

Texas Public Policy Foundation

# School Choice for Texas

Empowering Parents and Improving the  
Futures of Texas Students

By James Golsan

January 2013

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FOUNDATION



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# School Choice for Texas: Empowering Parents and Improving the Futures of Texas Students

By James Golsan, Texas Public Policy Foundation

## Executive Summary

*The Wall Street Journal* referred to 2011 as “the year of school choice.” A number of states passed legislation to expand their charter school options, provide scholarships to special needs students, and open up private school choice to families with financial need.

The flagship programs among these would have been the Indiana and Louisiana choice programs, both massive statewide initiatives geared specifically to give middle and lower income students a chance at a private school education if they desired access to one. Louisiana in particular turned itself into a national leader on the school choice front with the passage of Gov. Bobby Jindal’s omnibus legislation. A comprehensive reform package, it expanded the state’s recovery charter school district, created broader access to education scholarships, and emphasized higher quality educators statewide.

All of these reforms are models for freedom in education that most other states—like Texas—can look to and build from.

Texas has a long way to go toward offering parents and students both public and private school choice, but can make great progress quickly through the introduction of freedom and competition into its education system. This can be achieved through comprehensive reform, including the creation of a statewide private education scholarship program and multiple improvements to public charter school access. A strengthened parent-trigger law, improved access to learning technologies, and private school scholarships specifically for special needs students are also necessary. Such broad-based changes are crucial to maximizing educational opportunities for every Texas student, regardless of socioeconomic standing or physical location.

## Private School Choice: Education Scholarships Nationwide

School choice is most typically associated with education scholarships, or “vouchers,” for private school choice. However, the reality is that there are a number of potential avenues by which a state might provide private school choice

All told, there are 15 private school scholarship programs operating in 8 states, the District of Columbia, and Douglas County, Colorado. During the 2011-2012 school year, 81,590 students participated in the programs with \$483 million expended. There are 10 scholarship tax credit programs in eight states. During the 2011-2012 school year, 128,792 students participated in scholarship tax credit programs with \$289 million donated by corporations and individuals for scholarships.<sup>2</sup>

## Findings

- Texas’ education system should be more competitive and efficient.
- Texas school districts should have greater control over their classrooms and priorities.
- Texas should enact statewide private school choice.

Available voucher and tax credit programs currently operating are listed below:

### **Florida**

Established in 2001, the Corporate Tax Credit Scholarship Program provides scholarships for low-income children to attend private schools. Corporations can redirect up to 100 percent of their tax liabilities to eligible Student Funding Organizations. Insurance companies can contribute up to 100 percent of their insurance premium liability.<sup>3</sup>

In 2010-2011, 34,550 students participated in the program. At the time, the program was capped at \$140 million in potential state funds. In 2011-2012, the number of participating students grew to 40,428. For the current school year (2012-2013), Florida has decided to increase the monetary cap on the program to \$229 million. There are currently 1,216 schools participating in the program. The Corporate Tax Credit Scholarship Program is one of the largest choice programs in the country.<sup>4</sup>

Florida also operates the John M. McKay Scholarship for Students with Disabilities Program which provides private school vouchers to assist children with special needs in Florida. In 2010-2011, it expended \$153 million, served 22,198 students, and saw over 1,000 private schools participate. The McKay Scholarship Program is the largest disabilities scholarship program in the country, and offers a wide range of options regarding the size of scholarships available, dependent upon how much it would cost to educate a specific special needs student in Florida's public education system.

### **Ohio**

The Educational Choice Scholarship Program, enacted in 2005, is a failing schools scholarship that was recently expanded to provide 30,000 scholarships in 2011-2012 and 60,000 scholarships in 2012-2013. It could be best described as a "traditional voucher program", in that it does not have a special needs focus, but rather is open to all students that attend an underperforming school. The program provides scholarships of \$4,250 for students in grades K-8 and of \$5,000 for students in grades 9-12. The program served 16,136 students and expended \$62 million in 2011-2012.

#### *The Cleveland Scholarship and Tutoring Program*

This program provides private school vouchers to assist low-income children in Cleveland, Ohio. It was expanded to increase scholarship amounts and allows high school students to participate in the program without having received a scholarship in the 8th grade. The program served 5,603 students and expended \$16.5 million in 2011-2012.<sup>5</sup>

#### *The Autism Scholarship Program*

Created in 2003, the program provides private school scholarships (capped at \$20,000) to assist children with autism in Ohio. The program served 2,236 students and expended \$36 million in 2011-2012.<sup>6</sup>

#### *The Jon Peterson Special Needs Scholarship Program*

Students in the Jon Peterson Special Needs Scholarship Program receive 90 percent of the per-pupil state funding, up to \$20,000. The program is capped at 5 percent of students in the state with special needs, or approximately 13,000 students. The program was created in the past year and is slated to begin in the 2012-2013 school year.<sup>7</sup>

Established in Florida in 2001, the Corporate Tax Credit Scholarship Program provides scholarships for low-income children to attend private schools. Corporations can redirect up to 100 percent of their tax liabilities to eligible Student Funding Organizations.

## **Wisconsin**

The Milwaukee Parental Choice Program (MPCP), created in 1990, provides private school vouchers to assist low-income children in Milwaukee, Wisconsin. In its opening year, the program served 337 students. In the 2011-2012 school year, 23,189 students participated, and the program expended just short of \$150 million. For fiscal year 2011, the savings to the public from the state's voucher program totaled \$52 million.

The benefits of the program are not just fiscal. Students participating in the Milwaukee Parental Choice Program are 18 percent more likely to graduate from high school than students in the Milwaukee Public School System (MPS) when all income levels of students across the MPCP and MPS are aggregated. Additionally, the graduation rate for the MPCP in 2008-2009 was 82 percent, outpacing that of the MPS (70 percent).<sup>8</sup>

### *The Racine Parental Choice Program*

The program resembles the highly effective Milwaukee Parental Choice Program. It represents an effort by Wisconsin Governor Scott Walker to build upon the successes of the Milwaukee Parental Choice Program so that more students in the Badger State have access to school choice. Walker's effort also included a "once in, always in" provision, allowing students to stay in the program as long as they would like once accepted. In addition, it included a "bad actor" provision, geared at increasing accountability in the Racine program by not allowing private or charter operators who have been removed from their post to run a program in Racine or Milwaukee for seven years.<sup>9</sup> In the 2011-2012 school year this program served 228 students and expended \$1.4 million.

