Overview of ESAs

An education savings account is an individual student bank account, established by state law, which holds some or all of the public funds that would normally be allocated for the education of the participating student. Generally, the student must meet certain qualifications and the parent or guardian of the student must sign a contract with the state promising to use the funds only for approved activities such as private school tuition, textbooks, tutoring, etc. An authority designated by the state will generally perform audits on the education savings accounts to ensure that funds are not abused.

This Guide will explain Education Savings Accounts, their purpose, and how other states are structuring and administering individual programs.

Alabama ESA Efforts: Education Savings Account Act

House Bill 84, introduced during 2016 regular session of the Alabama Legislature, proposed creating an Education Savings Account program for Alabama students. The program would have been open to students who had attended public school during the prior year and also met one of the following conditions:

1) the subject of an Individualized Education Plan (IEP), 2) in a military family, 3) an adopted foster child, or 4) the sibling of a current program participant.

Under the proposed legislation, individual ESAs would have been funded at an amount equal to 90% of the funds the “student would have received in the district school to which he or she would have been assigned.”

A substitute bill passed out of the House Committee on Education Policy, which reduced eligibility to just student with IEPs. The bill failed in the full house.

ESAs in Other States

Six states have passed laws that establish ESAs. Though each ESA program generally follows the basic ESA form, the individual programs vary widely on the specifics of funding, student eligibility, and governing agency.
Arizona
Students from low-income homes receive 100% of the state funds that would be allocated to the student if he or she attended public school. All other students receive 90% of their state funds. Originally only select groups of students (students with disabilities, from low performing schools, in military families, etc.) who had attended public school the prior year were eligible. Eligibility will be expanded every year until 2021, when all public school students are eligible.

Florida
Florida employs a number of different factors, including cost-of-living by county to determine the scholarship award amounts. The scholarships average close to $10,000 per student per year and are funded through the General Appropriations Act. Students with IEPs, developmental delays, or other specific special needs are eligible.

Mississippi
Account values are set by statute at $6500 per year and increase or decrease at the same rate as per-pupil state funding in public schools. Any student with an active IEP in the past five years is eligible.

N. Carolina
Individual scholarship awards are limited to $9000. Children with disabilities who also meet one of several other criteria (already attending a public school, entering kindergarten/first grade, or in a military family) are eligible.

Nevada
Students with disabilities or who are from a low-income family receive 100% of the average per-pupil state funding for public school students. All other students receive 90% of the per-pupil state funding. However, the program is currently unfunded as a whole.

Tennessee
Account values are equal to the per-pupil state and local funds for the local public school in which the student resides and would otherwise attend. The funds for the account are subtracted from the state funds that would otherwise be payable to the local public school. Students must have a disability, have an IEP, and have attended public school for past year or be enrolling in school in Tennessee for the first time.

More Funding for Public Schools
ESA opponents often claim that individual education savings accounts undermine funding for public education. However, a properly structured program can increase per-pupil funding available to public schools. For example, participation in Arizona’s ESA program is limited to students who attended public school the prior year or those who are entering kindergarten. These students receive fewer funds than they would have received if they had been in public school, which allows some of the remaining funds to flow back into the larger education pool.

Focus on Academic Performance
Five of the six existing ESA programs require students to participate in annual standardized testing to ensure academic progress. Most ESA programs also place stringent limitations on account expenditures to ensure that the funds are used to fulfill the student’s specific academic needs. The goal of any education program should be exactly that, education. Accountability measures should be built to ensure ESAs are fulfilling their promises.

Recommendations
The Alabama Legislature should pursue ESA legislation that both empowers families to customize their children’s individual education needs while simultaneously increasing per-pupil funding in public schools. Though many states have launched ESA programs targeted toward students with special needs, Alabama should consider a pilot program with a broader approach.

The legislature should reconsider a proposal to fund education savings accounts for students with IEPs at 90%, and also open the program to all current public-school
students entering lower grades (i.e. 1st through 3rd grade) along with any new students entering kindergarten. The latter group, however, would receive funding at a lower rate (perhaps 70%). Even if 5-10% of funds were dedicated to the cost of administrating the accounts, public schools would still experience a net increase in per-pupil funding for each non-IEP student that participates in the program.

The legislation should cap participation for the first one or two years at 500 students in each category and mandate participation in the state assessment to monitor academic progress. The assessment results would provide a data-driven foundation for expansion of the program into the upper grade levels in the years ahead.

**Conclusion**

Education Savings Accounts are a form of school choice that give families more flexibility in finding an education solution that works best for their children. Six states have passed ESAs, giving Alabama an array of models on which to base its own program. When established prudently, ESAs can increase in-classroom funds for traditional public schools.
1 Sometimes referred to education scholarship accounts (Miss. Code Annotated) or just scholarships generally (see Florida Gardiner Scholarship Program).
2 EdChoice – What is an ESA?
3 House Bill 84, 2016 Legislative Session (available at http://alisondb.legislature.state.al.us/ALISON/SearchableInstruments/2016RS/PrintFiles/HB84-int.pdf)
4 Id. Section 2 (children of active duty military were exempted from the requirement of attending an Alabama public school the prior year.
5 Id. Section 3(c)
6 HB 84 Fiscal Note (available at http://alisondb.legislature.state.al.us/ALISON/SearchableInstruments/2016RS/FiscalNotes/FN-35088.htm)
7 Id. Section 6(c)(1)(a)
8 Id. Section 5(i)
10 Within 250% of the poverty line.
11 15-2401.4; and State of Arizona Department of Education Empowerment Scholarship Account Handbook, 2017-2018 Edition, pg. 4 (note: ESA opponents in Arizona have collected signatures to force a referendum vote to on the legislature’s recent expansion of the state’s ESA law. If the new version fails, the funding eligibility would revert to the 90% level that existed under the original version of the bill.)
14 Florida’s ESA program is call The Gardiner Scholarship Program as a tribute to the Senator Gardiner who championed the bill on behalf of his son and other children in Florida who have disabilities. http://www.orlandosentinel.com/opinion/oe-andy-gardiner-unique-abilities-beth-kassab-20160127-column.html Florida Statute 1002.358(1)
16 Florida Department of Education Website (available at http://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/gardiner/)
17 Florida Statute 1002.358(13)(a)
18 Id.
19 Miss. Code Ann. § 37-181-3(b), see also MS Department of Education ESA FAQ Sheet available at http://www.mde.k12.ms.us/docs/special-education-library/esa-faq-17-18.docx?sfvrsn=2 (defines an active IEP as “an IEP developed by a public school district and the student must have been enrolled in that district and have received services within the last five years.”)
20 115C-567.7(b) Regulations governing the manner in which funds are awarded are forthcoming (§ 115C-567.12).
21 North Carolina G.S. 115C-567.6(3)
22 NRS 353B.860(1)(a) (low-income students are "with a household income that is less than 185 percent of the federally designated level signifying poverty.”
23 NRS 353B.860(1)(b)
24 See https://www.heartland.org/news-opinion/news/nevada-legislature-fails-to-fund-states-education-savings-account-program (because the legislature in Nevada meets only once every two years, the ESA program will not be considered for funding again until 2019).
25 Tenn. Code Ann. § 49-10-1405
26 Id.
27 Tenn. Code Ann. § 49-10-1402(3)
28 http://www.publicschoolsfirstnc.org/resources/fact-sheets/the-facts-on-education-savings-accounts-essas/
30 Arizona Statute re eligible children requirement that enrolled in public schools for at least 100 days the prior year or entering kindergarten. (available at https://www.azleg.gov/legtext/52leg/2r/bills/sb1457p.pdf)