources) plus the additional assistance figure that charter school students receive. Arizona Joint Legislative Budget Committee, "K-12 Funding (M&O, Capital and Other), FY 2007 through FY 2016," <http://www.azleg.gov/jlbc/allfunding.pdf>. E-mail correspondence with Karla Escobar, ESA Coordinator, Arizona Department of Education, January 9, 2014. National Center for Educational Statistics, 2015 Digest of Education Statistics, Table 236.75 Total and current expenditures per pupil in fall enrollment in public elementary and secondary education, by function and state or jurisdiction: 2012-13, [https://nces.ed.gov/programs/digest/d15/tables/dt15\\_236.75.asp](https://nces.ed.gov/programs/digest/d15/tables/dt15_236.75.asp).

## THE KNAPP FAMILY

Gretchen Knapp's two children are both using education savings accounts. David (age 11) and Alexa (9) were eligible for the accounts in Arizona because they were adopted from the state foster care system. Arizona allows parents several choices for a child's education, and Gretchen had already taken advantage of one of those choices by sending David to a charter school, a public school operating independent of a traditional school district.

When the school was not able to meet David's needs, Gretchen applied for an education savings account. "I'm thrilled that this account has allowed me to keep them both [at a new private school]," Gretchen says. "As long as you stay on top of the deadlines [for reporting expenses], the Arizona Department of Education has made it easy to use the cards."

# HERE'S HOW EDUCATION SAVINGS ACCOUNTS WORK IN ARIZONA:

## 1. Parents determine whether their child is eligible:

- Special needs;
- Adopted from the state foster care system;
- Active duty military family;
- Assigned to a failing public school;
- Sibling of an existing savings account student;
- Students living on a Native American reservation;
- Preschool student with special needs;
- Incoming kindergarten student that meets any of these criteria.

## 2. Families complete an application available on the Arizona Department of Education's website. As of 2016, parents can apply at any time during the year.

## 3. Once the department processes the application and parents sign a contract, families remove their child from a public school and receive a package in the mail that resembles the materials provided when you open a new bank account.

The Arizona Department of Education sends families a VISA card and an account number with which to make purchases.

## 4. The department makes the initial deposit on the VISA card at the end of the summer. The department determines a child's account award based on a percentage of the state funds used for district students according to grade level and whether a child has special needs.

Parents can swipe the card at approved educational vendors like Sylvan Tutoring or at a private school—or pay online for classes. Parents can also use the card to purchase textbooks or other learning materials to instruct a child at home.

## 5. At the end of each fiscal quarter, parents complete an expense report for all of their purchases and return the report to the department of education. The department reviews the expense report before making the next quarter's deposit.

al assistance” figure that charter school students receive. Another similarity among education savings account states is that state agencies make quarterly deposits into each child’s account.<sup>40</sup> Parents either receive pre-approval for each purchase (Florida) or report their expenses at the end of each fiscal quarter (Arizona). For states that use quarterly expense forms, state agencies review the expenses before making a deposit in a student’s account for the next quarter. Such practices have not eliminated fraud but have prevented misuse in the accounts from becoming widespread. If state leaders discover an unlawful purchase, the state agency can withhold the next deposit.

### WHO BENEFITS?

**STUDENTS.** In Arizona, Florida, and Mississippi, students from different walks of life are using education savings accounts to meet a variety of needs (again, at the time of this writing, Tennessee and Nevada have not awarded accounts to students yet). In Florida and Mississippi, students with special needs are eligible for the accounts.<sup>41</sup>

In Arizona, lawmakers have expanded eligibility and made the accounts available to students that may need more help with classwork after school or who would like to study online because their family must move often (as is the case

with military families, for example) (Table 2). Students have many choices with their accounts, and evidence from Arizona indicates they are taking advantage of this flexibility (Figure 4).

Furthermore, research continues to demonstrate that when students have choices for their education, the outcomes are positive.<sup>42</sup> Test-score-related achievement is welcome, but so is evidence that children that can choose a private school are more likely to have lower crime rates than their peers—as evidence from the nation’s oldest private school scholarship program in Milwaukee has demonstrated.<sup>43</sup> Evidence also indicates that students using private school scholarships are more likely to attend and persist in college.<sup>44</sup>

Such research findings are important for students. Education savings accounts are helping different kinds of students, and the educational options afforded these children resemble other private school choice opportunities that have led to positive outcomes for children.

