

EDUCATION SAVINGS ACCOUNTS:

**Empowering  
Parents to  
Cut the Chains  
of Government**





# About the President

## *Don Huffines*

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During his time in the Senate, Senator Huffines served as the Vice-Chairman of the Border Security Committee. Huffines also earned a reputation as one of Texas's most conservative lawmakers.

Don Huffines now serves as President of the Huffines Liberty Foundation and leads the Texas First movement by promoting the values we all cherish that make Texas great.

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# Education Savings Accounts: Empowering Parents to Cut the Chains of Government

*By Bill Peacock and Don Huffines*

## Executive Summary

School choice has been the subject of much more debate in the current legislative session than it has over the last few years. As the Legislature considers legislation to expand school choice, it should consider the four main components of an effective and efficient school choice program. First, it should operate in the free market without government funds, unhindered by government restrictions. Second, it should foster competition among education providers—public and private. Third, it should be universal; if school choice isn't universal, it creates special interests and pits people against each other. And fourth, it should return the power of making decisions about their children's education to parents.

Several bills are being considered, including Senate Bill 8, House Bill 619, HB 4340, HB 4807, and HB 4969. While all offer additional flexibility for parents of students, none of them meet the criteria laid out in this paper for fully empowering Texas parents to take charge of their children's education. Specifically, the bills considered this session all use state funds for student Education Savings Accounts (ESAs). While ESAs are the best way to increase school choice, how they operate in the bills under consideration is flawed. SB 8 appropriates new funds, while several other bills use a system of tax credits. In both cases, the funds are state funds managed by the Texas Comptroller or the Texas Education Agency. The problem with this is that state funds almost always come with state restrictions. In the case of these bills, all of them restrict the ability of parents to use ESAs in the ways they think best for their children.

ESAs should be funded with tax credits. However, the ESAs should be designed so that the funds never come into the state's coffers. Parents and businesses should be able to redirect their tax payments to private scholarship organizations in such a way that the funds are considered private and thus not subject to government restrictions. ESAs that are privately funded in this way will accomplish two things. First, it will level the playing field currently tilted toward government schools; parents will have much broader access to private schools and homeschooling. Second, it will protect against a government takeover of private K-12 education, as we have already witnessed in higher education.

## The Problem with Texas Government Schools

Recent headlines are full of news about Texas school districts violating parents' wishes regarding what is taught to their children. However, this is nothing new. Eliminating parental influence—particularly regarding religion and faith—was part of the original design for public education. For instance, Horace Mann and John Dewey were early proponents of government schools in the mid-1800s. They wanted to take parents' religious beliefs out of education to create students who “would make over American society in their own image” rather than in the image of God. ([Texas Public Policy Foundation, 4](#))

Along these lines, there is a widespread effort within Texas government schools to undermine the historic Christian foundation upon which our country was founded. This includes efforts to use the schools to encourage children to reject the faith of their parents and substitute the modern, secular humanism taught in Marxism and its modern variant, critical theory, as applied to gender, race, and other areas. Here is one example:

“Texas educators say they’re concerned they won’t be able to have open conversations about what’s happening in the world if the Texas Legislature approves a bill that restricts how teachers can discuss current events in the classroom.” ([Kate McGee](#))

Another example of teaching against the

will of parents is school districts pushing a homosexual agenda within government schools:

“Parents in the North Texas city of Keller spoke at their local school board meeting Monday to demand more transparency from officials about sexually explicit books found in their kids’ campus libraries. ‘There’s a lot of parents out there that don’t know what’s going on,’ one local father said. ‘These books are not meant for kids.’” ([Erin Anderson](#))

Besides the propaganda being taught, it turns out that students in government schools are not getting a good education. For instance, a recent national assessment showed that the academic performance of fourth- and eighth-grade students in four of Texas’ largest school districts was declining (Texas Scorecard). The official state scorecard for schools may look good in many cases, but the Houston Chronicle reports that the scores often do not match reality. At Houston’s Wheatly High School, “the overall rating is 78 out of 100 but the school scored 56 for student performance on the STAAR test, 55 for its graduation rate and 87 for college, career and military readiness. Notably, the percentage of students meeting grade level or above in all subjects is 27 percent, compared to the district’s 43 percent.” And WalletHub “ranks Texas as the 10th least educated state in the U.S.” By every measure, it seems, Texas’ government schools are a failure.