## **Arizona**

Arizona has several private school choice options available for families and students, depending on their needs:

### *The Individual School Tuition Organization Tax Credit*

This program provides scholarships for children to attend private schools. Individuals that donate to School Tuition Organizations receive a tax credit value of 100 percent of donations. Donor caps are limited to \$500 for individuals and \$1,000 for married couples. In the 2011-2012 school year, 25,343 students participated in the program.<sup>10</sup>

### *The Corporate School Tuition Organization Tax Credit*

This program provides scholarships for low and lower-middle-income children to attend private schools. Corporations that donate to School Tuition Organizations receive a tax credit value of 100 percent of donations. Donor caps were limited to \$20.74 million in fiscal year 2011 with a slated 20 percent annual increase each year. In the 2011-2012 school year, 4,578 students participated in the program.<sup>11</sup>

### *Other Choice Laws in Arizona*

The Education Savings Act, signed into law in April 2011, created the nation's first education savings account program. Students who are identified as having a disability are eligible to receive 90 percent of the per-pupil expenditure to spend on a variety of educational tools, including tuition and fees, textbooks, educational therapies, and tutoring.<sup>12</sup>

Lexie's Law provides scholarships for foster children and children with special needs to attend private schools. Corporations that donate to School Tuition Organizations receive a tax credit value of 100 percent of donations. The program has a statewide cap of \$5 million. In the 2011-2012 school year, 115 students participated in the program.<sup>13</sup>

The Education Savings Act, signed into law in April 2011, created the nation's first education savings account program. Students who are identified as having a disability are eligible to receive 90 percent of the per-pupil expenditure to spend on a variety of educational tools, including tuition and fees, textbooks, educational therapies, and tutoring.

The D.C. Opportunity Scholarship Program is a means-tested voucher program that provides private school vouchers to assist low-income children in Washington, D.C. In the 2011-2012 school year, 1,615 students were awarded scholarships and 41 schools participated in the program.

### **Georgia**

The Georgia Scholarship Tax Credit Program provides scholarships for children to attend private schools. Income tax credits are provided to individual and corporate donors. The program has a statewide cap of \$50 million. Individual donors can donate \$1,000, married couples can donate \$2,500, and corporations can donate 75 percent of the corporation's state income tax liability. The program served 8,131 students in the 2011-2012 school year.

Georgia also operates the Georgia Special Needs Scholarship Program, modeled on the McKay Scholarship Program in Florida. In 2011-2012, the program grew to 3,227 participating students and served 233 private schools. Scholarship size is flexible based on degree of student need and ranged from \$2,097-\$16,004.

### **Washington, D.C.**

The D.C. Opportunity Scholarship Program is a means-tested voucher program that provides private school vouchers to assist low-income children in Washington, D.C. In the 2011-2012 school year, 1,615 students were awarded scholarships and 41 schools participated in the program. In April, the program was expanded and reauthorized for five years at \$20 million annually.<sup>14</sup>

### **Douglas County, Colorado**

The Choice Scholarship Program was created in 2011 by the Douglas County Board of Education to provide school vouchers for students living in Douglas County. Students would receive 75 percent of Douglas County's per-pupil revenue, or about \$4,575.<sup>15</sup> A Colorado district court has issued an injunction barring the program from going forward. That decision is being appealed in the Colorado State Court of Appeals.<sup>16</sup>

### **Utah**

The Carson Smith Special Needs Scholarship provides private school vouchers to assist children with special needs in Utah. The program served 635 students and expended \$3,412,490 in 2011-2012.

### **Indiana**

The Corporate and Individual Scholarship Tax Credit Program provides scholarships for low and lower-middle income children to attend private schools. Tax credits are provided to individual and corporate donors, who receive a 50 percent credit on donations with a statewide cap of \$2.5 million in credits. In the 2011-2012 school year, 5,909 students participated in the program.<sup>17</sup>

Indiana also operates a statewide education scholarship program that will be explored in more detail later in the paper.

### **Iowa**

The Individual School Tuition Organization Tax Credit provides scholarships for low and lower-middle income children to attend private schools. Tax credits are provided to individual and corporate donors who receive a tax credit value of 65 percent of donations. The program has a statewide cap of \$7.5 million where corporations are limited to 25 percent of the statewide cap. In the 2011-2012 school year, 10,820 students participated in the program.<sup>18</sup>

### **Oklahoma**

The Lindsey Nicole Henry Scholarship for Students with Disabilities Program provides private school vouchers to assist children with special needs in Oklahoma. The program served 160 students and expended \$1,189,760 in 2011-2012.<sup>19</sup>

The Equal Opportunity Education Scholarships program, which was enacted in 2011, provides scholarships for children in families with incomes up to 300 percent of free and reduced price lunch. Scholarships are \$5,000 or 80 percent of the average in-district per-pupil expenditure (whichever is greater). Scholarships for children with special needs may not exceed \$25,000. Scholarship Granting Organizations must spend a portion of their expenditures for low-income students in an amount equal to or greater than the percentage of low-income students in the state. The program began in the 2012-2013 school year.<sup>20</sup>

### **Pennsylvania**

The Educational Improvement Tax Credit provides scholarships for low and lower-middle income children to attend private schools. Corporate donors receive a 75 percent tax credit value on one-year donations and a 90 percent tax credit value on two-year donations. The program has a statewide cap of \$50 million. In the 2011-2012 school year, 40,876 students participated in the program.<sup>21</sup>

### **Rhode Island**

The Rhode Island Corporate Scholarship Tax Credit provides scholarships for low and lower-middle income children to attend private schools. Corporate donors receive a 75 percent tax credit value on one-year donations and a 90 percent tax credit value on two-year donations. The program has a donor cap of \$100,000 and a statewide cap of \$1 million. In the 2011-2012 school year, 341 students participated in the program.<sup>22</sup>

### **North Carolina**

The Individual Income Tax Credits for Children with Disabilities program allows parents of special needs children to claim a nonrefundable tax credit of up to \$6,000 for education expenses, including tuition, therapy, and tutoring. This program is an important first step toward empowering parents and students with enhanced education options in North Carolina.<sup>23</sup>

## **Indiana and Louisiana: Rise of the Statewide Scholarship Program**

While all states that have made efforts to equalize education opportunities for their students deserve to be lauded, the two most groundbreaking programs that have been passed in recent years are the Indiana Choice Scholarships and the Student Scholarships for Educational Excellence in Louisiana.