**PARENTS.** With their newfound ability to search and pay for learning experiences, parents have more flexibility to meet their children’s needs.<sup>45</sup> Parents have never had more schools and services to choose from. As Quinn Cummings, author of *The Year of Learning Dangerously: Adventures in*

TABLE 2:

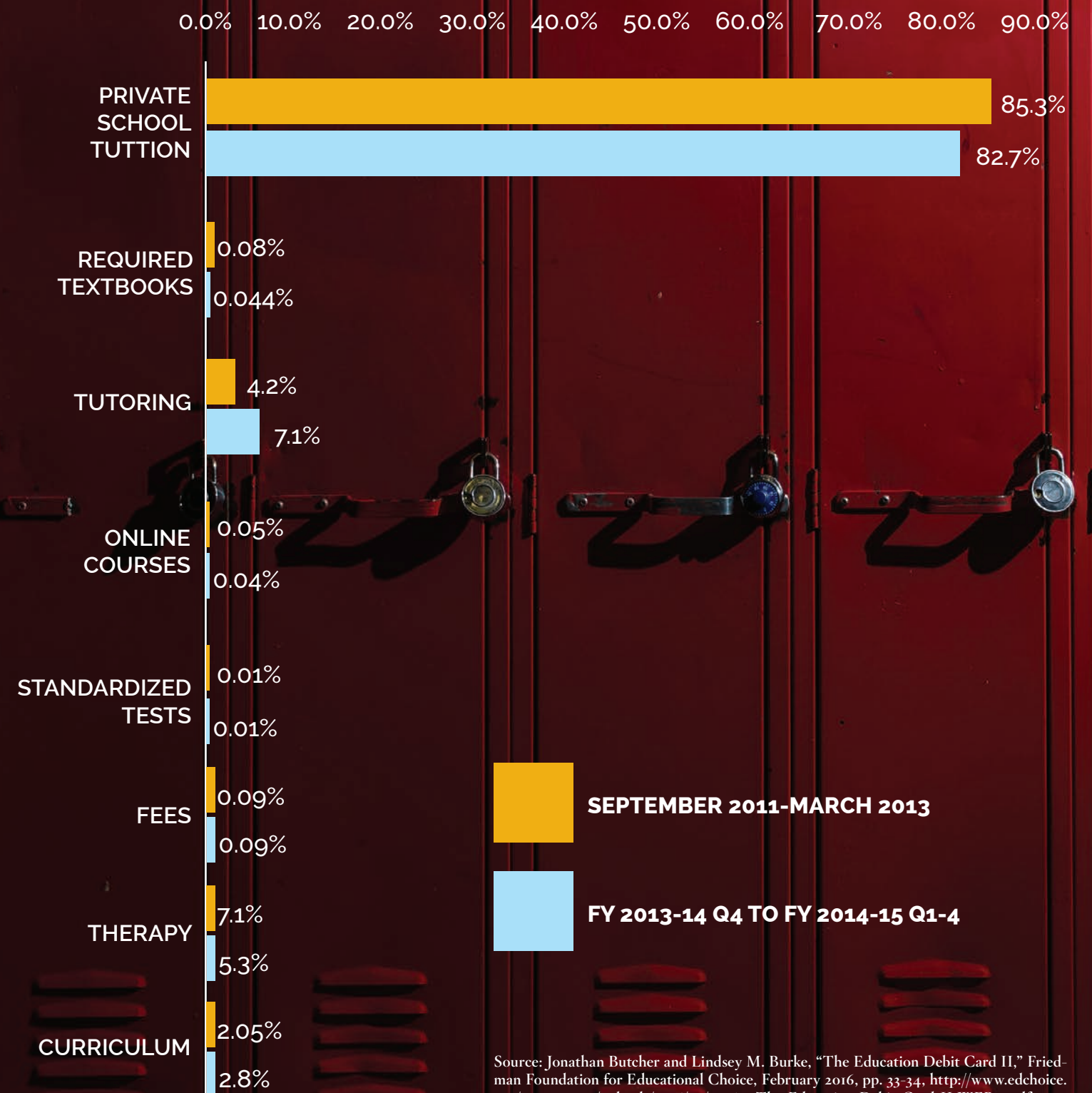
2015–16 ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT ENROLLMENT		
Student Eligibility	ESA Enrollment	Percent of Enrollment
Special needs	1395	58%
Previously assigned to a failing school	360	15%
Child of active-duty military family	273	11%
Adopted	182	8%
Native American students	143	6%
Siblings	53	2%
Total	2,406	100%

Source: E-mail communication with the Arizona Department of Education, September 9, 2015 and Jonathan Butcher and Lindsey M. Burke, “The Education Debit Card II: What Arizona Parents Purchase with Education Savings Accounts,” February 2016, <http://www.edchoice.org/wp-content/uploads/2016/02/2016-2-The-Education-Debit-Card-II-WEB-1.pdf>.

