

Flexible Education Spending Accounts: Choice Meets Innovation



SUMMARY

Monopolies in the education system have stifled innovation and limited a parent's options to customize their child's learning. Education reforms like charter schools and open enrollment have had moderate success in many states but lack the innovative nature to truly reinvent the system.

Flexible Education Spending Accounts (FSA) offer an opportunity for parents to go beyond choosing *where* their child is educated to having a say in *how* their child is educated.

Top-down, one-size-fits-all reforms fail more often than not because they do not address the uniqueness of students with different learning styles, geographic limitations, and upbringings. Instead, public education needs a marketplace for reforms that parents and teachers can turn to.

An FSA goes beyond merely reforming at the top or providing school choice by engaging parents directly in shaping how funding is used in their child's education.

All Utah parents should be able to be directly involved in how their child is educated with public funds.

Public education has fallen far behind the innovations of the 21st century. There are dozens of examples of innovative ideas and programs that could have a major influence on the pedagogy and outcomes of education in public schools, such as the Khan Academy or the “flipped classroom.”¹

Despite expansive changes over the last two decades in technology and communication, education in government schools has—for the most part—remained the same.

A parent’s right and obligation to educate and teach their own children far exceeds the supposed mandate of the government to provide free education for all. Utah law recognizes that “a parent possesses a fundamental liberty interest in the care, custody, and management of the parent’s children.”

The law also says that the state recognizes that parents have “the right, obligation, responsibility, and authority to... educate” their children and that “the state’s role is secondary and supportive to the primary role of a parent.”² Utah’s school system must encourage, rather than discourage, parental oversight and participation.

This policy brief will outline the need for meaningful choice in education beyond merely the location where instruction takes place, and highlight the need for a method by which parents can be more engaged in the education of their own children.

Government Education

Starting in 1870 states began providing free elementary schooling.³ Since then, governments have invested in the education of citizens in order to improve the economy and socialize the rising generation.⁴

Equity in funding, opportunity, and standards are often given as the core reasons why government involvement is essential in education. Without government schools run by state and local jurisdictions, it is argued, students of different races, ethnicities, geographies, and economic backgrounds might experience vastly different education programs.

The involvement of government in education has, over time, led to the inefficient distribution of resources, bloated bureaucracy, and a lack of innovation. To justify the heavy taxpayer investment, standards are set and outcomes are measured using extensive testing, leading to an environment in which the mere regurgitation of certain information is rewarded, rather than meaningful learning, personal fulfillment, and individual growth.⁵

As new technologies are introduced to the overall market and modern methods of teaching are developed, the education bureaucracy stifles and waters down these innovations prior to their reaching the actual students.⁶

Since the beginning of government schooling in the United States, there have been movements to reform the system. These top-down, one-size-fits-all initiatives like “No Child Left Behind”⁷ and “Race to the Top”⁸ continue to fail, while often introducing new challenges to—and burdens on—the existing system. What is needed are market-driven reforms that focus on students, teachers, and parents—the beneficiaries of the system. Choice in all aspects of education can provide solutions and reforms tailored for a vastly diverse populace.



Schooling has not changed much since compulsory education became widespread. Government involvement has stifled innovations that appeal to each child’s unique interests and abilities.

Why Choice?

The term *public education* generally refers to a system of government schools that are run directly by the state. But in reality, the term incorporates a number of alternative programs that are taxpayer funded, though not necessarily administered inside district-operated, brick-and-mortar establishments. Online coursework, charters, and other third party programs are recognized and funded through public education, with fewer bureaucratic strings attached. Many parents find that these options are better suited for their child and family.

Parents vested with rights to choose specific education programs for their children are in the best position to make the best educational choices for each child’s benefit. Particularly for children with learning disabilities or special needs, or those who are struggling in school, flexibility and alternative options from which to choose increase the likelihood of educational success and satisfaction.