### **Indiana**

Indiana's Choice Scholarship Program is in the midst of its second year of operation. It is specifically geared toward lower and middle income families. There are two levels of scholarship funding in the program; a 90 percent scholarship and a 50 percent scholarship.<sup>24</sup> To be eligible for these scholarships, a student must meet the following requirements:

- Have residence in Indiana;
- Be accepted for enrollment into a private school that is accepting scholarship students that is located in Indiana;
- Live in a household at or below certain household income limits (see below);

The two most groundbreaking programs that have been passed in recent years are the Indiana Choice Scholarships and the Student Scholarships for Educational Excellence in Louisiana.

- One of the following:
  - Have been enrolled in a public school (grade 1 through 12) in a school corporation that did not charge the individual transfer tuition for at least two (2) semesters immediately preceding the application for a Choice Scholarship; and
  - Have received a Choice Scholarship in a previous school year.<sup>25</sup>

The household income limits are measured at set increments over the national poverty line. For example, to receive a 90 percent scholarship a one parent household may not make a total income of more than \$20,665 per year, a two parent household \$27,991 per year, and so on.

Another requirement of the program is that participating students must participate in the Indiana Statewide Testing for Educational Progress Plus exam, their equivalent of Texas' STAAR exam. A total of 224 private schools participated in the state's voucher program, 38 percent of which produced a 90 percent total pass rate. Public schools in the state only saw 12 percent of their students achieve a 90 percent total pass rate. Additionally, 91 percent of the students attending voucher schools passed the ISTEP Language Arts portion, and 89 percent passed the mathematics portion. That is in contrast to a passing rate of 79 percent and 81 percent in Indiana public schools, respectively.<sup>26</sup>

The Indiana program allows greater access for low and middle income families to higher quality education products. Where it could stand to be improved, however, is both in its accessibility, and the degree to which it grants the state sway over the private education sector. Mandating that participating schools take the ISTEP test, rather than giving them options, such as the Stanford or Iowa tests, has not been well received by all of the state's private school operators.

### **Louisiana**

The Louisiana choice program, passed by the Louisiana Legislature in the spring of 2011, affects both private and charter schools. It has impacts beyond choice as well; it reforms teacher recruitment and retention, teacher pay, and the state's early childhood education programs. The main piece of choice legislation was HB 976, and its provisions are:

- Increases parents' leverage (or strengthens their "parent-trigger") to get their school into Louisiana's Recovery School District program, which is geared toward improving the performance of under-achieving schools.
- Law creates three additional pathways or means by which an existing campus may become a charter school, or by which a new charter may be created. These reforms are all geared toward easier access to Louisiana's Board of Elementary and Secondary Education, the entity which has the right to grant charters statewide.
- Gives students the right to take individual courses regardless of geographic limitation. Under this law, other entities (primarily virtual/distance learning providers) can provide courses and receive state funding for (some, not necessarily all) participating students.
- The law expands access to the Louisiana Scholarship Program (LSP). The LSP used to run only in New Orleans, and is now usable by students statewide. However, there are limitations. A student must meet two qualifiers:
  - Their family must make no more than 250 percent of the Federal Poverty Level (\$55,000 a year for a family of four).
  - The student must be attending a school which Louisiana has rated C, D, or F, which is to say, an academically low-performing school.<sup>27</sup>

The scholarship portion of the program is restricted, aimed toward lower and middle income students and not open to the state's entire student body. Students that do receive an education scholarship must participate in the state's accountability testing system, known as the Louisiana Educational Assessment Program, or LEAP.<sup>28</sup>

## The Horizon Scholarship Program: An Alternative Design

In addition to government run programs, one does not have to look beyond the borders of our own state to see the benefits of how a private school choice program can positively impact students, and indeed a community as a whole. From 1998 to 2008, the Horizon Scholarship Program, a privately funded education scholarship program, offered scholarships to students living within the boundaries San Antonio's Edgewood Independent School District. Unlike today's government-funded scholarship programs, there were no income requirements for participating families and no curriculum requirements for private schools participating in the programs.<sup>29</sup> The positive impacts of the program were numerous, affecting not just students in the district, but the community at large.

### Academic Gains

In the first four years of the program, reading scores for participating students improved by 21.2 percent and math scores improved by 28 percent. Students participating in the program out-performed public school students by a statistically significant 7 percent in reading exams. Further, students who attended private schools on a voucher had an excellent chance of completing high school, as graduation rates for private schools catering primarily to voucher students was near 100 percent. Additionally, 91 percent of students who participated in the voucher program attended some college.<sup>30</sup>