FIGURE 4:

## ARIZONA EMPOWERMENT SCHOLARSHIP ACCOUNT SPENDING COMPARISON,

SEPTEMBER 2011-MARCH 2013 AND FY 2013-14, Q4 TO FY 2014-15, Q4



Source: Jonathan Butcher and Lindsey M. Burke, “The Education Debit Card II,” Friedman Foundation for Educational Choice, February 2016, pp. 33-34, <http://www.edchoice.org/wp-content/uploads/2016/02/2016-2-The-Education-Debit-Card-II-WEB-1.pdf>.

*Homeschooling*, says,

Imagine that your high school junior spends half of every day at the brick-and-mortar school up the street. Two afternoons a week, he logs into an art history seminar being taught by a grad student in Paris. He takes computer animation classes at the local college, sings in the church choir, and dives at the community pool.

He studies Web design on YouTube. He and three classmates see a tutor at the public library who preps them for AP Chemistry. He practices Spanish on Skype and takes cooking lessons at a nearby restaurant every Saturday morning.<sup>46</sup>

Education savings accounts make potential experiences like these a reality. Parents and students sign a contract with the state to use an education savings account in place of an assigned school. Today, education is not simply defined by where it is delivered but by how many different ways it is delivered. From online resources such as the Khan Academy videos on YouTube, which cover thousands of subjects, to full-time virtual schools such as Connections Academy, those sources make it easier for students to access education anywhere through the Internet.

**TAXPAYERS.** Education savings accounts offer accountability in education spending and can be a cost savings for taxpayers. With the accounts, the state provides funds directly to families and audits every purchase, instead of funding schools, where revenues and expenses are difficult to track. Savings account families then report expenses to the state. Every penny in an education savings account is accounted for.

### EDUCATION SAVINGS ACCOUNTS AND LEGAL CHALLENGES

Teachers unions and other education associations routinely challenge parents' public and private school choice options. The most common activity is for one of these associations to file a lawsuit in an attempt to prevent families from choosing an option other than a child's assigned district school. According to an Institute for Justice analysis, West Virginia's constitution does not have provisions found in other state constitutions that make private school choice vulnerable to attack based on provisions in the state's founding document (this does not mean such associations will not try to block the program).<sup>47</sup>

Fortunately for families, education savings accounts have a strong record in state courts so far. Shortly after Gov. Jan Brewer signed Arizona's education savings accounts into law, the state teachers union and school board association sued to block students from participating.<sup>48</sup> The education associations made several claims against the accounts, most notably that the savings accounts were the same as private school vouchers.


The unions based their claims on an earlier state supreme court ruling. The Arizona Supreme Court had ruled in 2009 that K-12 private school vouchers were not constitutional based on provisions in Arizona's constitution.<sup>49</sup> Thirty-eight states have constitutional language that prevents the use of public funds for private or religious purposes, and Arizona's highest court ruled that vouchers were unconstitutional because of these provisions.

Yet in Arizona's education savings account case, *Niehaus v. Huppenthal*, the Arizona Court of Appeals ruled in 2013 that the accounts are distinctly different from vouchers. Judge Jon W. Thompson wrote in a unanimous opinion,

The ESA does not result in an appropriation of public money to encourage the preference of one religion over another, or religion per se over no religion. Any aid to religious schools would be a result of the genuine and independent private choices of the parents. The parents are given numerous ways in which they can educate their children suited to the needs of each child with no preference given to religious or nonreligious schools or programs.<sup>50</sup>

In 2014, the Arizona Supreme Court declined to review the Appeals' Court decision, upholding the accounts in Arizona. The Goldwater Institute defended education savings account families alongside the Institute for Justice in this case.