The lack of choice in public education has put a stranglehold on basic innovation in the classroom. While the technology and communications industries constantly reshape our future and design more efficient and productive solutions at ever-decreasing costs, government schools have done little to step away from the industrial-era batch processing and “sage on the stage” model of education—to the detriment of the very students supposedly served by the system.⁹

The public education system in Utah has shown hints of its ability to operate in a more market-driven system. For example, Utah currently

ranks first in having low administrative costs due to resource constraints that have forced the system to adapt and become more efficient. Programs like Dual Language Immersion, district eSchools, the Carson Smith Special Needs Scholarship, and the Statewide Online Education Program are also examples that include market-based dynamics to improve education outcomes, allowing students to go where their needs will be better met, all while having taxpayer funding follow them.

It is generally accepted that if a child’s parents engage in the education process, that child’s chance for success and achievement increase tremendously.¹⁰ Giving parents choice not only increases the likelihood of success, but gives

children the proper foundation for a lifetime of academic achievement.

Nobel laureate Milton Friedman, a prominent economist, demonstrated (see the graph below) that the most *efficient* way for any individual’s money to be spent is for the individual to decide how to spend it. The most *inefficient* way to spend one’s money is to give it to someone else and have them spend it on others. Because government programs fall under the latter scenario, they often lead to waste and corruption.¹¹

Allowing parents control over the education spending for their child inevitably creates a natural efficiency that improves outcomes and cuts costs, better justifying the taxpayer investment.

A Guide to Government Spending

Buying something... Using Your Own Money Using Someone Else’s Money

		1	2
For Yourself	HIGH CONCERN FOR QUALITY AND COST	HIGH CONCERN FOR QUALITY LOW CONCERN FOR COST	HIGH CONCERN FOR QUALITY LOW CONCERN FOR COST
For Someone Else	LOW CONCERN FOR QUALITY HIGH CONCERN FOR COST	3	4
	LOW CONCERN FOR QUALITY HIGH CONCERN FOR COST	LOW CONCERN FOR QUALITY AND COST	LOW CONCERN FOR QUALITY AND COST

Individuals buy in quadrant 1, governments in 4.

FSAs vs. Vouchers

While “school choice” is a well-known term, it is not the ideal. Instead, “education choice” is what is needed. Such choice is not merely the idea of sending children to private schools instead of government schools. Instead it is the proposition that parents be empowered with a more robust, diverse, and customizable range of choices that can be used to tailor the educational experiences of their children.

Flexible Education Spending Accounts facilitate the involvement of parents in directing the education of their children. These accounts are funded with a portion of state education funds dedicated to each child’s K-12 education. Unlike a voucher that can only be spent on tuition at certain schools, an FSA allows families the flexibility to select from a variety of education resources that match their child’s needs. This might involve courses to learn Mandarin Chinese or advanced calculus, purchasing

different textbooks, hiring tutors, enrolling in specialized classes, or a combination of any number of options.

In providing true education choice, FSAs put parents in the driver’s seat to create a more personalized—and effective—educational experience for their children. Instead of education dollars being spent primarily on buildings, overhead expenses, and other institutional schooling costs, education dollars would become unbundled and made available to the most local of levels—the parents.

Recent Reforms in Utah

Utah already has pursued a number of successful choice-based reforms, suggesting that a full education choice program would likely work well. These common sense reforms give us a glimpse into how FSAs might work.

The **Carson Smith Special Needs Scholarship** is a state-funded program that provides private school

scholarships to K-12 students with disabilities. The scholarship was signed into law on March 10, 2005, by Governor Jon Huntsman and is administered by the Utah State Office of Education.

In 2008, an audit of the program showed that the Carson Smith Scholarship is meeting its goals. One of the key findings was that 100% of parents who have used the program feel it should continue.¹² This included parents who had the option of putting their children back into government schools.

Provo District eSchool is a full-time, tuition-free program focused on providing parents the resources needed to create a personalized education plan tailored to the unique needs of each child. In addition, the program helps students gain valuable technological and entrepreneurial skills that will help them succeed in college, career, and life. Students are grounded with a strong foundation in creativity, innovation, technology and business in preparation for entering the workforce.

Within the program, parents are able to take a portion of the public funding allocated to their children and use it at their discretion to choose from a large variety of educational options. This allows parents to personalize each child’s learning while providing rich experiences that could not otherwise be achieved within a government school.

Utah has been recognized year after year for its **Statewide Online Education Program** which allows all public high school students to customize their class schedules by blending online learning with traditional classroom learning.