### Impact on Edgewood ISD

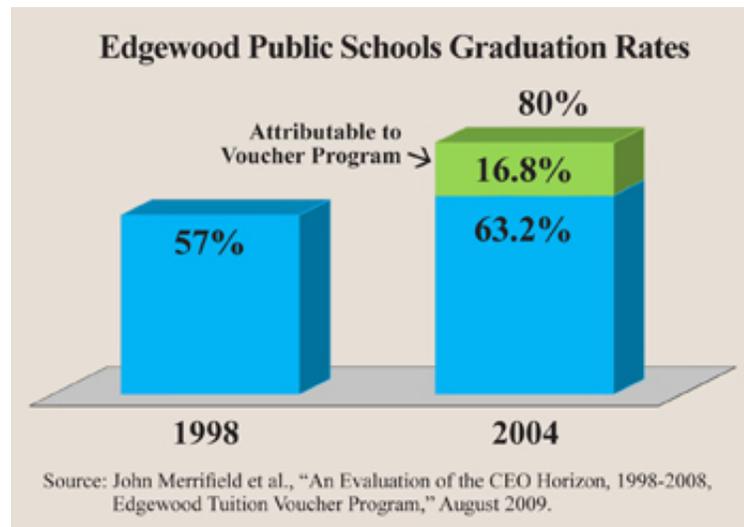
In their 2009 study of the Edgewood scholarship program, the National Center for Policy Analysis noted that the program's academic impacts were not limited to students who received an education voucher:

The Texas Education Agency uses student performance on standardized tests to classify each public school as exemplary, recognized, acceptable or unacceptable. The second year after the vouchers were introduced—the 1999-2000 school year—was the first year that Edgewood had an exemplary school. In fact, Edgewood went from zero exemplary schools to three in 1999-2000. From 1998 to 2008, the number of recognized Edgewood campuses tripled from three to nine, and the single unacceptable campus was reclassified as acceptable.

Furthermore, Edgewood significantly increased its high school graduation rate. The district's graduation rates were compared to a number of other districts with similar demographics. An analysis found:

If Edgewood's high school graduation rate had increased at the average rate for comparable school districts, it would have risen from 57 percent in 1998 to 63.2 percent in 2004. Instead, Edgewood's graduation rate rose to 80 percent in 2004 (the peak year of voucher program participation), and, thus, nearly 17 percentage points of the increase is attributable to the voucher program.<sup>31</sup>

In the first four years of the program [Horizon Scholarship Program], reading scores for participating students improved by 21.2 percent and math scores improved by 28 percent.



*Source: National Center for Policy Analysis*

This was coupled with an overall decrease in dropouts; during the run of the Horizon program, Edgewood ISD saw its dropout rate decrease by 30.1 percent.<sup>32</sup>

### ***District and Community Impact***

One of the most significant findings that came with study of the Edgewood Scholarship Program was the impact it had on the entire Edgewood community. As noted by the Heartland Institute:

The only way for school district enrollment and voucher use to rise concurrently is through significant population growth. And during the 10 years the Edgewood voucher program was operational, San Antonio saw a sharp rise in economic activity, with a boom in commercial real estate and a significant increase in commercial and industrial property values.

In the early years of the Edgewood voucher program, an address in the Edgewood Independent School District became a highly desirable commodity, both for parents interested in the voucher plan and for those in search of much-improved public schools. The price of a single-family home in the EISD increased \$6,500 on average, and the school district netted an additional \$15 million in property taxes and per-pupil payments from the state.<sup>33</sup>

While these upticks in population and property value might not be wholly attributable to the scholarship program, it cannot be separated from it either. Though it featured components that might make an exact mirror difficult to enact policy-wise at the state level, the Edgewood Scholarship Program demonstrates in a microcosm the kind of positive impact private school choice can have on not just the participating students, but the community as a whole.

Fully outlined, the fiscal benefits at the community and school district level for Edgewood ISD were diverse. The district's over-all revenues increased by 42.1 percent. Per pupil spending increases were greater, growing by 57.3 percent. Property values per pupil increased by 114.9 percent. Edgewood had its first new housing developments in more than 40 years, and teacher's salaries increased by 37.2 percent (outpacing surrounding districts by 70.6 percent).

## Public School Choice: International and Domestic

Truly comprehensive school choice reform incorporates flexibility and freedom for parents in both the public and private school sectors. While Louisiana's reforms affected both areas, and many states have good public choice options available, some of the most impressive public school programs operate beyond our borders.

### *New Zealand: A Model in Competitive Public Schools*

While flexible public school systems are common place in many other countries (the Netherlands, Sweden, Denmark, and Chile all have comprehensive choice programs) perhaps no nation has pursued school choice as aggressively over recent years as New Zealand. Beginning in 1987, New Zealand started a process of analyzing and reforming their public school system, led by then Prime Minister David Lange and a businessman named Brian Picot.<sup>34</sup>

The conclusions of the Picot Task Force, assigned to examine the country's public school system as a whole, were that decisions in the education system were not being made at the school level, but rather by the New Zealand Department of Education. Because of this, schools were not responding to the needs and concerns of parents, and the system as a whole was being inadequately managed. Simple reforms of the country's Department of Education, they determined, would not address the problem. More comprehensive reform was necessary. The initial wave of changes, starting with the Education Act of 1989, was as follows:

The Department of Education, which was the central authority for the New Zealand schools, was virtually disbanded (Fiske and Ladd, 2000a, p. 35). Educational responsibility was then transferred to what is known as Tomorrow's Schools reform. The initial changes called for a smaller Ministry of Education (Fiske and Ladd, 2003, p. 100). Each primary and secondary school was turned over to a locally elected board of trustees. Parents of students and community representatives constituted the board of trustees. The goal of this change was to get feedback from the community, promote community interest in the local schools and provide additional support to the principal (Fiske and Ladd, 2000a, p. 37 and Fiske and Ladd, 2000b, p. 1). The boards were also responsible for working with the principal, teachers and staff and members of the community to write a school charter for each school (Harrison, p. 2). The school charter outlines the goals for the students and the mission of the school. It also acts as a contract between school, state and community (Harrison, p. 2).<sup>35</sup>

Larger change came the following year. The country's Labor Party, of which David Lange had been the leader, was voted out of power in the 1990 elections, and the conservative National Party, led by new Prime Minister David Bolger, took over. What followed was the Education Act of 1991, which introduced a new level of market-based competition into the public education system. The act abolished "enrollment zones" (New Zealand's equivalent of Texas' independent school districts), allowing all parents in the country to choose which public school their children attended. Public schools were no longer guaranteed enrollment; instead, they had to compete for students.<sup>36</sup>

In order for the schools to compete most effectively, they were granted maximum amounts of freedom with their government funds. Block grants were given to schools to pay their teachers' salaries and to execute their general operating costs. However, one of the few strings the national government did leave in place is one that remains controversial in New Zealand to this day, and is one that we face in Texas as well. It remains mandatory that teachers in New Zealand be paid on a national salary schedule.<sup>37</sup>

While flexible public school systems are common place in many other countries (the Netherlands, Sweden, Denmark, and Chile all have comprehensive choice programs) perhaps no nation has pursued school choice as aggressively over recent years as New Zealand.

