

**HB334 ENGROSSED**



1 D7LUTT-2  
2 By Representatives Garrett, Collins  
3 RFD: Ways and Means Education  
4 First Read: 18-Apr-23  
5  
6 2023 Regular Session



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A BILL  
TO BE ENTITLED  
AN ACT

To create the Students with Unique Needs (SUN) Education Scholarship Account Act and Program; to allow parents to use funds in an education scholarship account to provide an individualized education program for their children.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Students with Unique Needs (SUN) Education Scholarship Account Act.

Section 2. As used in this act, the following terms shall have the following meanings:

(1) DEPARTMENT. The State Department of Education.

(2) EDUCATION SERVICE PROVIDER. A licensed and accredited program or service providing educational services for students and approved by the department.

(3) ELIGIBLE STUDENT. A student under 19 years of age who was enrolled in and attended a public K-12 school in this state during the previous school year, except as otherwise provided in paragraph a., and who is any of the following:

a. The child of a parent who is a member of the Armed



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29 Forces of the United States, who is on active duty or was  
30 killed in the line of duty, and who may or may not have been  
31 enrolled in or attended a public K-12 school in the state  
32 during the previous school year.

33 b. A student who has an individual education plan or  
34 504 accommodation issued according to Section 504 of the  
35 Rehabilitation Act of 1973, including, but not limited to, a  
36 student who has an intellectual disability or is speech or  
37 language impaired, deaf or hard of hearing, visually impaired,  
38 dual sensory impaired, physically impaired, emotionally  
39 handicapped, specific learning disabled, autistic, or  
40 hospitalized or home bound because of illness or disability.

41 c. A foster child who has achieved permanency through  
42 adoption or guardianship.

43 d. Homeless and lacks fixed, regular, and adequate  
44 housing.

45 (4) PARENT. A resident of this state who is the parent,  
46 guardian, custodian, or other individual with authority to act  
47 on behalf of a child.

48 (5) PARTICIPATING SCHOOL. A private school, including  
49 church, parochial, or religious school, that provides  
50 education to K-12 students and has notified the department of  
51 its intention to participate in the program and comply with  
52 the requirements of the program.

53 (6) PRIVATE TUTORING. Tutoring services provided by  
54 tutors who are accredited by a regional or national  
55 accrediting organization.

56 (7) PROGRAM. The Students with Unique Needs (SUN)



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57 Education Scholarship Program.

58 (8) RESIDENT SCHOOL DISTRICT. The public school  
59 district in which the student resides.

60 Section 3. (a) The Students with Unique Needs (SUN)  
61 Education Scholarship Account Program is created and shall be  
62 implemented commencing with the 2024-2025 school year. To  
63 participate in the program, the parent of an eligible student  
64 shall sign an agreement to do all of the following:

65 (1) Provide an education for the eligible student in at  
66 least the subjects of reading, grammar, mathematics, social  
67 studies, science, and computer science.

68 (2) Refrain from enrolling the eligible student in a  
69 charter school.

70 (3) Refrain from enrolling or participating in the  
71 educational scholarship program provided through the Alabama  
72 Accountability Act of 2013.

73 (4) Refrain from enrolling in a public school unless it  
74 is for specific contracted services pursuant to subdivision  
75 (b) (8).

76 (b) Each parent participating in the program shall  
77 agree to use the funds in his or her eligible student's  
78 education scholarship account for the following qualifying  
79 expenses:

80 (1) Tuition and fees at a participating school.

81 (2) Textbooks required by a participating school.

82 (3) Payments for private tutoring.

83 (4) Payments for the purchase of curricula or  
84 instructional materials.



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85           (5) Tuition and fees for an approved nonpublic online  
86 learning program.

87           (6) Fees for statewide assessments, advanced placement  
88 examinations, or related courses, fees associated with  
89 state-recognized industry examinations, and any examinations  
90 related to college or university admission.

91           (7) Education services for students with disabilities  
92 from a licensed or accredited practitioner or education  
93 service provider.

94           (8) Contracted services provided by a public school  
95 district including specific classroom instruction.

96           (c) The amount the state shall deposit into an  
97 education scholarship account for a participating eligible  
98 student shall be 95 percent of the gross state Foundation  
99 Program cost-per-student for a public K-12 student during the  
100 applicable tax year.