The Goldwater Institute successfully defended the accounts again in Florida, where unions challenged education savings accounts based on procedural rules (the union opposed the way that lawmakers drafted and voted on the bill).<sup>51</sup> The Florida teachers union claimed that the bill dealt with too many subjects at one time. A trial judge dismissed the case in July 2014.



“Fortunately for families, education savings accounts have a strong record”



## WEST VIRGINIA EDUCATION FUNDING AND EDUCATION SAVINGS ACCOUNTS

State lawmakers designing education savings accounts for West Virginia families should give account holders at least the same access to quality learning experiences as students attending district schools. To do so, savings account families should receive the same amount of taxpayer funds per student as students in traditional schools.

According to the U.S. Department of Education, West Virginia and federal taxpayers spend a total of \$11,536 per student, slightly less than the national average of \$12,020 (according to the Digest of Education Statistics, West Virginia ranks 29th, in terms of total per student spending from federal, state, and local sources).<sup>52</sup>

Just as every student has access to state public schools, so every child should have the freedom to choose an education savings account. Likewise, every savings account student should have access to the total amount of funds set aside for them in the district school system.

Admittedly, education finance is hotly contested. Policymakers should not compromise with themselves about how much each education savings account should be worth before negotiating with interest groups that oppose parental choices in education. Still, lawmakers should use the experience from other states to guide their planning as they anticipate the discussions that may take place about how best to design the funding components of an education savings account bill.

### LAWMAKERS SHOULD BE PREPARED TO DISCUSS TWO POLICY AREAS:

1. **HOW MUCH.** As noted above, education savings account students in other states come at a significant discount compared to students in assigned schools. In Arizona, education savings account student funding is 90 percent of the state portion of funds used in the state funding formula, with approximately \$1,500 added in addition per student.<sup>53</sup> Table 1 lists the average account award for a non-special needs student as \$4,800.

In all education savings account states, the funding calculations are distinct from each other, with three exceptions. First, each state's account award is less than the average per student funding for district students.<sup>54</sup> Second, each state funds savings accounts with money from the

state portion of the funding formula—leaving out local money (funds collected through property taxes, for example) and federal funds. Local and federal funds, then, are a cost-savings for taxpayers for each savings account student that transfers from a district school to an education savings account. Finally, in all savings account states except Florida, students must attend a public school in the year prior to using an education savings account. Thus, when a student leaves a district school to use an account worth less than the average district funding per student, taxpayers realize a cost savings.

Ninety percent of \$11,536 (West Virginia's total average per student expenditure) is \$10,382. The state could use a portion of the remaining \$1,154 to help cover administrative costs at the agency implementing the accounts and financial audits of the accounts. It is a common feature of the existing education savings account laws to specify that 3–5 percent of the funds not used in a child's account be appropriated to pay for administrative fees. In Arizona, for example, the department of education can use up to 4 percent of the remaining funds to cover administrative fees, while the state treasurer can use up to 1 percent for administration.<sup>55</sup>

From 2011–2016, the Arizona legislature appropriated the state department of education \$400,000 per school year to use for administrating education savings accounts.<sup>56</sup> In the 2016–17 school year, the legislature appropriated \$799,000 to the department for this purpose.

2. **FUNDING SOURCES.** West Virginia's school funding formula is based on student enrollment and teacher-student ratio requirements. Public schools are largely held harmless for student mobility between schools or other learning options, even with substantial revisions lawmakers made to the formula in 2008–09.<sup>57</sup> Like all U.S. states, West Virginia calculates education funding totals from three sources: the state's general fund, local tax receipts, and federal funding from the U.S. Department of Education.

The state's funding formula is broadly called the "Public School Support Program."<sup>58</sup> This formula contains seven steps that calculate the amount of money from the state general fund that is awarded to school districts. The primary component of the program is a student enrollment count districts conduct in the second month of the previous school year. Schools count students during one school year, and the state determines the next year's funding based on the prior year's enrollment count.<sup>59</sup>



“Just as every student has access to state public schools, so every child should have the freedom to choose an education savings account.”

The second component is a student-educational staff ratio the law requires. Local districts have a ratio of instructional staff per 1,000 students that the formula dictates. The details of this calculation are beyond the scope of this paper (the formula takes into account students' districts' population density and allows for a specified number of teachers and support staff). Lawmakers froze the number of administrative staff in school districts to match the figure of employed administrators and open positions as of 1990.<sup>60</sup>

For the purposes of this report, we note here that the first 7 steps of West Virginia's funding formula calculate the state portion of education funding, and this section of the formula is based on enrollment and student-educational staff ratios the law requires. Education savings accounts in other states rely on the state portion of each respective states' formula, and, based on West Virginia's Public School Support Program's first 7 steps, this figure would be \$6,292 per account (for details on this calculation, see the endnotes).<sup>61</sup> For comparison with other states' education savings account averages, 90 percent this figure is \$5,663.