Though Texas has had charter laws on the books since 1995, Texas' hard cap of 215 on open-enrollment charter schools puts it firmly in the middle of the pack when it comes to availability of public school choice.

### ***Public School Choice Programs: Stateside***

Public school choice—most commonly in the form of public charter schools—is more common than private school choice programs. According to the National Center for Education Statistics, the number of students attending public charter schools more than quadrupled from 2000 to 2010, from 0.3 million to 1.6 million. In total, 43 states have authorized charter schools in one form or another. The Center for Education Reform does an annual report ranking charter laws by state dependent on a number of factors. Those factors include:

#### ***Number of Schools and Applications***

Charter laws should neither limit the number of schools that are allowed to operate nor the number of students that can apply to attend those charter schools. Therefore, states with maximum flexibility in this category grade out the highest.

#### ***Multiple Charter Authorizers***

States that do well in this category allow multiple kinds of charter providers to operate schools in their state. Such providers could include school districts, universities, or national charter providers like the KIPP Academies.

#### ***Waivers and Legal Autonomy***

This category essentially grades how freely a charter school may operate from state or district level regulations. States that allow their charter schools maximum flexibility perform better in this arena.

#### ***States that Perform Well***

States that have operated charter schools for several years tend to have more evolved and comprehensive public school choice options available. One excellent example of this is California. California has been operating charter schools since 1992. As of January 2013, California had 1,090 operational charter schools, run by a variety of authorizers including school districts and the state's university system.<sup>38</sup>

Washington D.C., Indiana, Minnesota, and Florida also grade extremely well on the Center for Education Reform's assessment. All of these states have been operating their charter schools since the 1990s. With the exception of the District of Columbia, none of these high-ranking charter states cap the number of charters that are allowed to operate.<sup>39</sup>

Texas, for its part, grades out at a C on this scale. Though it has had charter laws on the books since 1995, Texas' hard cap of 215 on open-enrollment charter schools puts it firmly in the middle of the pack when it comes to availability of public school choice.<sup>40</sup>

#### ***Parent-triggers***

"Parent-trigger" laws are a relatively new kind of school choice. They are defined as follows:

Parent-trigger laws are at their core designed to give parents of public school students more control over the educational process. The trigger allows for parents in a given school to, in essence, take over the school. The rules regarding implementation can vary, but perhaps the most visible example of a parent-trigger law is the one California enacted in 2010.

The California law was designed to allow parents to take action if their children's school was not performing academically. If a school does not meet the state's academic stan-

dards and fails to improve over the course of a four-year, state-implemented improvement plan, then the trigger becomes a possibility.<sup>41</sup>

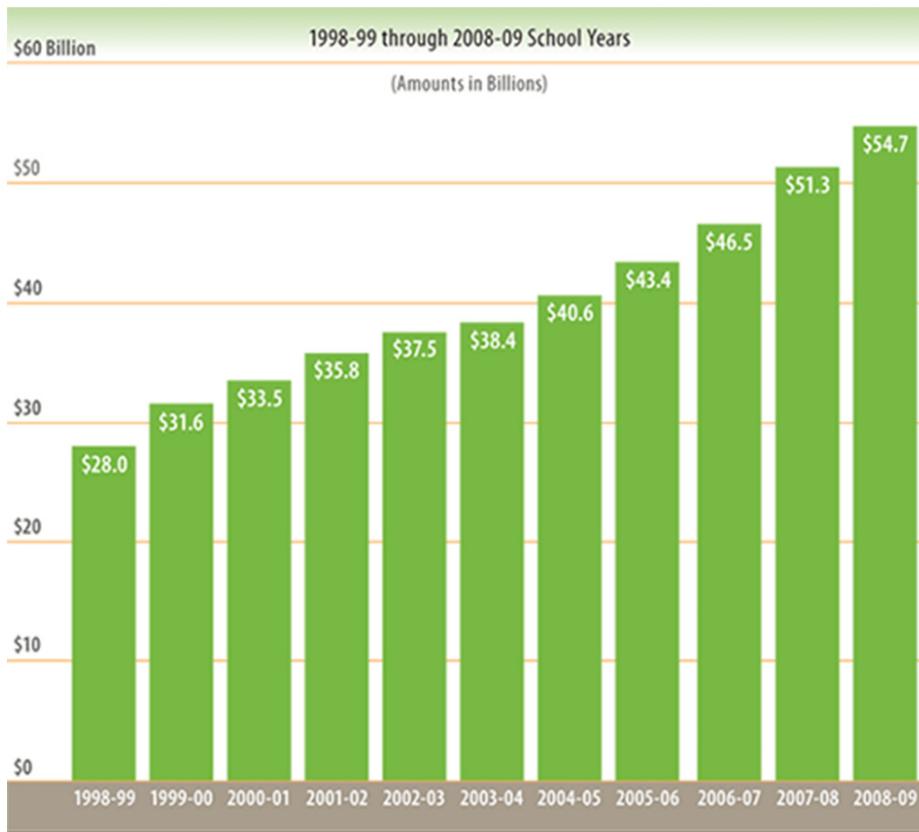
To date, only seven states (California, Connecticut, Indiana, Louisiana, Mississippi, Ohio, and Texas) have enacted a parent-trigger of any kind, making it one of the least common school choice tools in the country.<sup>42</sup>