101           (d) A participating school, private tutor, or other  
102 education service provider may not refund, rebate, or share  
103 any portion of a student's education scholarship account with  
104 a parent or the student in any manner. The funds in an  
105 education scholarship account may only be used for qualifying  
106 expenses.

107           (g) Funds received pursuant to this section may not be  
108 considered taxable income of a parent.

109           (h) Eligible students who were previously enrolled in  
110 the program shall have priority for renewal in the program.

111           Section 4. The program shall be limited to 500 students  
112 for the 2024-2025 school year, with new enrollment limited to



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113 500 additional students each school year thereafter. Subject  
114 to appropriations from the Education Trust Fund, the education  
115 scholarship account of a student shall be funded according to  
116 subsection (c) of Section 3.

117 Section 5. (a) The State Board of Education shall adopt  
118 rules as necessary for the administration of the program by  
119 the department.

120 (b) The department shall establish education  
121 scholarship accounts for eligible students by doing all of the  
122 following:

123 (1) Receiving applications and determining student  
124 eligibility in accordance with this section. Upon approval of  
125 an application the student shall be included for funding.

126 (2) Establishing and maintaining separate accounts for  
127 each eligible student.

128 (3) Verifying qualifying expenditures.

129 (4) Returning any unused funds to the department when a  
130 student is no longer eligible for an education scholarship  
131 account. The funds returned to the department shall be  
132 allocated to the resident school district of the student.

133 (c) Program payments made pursuant to this section  
134 shall continue until a participating student enrolls in a  
135 public school or graduates from high school. Purchasing  
136 contracted services from a public school system pursuant to  
137 subdivision (b) (8) of Section 3 does not constitute  
138 enrollment.

139 (d) The department shall receive five percent of funds  
140 not deposited into an education scholarship account pursuant



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141 to subsection (c) of Section 3, as costs for administering the  
142 program.

143 (e) Participating schools and education service  
144 providers shall submit reports quarterly to the department  
145 detailing the number of students participating, services  
146 provided, and other information requested by the department.

147 (f) To avoid duplicate payments, the department shall  
148 compare the list of participating students with the public  
149 school enrollment lists provided by the department before each  
150 program payment is made.

151 (g) The department shall conduct or contract for the  
152 auditing of individual education scholarship accounts. At a  
153 minimum, the department shall conduct random audits of  
154 education scholarship accounts annually and, if a misuse of  
155 funds in an education scholarship account is discovered, may  
156 prohibit further participation by the parent in the program.

157 (h) If evidence of fraudulent use of an account is  
158 found, the department shall refer the case to local or state  
159 law enforcement agencies for further investigation.

160 Section 6. (a) The department shall do all of the  
161 following:

162 (1) Create, or contract for the creation of, a standard  
163 application form for parents of eligible students to submit to  
164 the department to establish their student's eligibility for  
165 the program and ensure the form is readily available through  
166 various sources, including the Internet.

167 (2) Provide to parents of participating students a  
168 written explanation of qualifying expenses, their



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169 responsibilities under the program, and the duties and  
170 responsibilities of the department.

171 (3) Maintain and routinely update the list of approved  
172 education service providers on the department's website.

173 (4) Comply with all student privacy laws.

174 (5) Collect test results.

175 (6) Provide test results, associated learning gains,  
176 and graduation rates to the public on the department's website  
177 commencing with the fourth year of test and graduation related  
178 data collection. The information shall be aggregated by the  
179 grade level, gender, family income level, number of years of  
180 participation in the program, and race of the student.

181 (7) Provide graduation rates to the public on the  
182 department's website commencing with the fourth year of test  
183 and test related data collection.

184 Section 7. (a) To ensure that funds are spent  
185 appropriately, the State Board of Education shall adopt rules  
186 and policies necessary for the auditing of education  
187 scholarship accounts.

188 (b) (1) The department shall develop a system for the  
189 payment of benefits including, but not limited to, allowing  
190 participating schools and education service providers to  
191 invoice the department for qualified expenses or allowing the  
192 parent or guardian who submitted the program application to  
193 seek reimbursement for qualified expenses.