A photo of Corner Canyon High School, built in 2013 at a cost of \$62 million. Utahns should focus more on how tax dollars are spent inside the classroom, instead of on the elegance of the building.

A student is allowed to take the equivalent of three online classes as part of their regular course load. Students can select from many high-quality options being offered by the various school districts and charter schools participating as program providers. This allows students to take the courses that meet their individual needs and academic goals, while still being enrolled in their public high school.

FSA's in Other States

FSA's are not just a theoretical proposal; six states have already enacted such programs, unlocking broad educational options for nearly one million students nationwide.

Arizona created Empowerment Scholarship Accounts in 2011 for students with special needs. Eligibility for that program has now expanded to include military families, foster children, Native Americans and students in low performing schools. The accounts are funded at 90% of the charter school base per pupil (\$4,645-\$4,904) and are only available to eligible students not enrolled in a public school.

Parents are given a card with some merchant restrictions and can spend money on qualifying education providers, including public and private school classes, textbooks, online learning services, tutoring, and even college courses. The state also has a fraud-reporting system to track fund use and can conduct audits.

In 2017 the program was expanded to make all Arizona students eligible, with a yearly cap on participants. The cap will gradually expand until it reaches 30,000 students in 2022.

Florida has a system of personal learning scholarship accounts called "Gardiner Scholarships" implemented in 2014 for any eligible student with a specific qualifying disability or an Individualized Education Plan. The average account value per student in 2015 was \$10,111 and is capped at 90% of the public funds dedicated per pupil. Funds are administered through two state-contracted non-profits that oversee and facilitate approvals for qualifying expenditures.

help defray the cost of private school tuition or other specific allowable activities to educate their children. The annual fund contribution is \$6,637, which is 80% of the state's per-student spending. 13% of students in the state are eligible for this FSA.

Tennessee is implementing an FSA program in 2017, giving parents of students with special needs access to an Individualized Education Account

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Funds can be rolled into future years and can be used for up to three years following a student's loss of eligibility. It should be noted that Florida also has a separate voucher program for children with disabilities more generally.

Nevada has a program that is more universal than other states, with over 90% of students eligible to use an FSA. The only criteria is that a student must have been enrolled in a public school for 100 days prior to getting an FSA. Students on average were due to receive \$5,100 each, and over 7,000 parents signed up prior to a temporary freeze that occurred as the program was litigated in court.¹³

FSA's came to **Mississippi** through The Equal Opportunity for Students with Special Needs Act in 2015. It is designed to give parents of special needs children the option of withdrawing their children from the public school system and receiving a designated amount of funds to

(IEA). An IEA can be used for a variety of educational expenses, including private school tuition, private tutoring, learning therapies and more. The average account contribution will be \$6,200; two percent of students will be eligible to use an IEA.

North Carolina passed an FSA program in 2017 to be implemented in the 2018-2019 school year. Approximately 10% of North Carolina students will be eligible for these Personal Education Savings Accounts that will serve special needs students.

Legal Challenges

FSA's have already survived legal challenges in both Arizona and Nevada. In the Arizona case, opponents sought to compare them with vouchers, since that program was deemed unconstitutional in 2009 by the Arizona Supreme Court. The court ruled that this format was significantly different from vouchers and was upheld as constitutional.

The key ruling pointed out that the funds do not have to be used through private institutions, unlike in a voucher system.¹⁴

In the case of Nevada, FSAs were found constitutional, but the funding language was not. Legislators will have to go back and amend the law and budget to be more specific in where the funds will come from to pay for the program. Vagueness in the current law was most likely used to obtain passage of the bill, but now full implementation depends upon correcting this important detail.¹⁵

One of the issues frequently raised concerning FSAs involves the Blaine Amendment. This amendment exists in 38 states and generally stipulates that public funds cannot be used to support religious private schools.¹⁶ An FSA program devised in Utah should be mindful of this amendment.

Success Across the Country

Parental satisfaction is extraordinarily high for FSAs. For example, a study of Florida's disability scholarship program reported high levels of satisfaction exceeding 92%, compared to less than 33% in the government schools they left. Class sizes were cut in half for disabled students who attended competing schools on scholarship.