If West Virginia funds each education savings account at \$5,663, then the state will realize cost savings compared to traditional Public School Support Program funding and total per student expenditure amounts (Table 3).

For every 5,000 students that uses an education savings account at \$5,663, West Virginia will spend approximately \$28 million in Public School Support Program funds. For traditional students, the state spends more than \$31 million. Based on these figures from 2015-16, the state will save more than \$3 million in state taxpayer money for every 5,000 students that leave a traditional school to use an education savings account.

## KEY FEATURES OF AN EDUCATION SAVINGS ACCOUNT LAW

In the five states where lawmakers have enacted education savings accounts, the technical provisions of each state law are slightly different. Yet the most important features remain the same. Notably, parents have a flexible spending account—resembling personal bank accounts—with which they can choose to purchase multiple products and services for their children. The funding for each account comes from public sources, either the general fund (as in Arizona) or an annual appropriation (Florida).

There are three critical provisions that West Virginia lawmakers should consider when drafting education savings account legislation:

1. **ELIGIBILITY.** Just as every child has the opportunity to attend a public school in their state, so should every child have the chance to apply for an education savings account. Increasingly, parental choices in education are including broad categories of families across different income and ethnic categories.

In Arizona, nearly 1 in 5 public school students is eligible to apply for an account, including children from failing schools, children with special needs, and students living on Native American reservations.<sup>62</sup> In Nevada, every child assigned to a district public school is eligible to apply, as long as the student has attended a public school for 100 days in the prior school year (eligible students in Arizona, Tennessee, and Mississippi also have a public school attendance requirement).<sup>63</sup>

Lawmakers in other states are also enacting parental choice options that encompass large numbers of students.

“In Arizona, nearly 1 in 5 public school students is eligible to apply for an account, including children from failing schools, children with special needs



TABLE 3:

WEST VIRGINIA EDUCATION SAVINGS ACCOUNT COST SAVINGS ESTIMATES			
Number of Students	ESA	PSSP	ESA Savings v. PSSP
5,000	\$5,663.00	\$6,292.00	\$3,145,000.00
Cost	\$28,315,000.00	\$31,460,000.00	

Source: Author calculations. 2014 National Center for Education Statistics NCES-DC Data Conference, “The Public School Support Program (PSSP) Executive Summary 2014-15,” p. 1, [https://nces.ed.gov/whatsnew/conferences/statsdc/2014/pdf/VII\\_C\\_Barkley\\_Handout2.pdf](https://nces.ed.gov/whatsnew/conferences/statsdc/2014/pdf/VII_C_Barkley_Handout2.pdf); West Virginia Department of Education, “State of West Virginia Abbreviated Summary of the Public School Support Program Based on the Final Computations for the 2015-16 Year,” <https://wvde.state.wv.us/finance/pssp/2015-2016/PSSP%20Abbreviated%20Summary%2016%20-%20Final%20Comps.pdf>.

In 2011, Indiana lawmakers enacted the Choice Scholarship Program, which provides private school vouchers to K-12 students, and 59 percent of students living in the state are eligible.<sup>64</sup> Louisiana's private school vouchers, enacted in 2012, also have inclusive eligibility provisions.<sup>65</sup>

Some states may choose to phase-in additional student populations or eliminate caps on student participation over time. Arizona lawmakers included only children with special needs when education savings accounts became law in 2011, and additional populations like adopted children and incoming kindergarten students were added in the years hence.<sup>66</sup> In Indiana, the aforementioned voucher program was capped at 7,500 students in the first year and 15,000 in the second and the cap expired in year 3.<sup>67</sup> (Nearly 33,000 students are using the vouchers today.<sup>68</sup>)

If lawmakers choose to consider installing a cap on student participation, good policy dictates that the cap automatically expire after a certain period of time so that state lawmakers do not create two classes of students in perpetuity—those with choices in education and those without.