Many parents and taxpayers are concerned about these widespread problems but have limited means to do anything about it. The changes in society we are experiencing today are a result of multiple generations of Texas children being educated in schools where the existence of God is denied.

### **Is There a Way for Parents to Get Their Children Out of Government Schools?**

Texas government schools are only one of the two school systems of K-12 education operating in our state today—the other is the private system consisting of private schools and homeschooling. For the most part, in Texas, these two systems operate separately. Unlike many other states, Texas doesn't have a private school choice program that allows students to attend private schools or homeschool using money from the public system.

Many families are fortunate enough to be in a situation where private school and homeschooling are readily available. Other parents sacrifice greatly so that their children can have these options. However, the state's stranglehold on education makes it very difficult and expensive for other families to enter the private system when they are dissatisfied with the public system.

During the week of April 3, the Texas Senate sought to change that to some extent by passing [Senate Bill 8](#). The bill would create what is known as education

savings accounts (ESAs), through which some parents could use up to \$8,000 of taxpayer funds each year to pay for tuition for private school and other educational expenses for each of their children.

An amendment approved during the Senate debate extended eligibility for the program, allowing 10% of the program's enrollment to be made up of current private school students if they meet a certain income threshold. Otherwise, to be eligible, a child must first be enrolled in government schools. Under current funding, the program is limited to about 62,000 students.

A week later, on April 11, the Texas House Public Education Committee held hearings on several school choice bills. Like SB 8, House Bill 619, HB 4340, HB 4807, and HB 4969, all would provide some level of freedom for parents when it comes to educating their children.

When it comes to evaluating the proposed Senate and House bills, the primary question is not whether the state should end the current financial monopoly on education in the state, but instead how this can be accomplished without leading to a government takeover of private K-12 education similar to what has happened with colleges and universities.

### **Giving Parents a Choice**

From a constitutional perspective, public and private systems need not be separate. The mandate in the Texas Constitution that the Legislature "make suitable

provision for the support and maintenance of an efficient system of public free schools” requires public funding of education but does not mandate government delivery of education ([Article 7 Texas Constitution](#)). When considered in terms of economic efficiency, it is desirable that these two systems interact.

The most effective reform in recent years for improving efficiency in health care has been Health Savings Accounts (HSAs). Likewise, the solution to the financial problem in education is Education Savings Accounts (ESAs). A properly designed ESA would put consumers—parents—in charge of educating their children. Parents could tailor educational services to their child’s unique needs by selecting from one or more of a variety of services such as private schools, online learning, tutoring, curricula, textbooks, etc. Parents could even save unused funds for college. Additionally, Texas should remove the restrictions that arbitrarily separate government schools from private schools and homeschooling and introduce elements of parental choice within the government schools.

Michael McShane, a research fellow in education policy studies at the American Enterprise Institute, explains how ESAs can lead to greater efficiency, i.e., higher quality at an equal or lesser cost, in Texas’ system of public education:

“ESAs also address another big problem with education in this country: We don’t know how much it costs

to educate a student. We know how much we spend, but because public schools are funded in lump sums to districts—and even voucher, tax credit, and charter school allotments are lump sum ‘coupons’ to purchase education—we see schools set their costs right at the government subsidy. As competition for state budget dollars increases with expanding Medicaid liabilities and looming pension obligations, cost-effective education becomes more important every year.

‘Unbundling’ education services through a flexible spending account model encourages all providers to compete on price. If parents know that whatever they do not spend on tuition they can spend on tutoring or save for college, they will evaluate schools based on the return on their investment. To date, private schools that participate in school choice programs are evaluated on one dimension: quality. With fungible dollars, these schools can be evaluated two dimensionally: on quality and price. This competition should serve to both increase quality and decrease price” ([McShane](#)).

Increasing the economic efficiency of Texas’ “system of public free schools” through these simple yet transformative measures can accomplish the constitutionally directed “general diffusion of knowledge [that is] essential to the preservation of the liberties and rights of the people” and provide all Texas school children a higher quality education and



significantly increased economic opportunity.

The challenge with this is not the money; Texas has more than enough money to pay for an education system where costs are not bloated because of the state's education monopoly and artificially inflated through lobbying by teacher unions, school administrators, and local school boards.

### **Solutions**

As discussed above, Education Savings Accounts would put consumers—parents—in charge of their children's education. Parents could tailor educational services to their child's unique needs by selecting from one or more of a variety of services such as private schools, online learning, tutoring, curricula, textbooks, etc. Parents could even save unused funds for college.