Arizona's scholarship program serving special needs students achieved high satisfaction from over 90% of parents, while less than 10% were only somewhat satisfied. The majority of families who participated in the program made less than \$70,000 a year in household income.

These early results demonstrate that in states with FSA programs,

parents have been pleased with the increase in innovation, education opportunities, and education outcomes for their children. Further reforms in the direction of education choice are likely to be welcomed and well utilized.

Funding FSAs

A common concern with FSAs is that they could be used to subsidize the cost of private school education for the children of wealthy families. Could FSAs be simply used as a means to subsidize the wealthy to send their children to private institutions?

One solution could involve a sliding scale. As a family's income level increases beyond a predetermined amount, the less they will receive from the FSA program. Also, it might be practical to limit the financial benefits of the FSA program to the state's per-student contribution, using the Weighted Pupil Unit (WPU). The WPU value for fiscal year 2017 was \$3,184. Using this funding model would help ease the fiscal impact that the FSA program would have on local district and charter school funding.

FSA Accountability

How are providers held accountable and how can purchases be verified? The strongest incentive for suppliers to provide a quality service is the ability for parents

to allocate funding elsewhere. The market itself, through parents, serves as the best form of accountability. Additionally, a rigorous third party study should be conducted in tandem with implementation of the FSA program.

It is crucial that FSA expenditures be protected from fraud and are not spent on food, entertainment, etc. To accomplish this, FSAs can work similarly to Health Savings Accounts where, money has to be spent on health services (doctors, prescription drugs, over the counter medication, etc.), and there is a list of "approved" expenses. Payments are monitored and if there is any concern, documentation for the expense must be provided.

Enabling Parent Engagement

The time has come to bring public education into the modern era, and parents can be an integral part of the solution if they are the ones who decide which innovations will be most beneficial for their children. Parents, along with their children, can shape the future of education using the market created by FSAs. Parents will become much more engaged in their children's education as they seek to individualize and personalize their experience.

An FSA program could be a useful tool for improving the quality of education in our state. As families choose from a richer variety of educational experiences, all schools will be incentivized to provide the best services and programs possible, enabling Utah to make the best use of its education dollars.

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PROPOSAL A: ESTABLISH AN FSA FOR SPECIAL NEEDS

Building upon the success and parent approval of the Carson Smith Special Needs Scholarship, we propose as a reasonable next step the expansion of the program for a wider range of special needs. Currently, scholarship money may only be used at a private school that meets certain criteria. Further, the vouchers provided are subject to legislative appropriation, and applicants are subject to a random lottery.

We propose altering the program to implement an FSA model over a voucher, whereby parents are given an account with which they can pay for education expenses of their choosing, rather than merely enrolling the child in a private school. Tuition, tutoring, mentoring, specialized software and equipment, and other education expenses would all qualify, and parents of special needs children would have increased freedom with which to help educate them in a more individualized manner.

The Utah Legislature should prioritize an increased appropriation for this program to cover dramatically more special needs children, broadening the criteria to provide flexible education spending for children for whom standard public education schooling is not well suited.

PROPOSAL B: CREATE A FULL FSA PROGRAM

As documented in this policy brief, the benefits to parents and their children of an FSA program are significant. These results should not be reserved only to families with special needs children. We propose a statewide FSA program allowing parents to dictate how education dollars are spent for their child, without being confined to a particular school or system.

To phase in this program and help transition toward a new system, we propose instituting a graduated cap, reaching 25,000 Utah students by 2024. Funding would be allocated using the Weighted Pupil Unit (WPU), meaning around \$3,500 per student would be available for the Flexible Education Spending Account. Qualifying students should have first spent at least one year in a public or home school.

After three years of implementation, we propose commissioning a legislative audit and a rigorous study of the program to both to demonstrate to taxpayers that the program is being used as intended and to review options for an accelerated expansion of the program, assuming that parental demand will exceed available funding in the first few years.

Endnotes

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PUBLIC POLICY BRIEF

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FREQUENT
RECURRENCE
===== TO =====
FUNDAMENTAL
PRINCIPLES IS
ESSENTIAL
===== TO =====
THE SECURITY
===== OF =====
INDIVIDUAL
RIGHTS

UTAH CONSTITUTION
ARTICLE I, SEC 27