### The Case for Reform in Texas

Though there are many areas in which Texas public schools do very well—our minority students test well by national standards, and our collective student populace appears to be increasingly inclined to attend college, as reflected in the growing number of students who are taking the SAT—there are still a number of areas in which we could improve. According to the Intercultural Development Research Association, Texas’ drop-out rate sits at 26.2 percent.<sup>43</sup> Despite our increasing number of students taking the SAT, our performance is suffering; average scores are at their lowest level in a decade.<sup>44</sup>

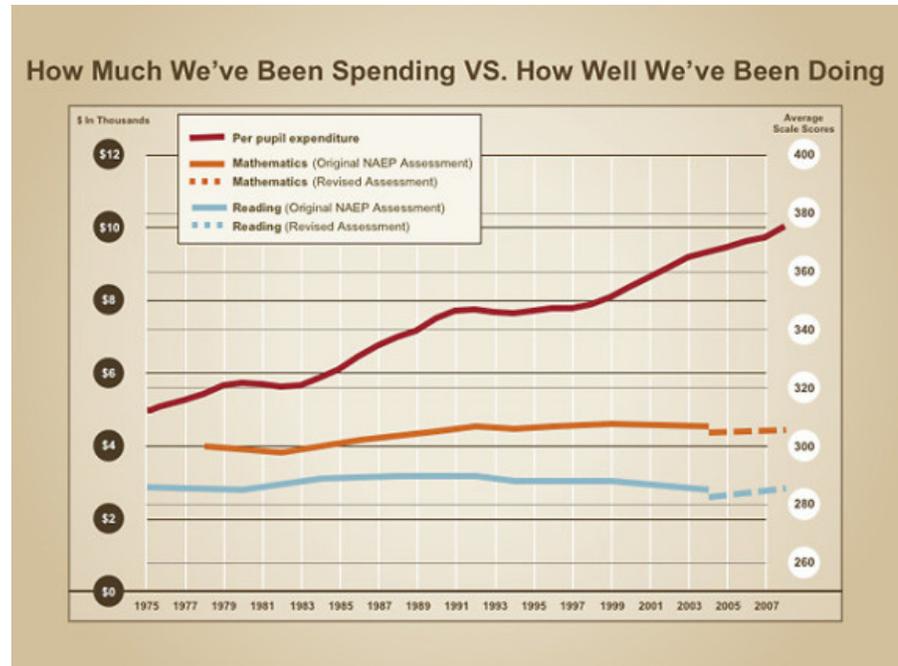
All of this equates to an education system that is not performing as efficiently as it could be. This is further enforced by an examination of our spending patterns versus our academic achievement over the course of the last decade. From 1999 to 2009, Texas public school expenditures rose by 95 percent.<sup>45</sup>

Education Spending Growth in Texas



Source: Texas F.A.S.T. Report

During that same period of time, our National Assessment for Education Progress scores at both the 4th and 8th grade level have remained virtually stagnant.<sup>46</sup> This is not a trend that is restricted to Texas; in a *Huffington Post* blog, Bill Gates noted a similar trend at the national level stretching back three decades, entitled “How Much We’ve Been Spending Versus How Well We’ve Been Doing.”



Source: *Huffington Post*

Our standing solution—to simply put more money into the education system—has failed to meet the needs of our students. Further, with a growing student body and Medicaid costs expected to rise over the next several years, continuing such spending patterns is unsustainable.

A different approach to reform, one that takes into account the needs of students, school districts, and the state alike, is necessary. These are the arenas in which school choice can help Texas.

According to Dr. Charles Desforges, “It is widely recognized that if pupils are to maximize their potential from schooling they will need the full support of their parents.”<sup>47</sup> While ensuring that parental involvement in a child’s education will occur is extremely difficult from the legislative side of the equation, one thing the legislature can do is create an environment in which parents are empowered, and thus incentivized, to become involved. Phillip Vasallo of the Cato Institute found that giving parents education options is a strong motivator for greater involvement in their child’s education:

Studies from school choice experiments suggest that school choice can be a powerful engine for parental involvement—choice by its nature engenders a higher level of parental participation than does the current system. Although a universal, customer-driven system has not been tried, sufficient research exists to prove that modified forms of choice—such as charter schools, vouchers, and private scholarship programs—increase parental involvement.<sup>48</sup>

It should be stressed that no single policy will fix all the problems in Texas education—there is no “silver bullet.” But we do have an opportunity to drastically improve school choice in this state, a chance to bring us onto par with choice initiatives other states have taken in recent years. Doing so will equate to meaningful reform that does not equate to high costs in education, and drives parental involvement—as well as efficiency—from the “ground up.”

## Recommendations: Bringing Comprehensive Choice to Texas

While Texas is a long way from having a public school system that operates as freely as the New Zealand design, there are areas in which we could make quick and substantial improvements to the flexibility in our public school system. Additionally, we should work toward finally bringing private school choice to Texas.

### *Private School Choice in Texas*

Private school choice may take any number of forms. Different states have taken a number of approaches to giving options to parents and students, and concurrently, it is probable that a number of choice options will be proposed for Texas students during the 83rd Texas Legislature. These will likely fall into one of two categories; tax credits for privately funded education scholarships, and state-administered education scholarship programs.

### *Education Scholarships*

Texas should allow students who are either entering kindergarten or who were enrolled in public schools the previous year to receive Student Scholarships for Excellence, grants equal to 60 percent of the normal state and local dollars that would follow each individual student for the purposes of enrolling in a private school in Texas.

In recent years, that would give students a scholarship in the range of approximately \$5,000, or roughly the equivalent of what many students in the Indiana and Louisiana programs receive. While it is not enough to cover the entire tuition costs of many of Texas’ private schools, it would increase the options for many families weighing the decision of whether to send their child to a private school.