The most important design feature for ESAs is to ensure that the source of funds used for them should not come from the government. When the government is involved in funding education, government regulation usually follows. This is clearly evident in SB 8, which starts by saying parental rights regarding their children's education cannot be infringed unless, that is, the state is very careful when doing so:

The rights granted to parents under the laws of this state, including the right to direct the moral and religious training of the parent's child [and] make deci-

sions concerning the child's education ... may not be infringed on by any public elementary or secondary school or state governmental entity, including the state or a political subdivision of the state, unless the infringement is ... narrowly tailored using the least restrictive means to achieve that compelling state interest

SB 8 then goes on to require that parents in the program can only use education service providers approved by the state of Texas through the Texas Comptroller. Education service providers requiring approval include private schools, higher education providers, and private tutors, therapists, and teaching services. To be approved by the state, the private tutors, therapists, and employees of the teaching services must either:

- (i) be an educator employed by or a retired educator formerly employed by a school accredited by the agency, an organization recognized by the agency, or an organization recognized by the Texas Private School Accreditation Commission;
- (ii) hold a relevant license or accreditation issued by a state, regional, or national certification or accreditation organization; or
- (iii) be employed in or retired from a teaching or tutoring capacity at a higher education provider. (SB 8)

Government funding always comes with strings attached. To avoid this, ESAs should be funded through a system of tax credits. Several taxes collected by school districts and the state would be suitable

for this. The best fit would be property taxes since property taxes are one of the primary sources of funding for public education in Texas. Other potential sources would be the business franchise tax and the tax on insurance companies operating in the state.

This would work because parents could receive up to \$8,000 per student from charitable scholarship funds set up to receive donations from businesses that redirect some of their property or other business taxes away from school districts and toward funding ESAs for students in the program. Businesses would be incentivized to set up these organizations not only by the positive publicity they would receive but also because of the 1% tax credit they would receive for the amount of money they deposit into a scholarship organization. Parents who pay property taxes would bring with them credits for property taxes as well, though the limit per child would still be \$8,000.

The scholarship organizations would not be able to discriminate on the basis of race. Other than that, they could be set up to support particular schools or homeschooling services for students who live in certain locations or for students that meet other criteria set up by the scholarship organization. For instance, a scholarship organization could be set up to support Christian or Muslim schools that only allow the children of Christians or Muslims to attend. This would facilitate the most important design aspect of ESAs: to ensure that there are few re-

strictions on how money deposited into an ESA is used for educational purposes. The more restrictions on how parents use the money to provide an education for their children, the higher the likelihood that ESAs will lose their effectiveness in improving the education of the students and increasing the efficiency of government schools.

An example of this would be the hypothetical Holy Family Catholic School. Located in Houston, it currently has an enrollment of 400 students but would like to expand by attracting students using Texas' new ESA program. Through connections in the community, the school finds four businesses willing to redirect up to \$400,000 of property taxes and \$400,000 of franchise taxes annually to a private scholarship fund that will provide ESAs for 100 students to attend Holy Family.

With three school-age children, the Ashe family wants to take advantage of the ESAs to remove their children from government schools and enroll them in Holy Family. They pay \$6,000 per year in property taxes. They apply to and are accepted by Holy Family using ESAs. Each of their children's ESAs will be funded with \$6,000 from the scholarship fund and \$2,000 from the Ashe's redirected property taxes.

Not only does this tax credit design of ESAs expand parental choice, but it would also save taxpayers money. Unlike SB 8, which would cost more than



\$500 million a year to fund ESAs for only 62,000 students, tax-credit funded ESAs not using state funds would save taxpayers more than \$4,000 per student in the program since the state would no longer be paying the more than \$12,600 a year it costs to educate a student in government schools today ([Rice University](#)).

Opponents of school choice and perhaps even advocates of the bills being currently considered in the Texas Legislature may object to the design for ESAs proposed in this paper because of the lack of accountability for the funds being used to fund ESAs. However, this objection is ill-founded for several reasons.

First, a strong accountability system is already in place for private school education. Many private schools are accredited. Those that do not have reputations to uphold. Ultimately, the accountability of the current system is based on competition. If the schools do not provide a good education, they will lose students and go out of business. It should be noted that this level of accountability is absent from all government schools.

Second, the businesses that will provide the largest share of funding to ESAs will do so largely to enhance their public reputations. They will serve as an additional check to ensure the appropriate use of ESAs.