2. **ALLOWABLE EXPENSES.** Education savings accounts' distinctive feature is that parents can choose from multiple items and make several choices between educational products and services simultaneously with their child's account. Lawmakers should give parents wide latitude with such expenses so that families can meet the needs of their children.

As listed above, in Arizona, families have 13 categories of eligible expenses according to law, provisions that lawmakers in other states with the accounts have emulated.<sup>69</sup>

Other items to consider are transportation costs and computer hardware. Such items can be limited to specified amounts so that parents cannot abuse these categories by re-selling computers or charging personal transportation expenses to their child's accounts. For example, parents can be limited to purchasing computer hardware to once every three years.

By giving parents multiple options, education savings accounts can be fundamentally distinguished from private school scholarships or other parental choice programs. Parents have the opportunity to become "entrepreneurs" for their child's future, designing unique learning experiences that suit a child's needs.<sup>70</sup>

3. **PROTECTING STUDENTS AND TAXPAYERS FROM FRAUD.** Public sector fraud is simply a fact of life. No less than Milton Friedman famously quipped that "nobody spends someone else's money as carefully as he spends his own," which leads to public officials not being as careful with taxpayer money as there are with their own—and fraudsters lurking on the edges of public programs looking for weaknesses.<sup>71</sup>

To wit, on June 22, 2016, the Justice Department charged 301 people with defrauding government health care programs for a total of nearly \$1 billion.<sup>72</sup> In the previous year, another 243 individuals had been charged with making \$712 million in fraudulent claims.

Public school fraud is also a pervasive problem across the U.S. Just recently, in West Virginia's neighboring state of Pennsylvania, Chaka "Chip" Fattah, Jr., son of a U.S. Congressman, was found guilty of mispending some \$1 million meant for children at Philadelphia public schools.<sup>73</sup> In San Antonio, Texas, police arrested two school administrators on charges stemming from the misuse of \$7 million meant for students.<sup>74</sup> Such activity does not even scratch the surface of the misdeeds.

Education savings accounts are a solution for taxpayers and lawmakers because families know how every dollar meant for their child's education is spent, and parents are the decision makers. Still, this does not mean fraud does not occur with the accounts. Lawmakers should enact protections so that if parents try to misuse the accounts, students and taxpayers are protected.

Lawmakers can prevent widespread education savings account fraud—widespread like the federal health care schemes mentioned earlier—by making quarterly deposits to families' accounts. Once parents account for each fiscal quarters' expenses, the state will make the next deposit.

West Virginia lawmakers should also require the agency implementing the accounts to create a 1-800 telephone line so that individuals can report misuse, along with a website to report fraud. Arizona's state auditor released the agency's first report on education savings accounts and listed such a reporting mechanism among its recommendations to the state department of education as a way to prevent misuse.<sup>75</sup>

In Nevada, lawmakers are experimenting with surety bonds for educational vendors, which require providers to sign a contract with the state and pay a fee in order to provide services to participating families.<sup>76</sup> The fees will be aggregated and used to fund any state investigations into fraudulent activity.

Nevada's education savings account system also requires providers to register with the state and for a financial services company to process parent transactions with their child's account.<sup>77</sup> In this way, participating families cannot make a purchase from an educational vendor unless the state has authorized the vendor's participation. Likewise, the payment processing company will not initiate the transaction until it has confirmed that the parents are, in fact, accountholders and the vendor has registered with the state.

Preventing fraud is beyond the reach of any agency, yet these fraud reporting and transparent funding methods will help to mitigate potential misuse.

## CONCLUSION

Economic forecasts for West Virginia's economy are sobering. A recent report from the Mountain State Business Index, a tool West Virginia University uses to measure the state's economic health, finds that a rapid decline that started in 2015 appears to have plateaued.<sup>78</sup> "Although the [index's] performance in recent months offers some room for cautious optimism ... the persistence and depth of struggles for the coal industry will ultimately limit any upside potential for growth in many parts of the state," reports a university researcher.

State labor officials for WorkForce West Virginia estimate a 23 percent decline in job openings outside of the oil and gas sectors between 2015 and 2017.<sup>79</sup>

This "confirms the need for West Virginians to do what they can to grow the state's economy," writes the *Charleston Gazette-Mail's* editorial board.<sup>80</sup> The board goes on to write,

While state officials play a role, it's not up to government to choose what types of businesses are spawned and get to grow and thrive in the Mountain State. West Virginia residents must insist on a welcoming and creative environment where new ideas are encouraged, new concepts can

grow, and businesses — small and large, local, national and international — thrive through low taxes, reasonable regulation, a strong workforce and an inquisitive and accepting marketplace.