The benefits of such a program could be many for Texas. Academically speaking, what could be the most direct benefit would be a bump in the state’s high school graduation rate. The gains Edgewood ISD made while the Horizon Scholarship Program was operating were notable, but unfortunately confined to a relatively brief window, as the program only operated for 10 years. The Milwaukee Scholarship Program, which has now been operating for over two decades, shows impressive graduation numbers as well, particularly for students actively participating in the program:

Three studies by national experts documented that students in the Milwaukee choice program graduate high school at higher rates than students in Milwaukee’s public schools. Most recently, University of Minnesota sociologist John Robert Warren found in 2007 that Milwaukee choice students’ graduation rate was 85 percent compared to 58 percent for students in Milwaukee’s public schools.<sup>49</sup>

Texas students, both in public and private schools, could also see improvements in testing. Milwaukee’s scholarship students saw improved performance (most notably at the 7th and 8th grade levels),<sup>50</sup> but the public school system benefitted greatly as well:

While Texas is a long way from having a public school system that operates as freely as the New Zealand design, there are areas in which we could make quick and substantial improvements to the flexibility in our public school system.

Four studies employing cutting-edge statistical models found that students in Milwaukee Public Schools experience academic achievement gains because of competition from the choice program. Most recently, Jay Greene and Ryan Marsh, researchers with the School Choice Demonstration Project at the University of Arkansas, found public school test score gains of 12 percent because of the competition choice creates in Milwaukee.<sup>51</sup>

The potential fiscal benefits for Texas are worth noting as well. While the amount of savings generated by education scholarships varies from state to state and is highly dependent on the design of the program's funding structure, one approach that has been proposed in Texas before—the Texas Taxpayer Savings Grant Program—could produce savings in the billions:

If the program started in time for the 2011-12 school year, between 6.3 and 7.6 percent of public school students would be using savings grants to transfer to private schools in 2012-13. This means between 314,245 and 382,501 students would participate in the program that year. The TSGP would increase private school enrollment by between 133 and 163 percent in the second year of the program.

Experiences in Milwaukee and the Edgewood School District near San Antonio point to slightly higher rates of private school enrollment growth than the estimate we took from peer-reviewed literature to reach our savings estimate. Using the Edgewood experience would increase the forecast of two-year fiscal savings to \$2.2 billion. Using the Milwaukee experience would yield a two-year fiscal savings of \$2.3 billion.<sup>52</sup>

A statewide education scholarship program would be a rapid improvement in terms of flexibility in opportunity, particularly for Texas' lower-income students. Creating such a program is vital to the effectiveness of Texas education reform if academic improvement, increased competition, and greater efficiency are elements we want to bring to our education system.

### *Tax Credits*

Education tax credits allow corporations to subtract a certain amount from their taxes for education-related purchases or donations to scholarship programs. There are typically two types of education tax credits: personal-use tax credits, which reimburse parents for educational expenses spent on their children; and donation tax credits, which give a tax credit to individuals or corporations who donate to an education scholarship fund. In a 2010 study by the Texas Public Policy Foundation, Brooke Dollens Terry noted several benefits to education tax credits:

Education tax credits and tax deductions have several advantages. Tax credits save the state and taxpayers money, have a broad base of support that appears to be growing, and are less vulnerable to attacks in court as they have never been declared unconstitutional at a state or federal level despite several court challenges.<sup>53</sup>

As noted earlier, many states around the country have enacted some form of education tax credit program. One of the largest that was put into place is in Florida. The savings to the state was immediate:

Florida saved \$38.9 million in one year alone. With its current program expansion, Florida is expected to save an additional \$5.7 million per year. A study conducted by the Cato

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Institute suggests that if Texas were to enact a tax credit program, the state could save as much as \$508 million after the first year. This could add up to \$15.9 billion in only 10 years.<sup>54</sup>

Savings are only one of the benefits of the tax credit approach to school choice. Another major perk is the definitive legality of such programs. Where voucher programs have previously encountered challenges in court regarding the constitutionality of such programs (largely because they can involve state money being used to send a child to a religious school, thus entering dangerous waters around the Establishment Clause), education tax credits have consistently held up under such scrutiny:

Adam B. Schaefer, an expert on education tax credit policies with the Cato Institute, emphasizes that courts consider tax credits to be private funds and not government money. This means that “tax credits are less likely to be challenged in court, less likely to be overturned by a court, less likely to come with burdensome regulations, and less likely to accumulate regulations over time.” He cites Marc Egan, director of the Voucher Strategy Center for the National School Boards Association, as describing tax credits as “technically not government dollars” and “bullet-proof on constitutional issues.”<sup>55</sup>

Both of these elements make for a compelling argument for tax credits to be a highly viable school choice option, and they are. However, for Texas, they should ultimately be a secondary option to state driven education scholarships.

### *Special Needs Scholarships*

Texas should, in concurrence with education scholarship programs directed at the general student populace, create a scholarship program specific to its special needs students, much like the McKay Scholarship Program in Florida. As referenced earlier, the McKay Scholarship Program is one of the longest standing. The McKay model—great flexibility in the size of a scholarship contingent on what it would cost to educate a specific student in the state’s public school system—is one in which Texas should look to in constructing a special needs scholarship program of its own.

## **Public School Reforms**

### *Improve Home-rule School Districts*

Home-rule districts were authorized by the Texas Legislature as a way to empower parents, citizens, and local administrators to govern schools in a manner that best suits the needs of students in their district. However, none have been created since they were authorized in 1995 because there are too many roadblocks to their creation and too many of the same mandates on traditionally-run school districts are imposed on home-ruled districts.<sup>56</sup>

Changes in both the home-rule charter creation process, as well as the mandates to which those charters are subject, are necessary, and should be executed as follows:

### *Eliminate the Voter Turnout Requirements for Home-rule Charter Elections*

The 25 percent voter turnout in a charter adoption or rescission election is an extremely high number. Not only do many local elections not meet this standard, but few other elections have such a requirement. Currently, a 20 percent voter turnout is also required to amend a home-rule charter. The turnout requirements should be removed entirely.<sup>57</sup>

Home-rule districts were authorized by the Texas Legislature as a way to empower parents, citizens, and local administrators to govern schools in a manner that best suits the needs of students in their district.