Finally, the money businesses and parents contribute to ESAs will be private funds, not public. Just as the govern-

ment has no interest or control over how private funds are currently used to provide a private education, it should also have no interest or control over how ESAs are used.

In addition to ESA's, the Texas Legislature could loosen the government school monopoly on education by:

**1. Removing the restrictions that arbitrarily separate government schools from private schools and homeschooling:**

- allow private school and homeschool students to attend government schools part-time;
- remove restrictions that centralize the control in Austin over the public provision of virtual education; and
- expand private providers' ability to use virtual education models to provide instruction for government school credit.

**2. Introducing elements of parental choice within the government schools, including:**

- give parents more authority to direct aspects of their children's education, such as curriculum;
- eliminate the artificial cap on the number of government charter schools to give parents more choice about where their children attend; and
- decentralize decisions about educator pay and qualifications by eliminating the state's educator salary schedule and educator certification system.

**Current Legislation**

School choice bills being considered by the Texas Legislature are briefly analyzed in this section using the criteria laid out

in this paper. None of these bills meet the two most important criteria of using non-state funds through tax credits and having few restrictions on using ESAs.

### ***Senate Bill 8 by Creighton***

SB 8 is not universal—it is limited to the amount of money appropriated for it in any given biennium; for existing government school students who chose the program, it costs the state money rather than saving money; it is funded by state funds rather than through tax credits; the state administers it through private organizations; and it places restrictions on the ability of parents to choose appropriate educational services for their children.

### ***Senate Bill 176 by Middleton and House Bill 4807 by Harrison (companion bills)***

SB 176 and HB 4807 are not immediately universal, though eligibility would increase greatly over time; it appears to add no additional costs for existing government school students; while it is funded through tax credits, the funds are still state funds; the Texas Comptroller administers the program through private organizations; and it places restrictions on the ability of parents to choose appropriate educational services for their children.

### ***House Bill 619 by Shaheen***

HB 619 is not immediately universal, though eligibility would increase greatly over time; it appears to add no additional costs for existing government school students; while it is funded through tax

credits, the funds are still state funds; the Texas Comptroller administers the program through private organizations; and it places restrictions on the ability of parents to choose appropriate educational services for their children.

### ***House Bill 4340 by Frank***

HB 4340 is not immediately universal, though eligibility would increase greatly over time; it appears to add no additional costs for existing government school students; while it is funded through tax credits, the funds are still state funds; the Texas Comptroller administers the program through private organizations; and it places restrictions on the ability of parents to choose appropriate educational services for their children.

### ***House Bill 4969 by Schaefer***

HB 4340 is not universal and does not provide funding for full instruction. Instead, it provides funding for supplemental services and instructional materials; it adds additional costs for existing government school students; funding for supplemental services and instructional materials comes from state funds; the Texas Education Agency administers the program; and it places restrictions on the ability of parents to choose appropriate educational services for their children.

## **Conclusion**

Before the 1970s, government regulation made flying on airlines so expensive that very few Americans could afford it. However, when the federal government got out of regulating airfares and scheduling

in the airline market, many more airlines began providing service to customers as the quality of service increased, and the costs fell. Similarly, government schools distort education markets and create monopolies which are a disaster for children and their education. We all understand the problem of having government grocery stores, but for some reason, many Texans have failed to see the problem with government schools.

However, there appears to be a new day dawning for school choice in Texas. Parents and many other Texans are waking up to the fact that government schools are a menace to our children. They also understand that ESAs would break the government monopoly on education for most Texans and vastly increase access to quality education for all Texas chil-

dren. This is why unlike the 62,000 students authorized to access school choice under SB 8, all students should have access to educational choices through ESAs.

Universal ESAs are not only important for Texas school children but also for Texas. The dysfunction of our culture today testifies to the fact that we have had multiple generations of Texas children educated in government schools without the moral foundations of our nation's Judeo-Christian heritage. The Texas Legislature should amend and pass one of the ESA bills under consideration to break the government's monopoly on education to help Texans overcome the radical leftward shift in our culture.

# HUFFINES

## LIBERTY FOUNDATION



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**Our mission is to advance the cause of liberty, prosperity, and virtue in the State of Texas by educating citizens so they may hold their elected officials accountable.**

**We have developed an agenda based upon the common sense liberty principles of individual rights, fiscal restraint, personal responsibility, limited government, and social conservatism.**

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