Lawmakers should be open to the creative influence of other states and design education savings accounts for state families. Since Arizona lawmakers enacted the accounts, approximately one-third of participating families have customized their child's education with multiple educational products and services.<sup>81</sup> These families have identified how their children can be most successful and have created a learning environment to challenge them.

Participating families report the accounts have a special place in their child's life: "An education savings account allows us to do more than think about private education," Arizona parent Amanda Howard wrote in the *Arizona Republic* in 2014.<sup>82</sup> "We knew that we could use the account to find different things to help [our son] Nathan, including speech therapists and other specialists, and we did."

These choices changed the Howard's lives, Amanda said. "For a family like ours that struggled for years to see progress like this, it's amazing to watch my little boy smile." Every West Virginia student, no matter the child's needs—large or small—should have the chance to use an education savings account and find success like this.

**APPENDIX A: ARIZONA'S EDUCATION SAVINGS ACCOUNT LAW, 2011-2015**

<b>SB1553: Education, Arizona Empowerment Scholarship Accounts</b>	Passage: 2011
Summary: This bill first authorized Empowerment Scholarship Accounts in Arizona. Students with special needs were eligible to apply in the 2011-2012 school year. The accounts were funded using a specific source of funds at the Arizona Department of Education for students with special needs. <sup>83</sup>	
<b>HB2622: School Rankings; Display; Time Period</b>	Passage: 2012
Summary: This bill expanded student eligibility to include children attending schools that earned a "D" or "F" on the state report card, children in active-duty military families, and children adopted from the state foster care system. The bill also funded all accounts using the general fund, the primary source of Arizona state education funding. <sup>84</sup>	
<b>HB2458 Empowerment Scholarship Accounts; Fraud Prevention</b>	Passage: 2013
Summary: This bill required the Arizona Department of Education to conduct annual audits in addition to the quarterly reviews of the accounts. The bill also gave the department the authority to outsource auditing responsibilities and to create fraud-reporting resources such as a 1-800 phone number and a website dedicated to fraud reporting. The bill also gave the department the authority to create a surety bond arrangement with families to help recover any misspent funds. <sup>85</sup>	
<b>SB1363: Empowerment Scholarship Accounts; Expansion; Funding</b>	Passage: 2013
Summary: This bill expanded student eligibility to include incoming kindergarten students who meet the existing eligibility requirements for the savings accounts. The bill also adjusted the funding formula so that the basic amount of account awards was increased to approximately \$5,300. <sup>86</sup>	
<b>HB2150: Empowerment Scholarship Accounts; Military Families</b>	Passage: 2014
Summary: This bill removed the requirement that children of active duty members of the military attend a public school for 100 days in the prior school year before applying for an Empowerment Scholarship Account. In addition, the bill added eligibility for children from families where a parent was in the military and was killed in the line of duty. <sup>87</sup>	

<b>SB1237: Empowerment Scholarship Accounts;Revisions</b>	Passage: 2014
Summary: This bill provided some technical fixes for the accounts. New provisions included the Arizona Department of Education's ability to outsource student Individualized Education Plan (IEP) drafting to private providers and provides more flexibility for parents over when the department of education deposits funds in a student's savings account. <sup>88</sup>	
<b>HB2139: Increased Eligibility; Empowerment Scholarship Accounts</b>	Passage: 2014
Summary: This bill extended Empowerment Scholarship Account eligibility to include siblings of existing Empowerment Scholarship Account students. The bill also made preschool children with special needs eligible for the accounts. <sup>89</sup>	
<b>SB1332</b>	Passage: 2015
Summary: This bill expanded Empowerment Scholarship Account eligibility to include children living on Native American reservations in Arizona. <sup>90</sup>	

Source: Adapted from: Jonathan Butcher, "Education Savings Accounts and Improving Oklahoma Student Achievement," 1889 Institute, February 2015, <http://nebula.wsimg.com/d4a087eac196e2991bdca07a0e91274c?AccessKeyId=681EDA4DoE5B3C526518&disposition=0&alloworigin=1>.