***Empower Citizens to Drive the Home-rule District Charter Process***

Current law requires that the petition process that can be used to create a home-rule charter run through the school board governing an independent school district. While citizens can petition to create a home-rule charter, they must turn the creation of that charter over to the board of trustees. They should be able to join together, draft a home-rule district charter, and then collect signatures in its support. Once at least 5 percent of the qualified voters of the school district or 20,000, whichever number is the smaller, has signed the petition, the petitioners can then submit the charter (or charter amendment) to the school board, which must then send the proposed charter directly to the voters for approval.<sup>58</sup>

School boards should still be allowed to drive the process on their own, but an additional path—one that empowers parents, such as that which is described above—should be available as well.

***Remove the 22:1 Class-size Cap***

The K-4 class-size cap raises the costs of public education significantly. The Office of the Comptroller, in its 2010 F.A.S.T. (Financial Allocation Study for Texas), explained clearly the manner in which the cap harms Texas education:

Many school officials believe the “22:1” limit interferes with their ability to staff campuses cost-effectively, asserting that classes with up to 25 students can operate without any loss of instructional effectiveness.<sup>59</sup>

Some suggest that the 22:1 requirement be based upon average class size rather than applying to all classes, giving districts more flexibility to set class size, allocate resources and limit costs.

***Increase Seat-Time Requirement Flexibility***

The Texas Education Code is explicit: students must be provided a minimum of 180 days of instruction. To receive credit for the school year (or a given course if the student attends a higher grade level), the student must attend at least 90 percent of the days the class meets.

The lone exception to this rule is that if a student has a plan in place, approved by the principal of his or her school, for meeting the requirements of the given course, the student may then attend 75 percent of the school days. Any other exception requires the consent of the school board on a case by case basis. Students who exceed the absence limits can appeal to the board of trustees in their district, but in all likelihood, excessive absences will result in a failure of the course.

These are restrictions to which home-rule school districts should not be subject. With the number of learning technologies now available, there is no need to mandate that students sit in a classroom for 90 percent of 180 days. While some students need as much time in the classroom as possible, others can self-pace and work through a course much faster, especially if they use online and blended learning approaches.

Attendance requirements are a somewhat more complicated matter, as public schools currently receive the bulk of their funding based upon weighted average daily atten-

Many school officials believe the “22:1” limit interferes with their ability to staff campuses cost-effectively, asserting that classes with up to 25 students can operate without any loss of instructional effectiveness.

dance, which is to say, the number of students physically sitting in the given school during the school day. Allowing districts to receive their state funding based on the number of students enrolled in their district, rather than the number that are physically in the classroom on a day to day basis, would generate a great deal more flexibility regarding seat time.

There would be other benefits to granting seat time flexibility to public schools. As much could provide more room for cooperation between public schools and private education providers, as well as junior colleges and work-force training programs. It could also allow parents of home-school students to partially enroll their children in public or charter schools to have access to courses or extra-curricular activities not easily provided at home.

It is unlikely, given the timetable for the five school finance lawsuits currently making their way through the courts, that the state will see significant school finance reform during the 83rd Texas Legislature.

#### *Move Control of Online Learning in Texas to the School Districts*

If the state is going to encourage the expansion of online and distance learning, it must change the way it funds and administers its online learning efforts.

Currently, the primary system for providing digital learning in Texas is the Texas Virtual School Network (TxVSN). Though it does not provide the courses directly, TxVSN plays a key role. By law, it must approve all online courses offered in the state. More importantly, schools receive money for their online students only through a separate funding allotment for the TxVSN.

This funding design is complicated, and does not encourage school districts to explore having portions of their student body attend online education full time. Additionally, the approval process, and by default, mandatory participation in the Texas Virtual School Network, does not encourage the growth of online learning at the district level.

Therefore there should be two changes made to the state's virtual education policies. First of all, the school finance system should allow full-time, virtual learners to be funded through the state's mainstream funding formulas, rather than special allotments as they are now. Secondly, districts should be allowed to run their own virtual education programs, free from the TxVSN.

#### *Strengthen the Texas Parent-trigger*

"Parent-trigger" laws allow parents on a given campus, by majority vote, to take over and charterize a traditional public school if that school is not succeeding academically. Texas, for its part, has such a law, but it also requires the participation of the teachers on a potential trigger campus.

Sec. 12.052, Education Code, should be changed to require a board of trustees of a school district or the governing body of a home-rule school district to grant a campus charter or a program on a campus charter to the parents of a majority of students on the campus. This should be in addition to the current charter that can be granted to a majority of the parents and teachers working together, which should remain as an option.

Despite a growing demand for more open-enrollment charters—the Texas Charter School Association now estimates that the number of students waiting to attend a charter school in Texas is in excess of 100,000—the state still has a hard-cap of 215 charters.

### *Expand the Availability of Open-enrollment Charters*

One of the arenas in which Texas has been historically strong in public school choice is open-enrollment charter schools. When the first such charters were authorized by the state in 1995, Texas became an early leader in this area. Now, however, this is only marginally the case.

Despite a growing demand for more open-enrollment charters—the Texas Charter School Association now estimates that the number of students waiting to attend a charter school in Texas is in excess of 100,000—the state still has a hard-cap of 215 charters. While charter holders *are* entitled to operate as many campuses as they see fit, the cap does put a limit on how many new charter operators may enter the market.

Texas should remove the hard-cap on open-enrollment charters, both to meet the demands of Texas parents and students and to create a more competitive charter market. Competition creates a level of “bottom up” accountability, in which parents have more options and can therefore ensure that stronger charter operators are the ones that receive students, and weaker providers will either be forced to improve or be driven from the market.

### **Conclusion**

Texas is behind many other states when it comes to school choice. The gap will continue to grow unless we take steps now to expand school choice in Texas. In 2013, the Legislature will have an opportunity to enact comprehensive reforms to both the public and private school choice options available in the state. By June 2013, Texas could be poised to become the nation’s leader in school choice. ★

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## Endnotes

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