## APPENDIX B



State	Eligibility	Students required to attend a public school prior to using an account	Funding	Academic Transparency	Program Administration	Allowable Uses
<b>Arizona (ARS 15-2401 to 2404)</b>	<ul style="list-style-type: none"> <li>Children with special needs</li> <li>Children from failing schools</li> <li>Children in active-duty military families</li> <li>Adopted children</li> <li>Incoming kindergarten students</li> <li>Siblings of existing account holders</li> <li>Preschool children with special needs</li> <li>Children living on Native American reservations</li> <li>A child using a scholarship under the state's tax credit scholarship law for children with special needs ("Lexie's Law")</li> </ul>	Yes (except incoming kindergarten students, preschool students with special needs, and children of military members killed in action)	<p>90 percent of the state portion of the school funding formula for each student, plus additional assistance (approximately \$1500)</p> <p>Students with special needs receive additional funding based on the state's weighted school funding formula (an average of \$13,000-\$15,000)</p>	No requirements	Arizona Department of Education	<ul style="list-style-type: none"> <li>Private school tuition</li> <li>Textbooks</li> <li>Educational therapies</li> <li>Tutoring</li> <li>Curriculum</li> <li>Online classes</li> <li>Standardized test fees or AP test fees</li> <li>Contributions to a Coverdell education savings account</li> <li>College tuition</li> <li>College textbooks</li> </ul> <ul style="list-style-type: none"> <li>Fees for management of the empowerment scholarship account by firms selected by the treasurer.</li> <li>Public schools services</li> <li>Insurance or surety bond payments as required by the department of education</li> </ul>
<b>Florida (Chapter 2014-184)</b>	<ul style="list-style-type: none"> <li>Children with specific special needs diagnoses</li> <li>Based on state appropriations, approximately 5,000 students will be served in the 2015-16 school year.</li> </ul>	No	<ul style="list-style-type: none"> <li>Approximately \$10,000 per student</li> <li>The legislature must appropriate funds each year. For 2016, the state appropriated \$53.4 million.</li> </ul>	Students must take a nationally norm referenced test	Step Up for Students and AAA Scholarship Foundation	<ul style="list-style-type: none"> <li>Instructional materials, including digital devices</li> <li>Curriculum</li> <li>Special education therapy</li> <li>Private school tuition</li> <li>College tuition</li> </ul> <ul style="list-style-type: none"> <li>Online courses</li> <li>Standardized test fees</li> <li>Prepaid college tuition plans</li> <li>Public schools services</li> </ul>
<b>Mississippi (SB 2695 as sent to the governor)</b>	Children with an active Individualized Education Plan (IEP)	Yes	\$6,500	No requirements	Mississippi Department of Education	<ul style="list-style-type: none"> <li>Private school tuition</li> <li>Textbooks</li> <li>Personal tutors</li> <li>Curriculum</li> <li>Transportation costs</li> <li>Online classes</li> <li>Standardized test fees</li> <li>Education therapy</li> <li>Public school classes and extracurricular activities</li> </ul> <ul style="list-style-type: none"> <li>College tuition</li> <li>College textbooks</li> <li>Surety bond payments</li> <li>Consumable materials (limited to \$50)</li> <li>Computer hardware and software</li> </ul>
<b>Tennessee (SB 27)</b>	Children with specific special needs diagnoses	Yes	\$6,628	Students must take a nationally norm referenced test	Tennessee Department of Education	<ul style="list-style-type: none"> <li>Private school tuition</li> <li>Textbooks</li> <li>Personal tutors</li> <li>Curriculum</li> <li>Transportation</li> <li>Online classes</li> <li>Standardized test fees</li> <li>Coverdell college savings plans</li> </ul> <ul style="list-style-type: none"> <li>Educational therapy</li> <li>Public school classes and extracurricular programs</li> <li>College tuition</li> <li>College textbooks</li> </ul>
<b>Nevada (SB 302 as enrolled)</b>	All public school students	Yes	90 percent of the average basic support per student (100 percent for low-income student. Average accounts are estimated to be \$5,100 to \$5,700)	Students must take a nationally norm referenced test	Nevada Treasurer	<ul style="list-style-type: none"> <li>Private school tuition</li> <li>Textbooks</li> <li>Personal tutors</li> <li>Distance education programs</li> <li>Standardized test fees</li> </ul> <ul style="list-style-type: none"> <li>Transportation (\$750 per year)</li> <li>Curriculum</li> <li>College tuition</li> <li>College textbooks</li> </ul>

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## END NOTES

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