194 (2) The department may make direct payments to  
195 participating schools and education service providers or  
196 reimbursement to the parent or guardian who submitted the





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197 program application pursuant to a check, warrant, electronic  
198 funds transfer, or any other means of payment deemed by the  
199 department to be commercially viable or cost effective. The  
200 system shall provide maximum flexibility to parents by  
201 facilitating requests for preapproval of and reimbursements  
202 for qualifying expenses.

203 (3) The State Board of Education may also provide, by  
204 rule, for the payment of education service providers on a  
205 quarterly or annual basis.

206 (c) The department shall adopt a process for removing  
207 participating schools and education service providers that  
208 defraud parents and for referring cases of fraud to law  
209 enforcement.

210 (d) The department shall establish or contract for the  
211 establishment of an online anonymous fraud reporting service.

212 (e) The department shall establish or contract for the  
213 establishment of an anonymous telephone hotline for fraud  
214 reporting.

215 Section 8. (a) The department shall be subject to the  
216 Alabama Administrative Procedure Act, Chapter 22, Title 41,  
217 Code of Alabama 1975, and shall ensure that fair processes  
218 exist to determine whether an intentional or substantial  
219 misuse of the program funds have occurred.

220 (b) The department shall conduct or contract for audits  
221 of education service providers or any other recipients of  
222 education scholarship account funds where there is evidence of  
223 misuse of funds or other violations of the program.

224 (c) The department may bar a participating school,



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225 education service provider, or other recipient of education  
226 scholarship account funds from accepting payments from  
227 education scholarship accounts if the department determines  
228 the participating school has done any of the following:

229 (1) Misrepresented information, obtained education  
230 scholarship account funds by fraud, or failed to refund any  
231 over payments in a timely manner.

232 (2) Failed to provide an eligible student with the  
233 educational services funded by the education scholarship  
234 account.

235 (3) Routinely failed to comply with the accountability  
236 standards established in this act.

237 (d) If a participating school or education services  
238 provider is barred from the program, the department shall  
239 notify eligible students and their parents of the decision as  
240 soon as practicable. The department shall coordinate the  
241 prohibition to coincide with the end of the academic school  
242 year. Parents, participating students, education service  
243 providers, and other recipients of education scholarship  
244 account funds may make an administrative appeal of the  
245 department's decision.

246 Section 9. (a) To ensure that each student is treated  
247 fairly and kept safe, all participating schools and education  
248 service providers shall do all of the following:

249 (1) Comply with all health and safety laws or codes  
250 that apply to participating schools.

251 (2) Affirm that nationally standardized tests are  
252 being annually administered and results, both individual and



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253 composite, as appropriate, are being provided to parents and  
254 prospective parents.

255 (3) Hold a valid occupancy permit if required by the  
256 municipality where the school is located.

257 (4) Certify that the school complies with the  
258 nondiscrimination policies set forth in 42 U.S.C. § 1981.

259 (5) Comply with the Alabama Child Protection Act of  
260 1999, Chapter 22A of Title 16, Code of Alabama 1975.

261 (b) To ensure that funds are spent appropriately, all  
262 participating schools shall do the following:

263 (1) Provide parents with a receipt for all qualifying  
264 expenses at the school.

265 (2) Demonstrate financial viability by showing that any  
266 funds that may be provided from an education scholarship  
267 account may be repaid by doing all of the following:

268 a. Filing with the department prior to the start of the  
269 school year a surety bond payable to the state in an amount  
270 equal to the aggregate amount of the funds from education  
271 scholarship accounts expected to be paid during the school  
272 year from eligible students admitted at the participating  
273 school.

274 b. Filing with the department prior to the start of  
275 the school year financial information that demonstrates the  
276 school has the ability to pay an aggregate amount equal to the  
277 amount of the funds from education scholarship accounts  
278 expected to be paid during the school year to eligible  
279 students admitted to the participating school.

280 (c) In order to allow parents and taxpayers to measure



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281 the achievements of the program, parents shall ensure all of  
282 the following:

283 (1) Each year their eligible student takes a nationally  
284 standardized test at their resident school district. Students  
285 with disabilities for whom standardized testing is not  
286 appropriate, as outlined in their individualized education  
287 plan, are exempt from this requirement.

288 (2) Inform the department of an eligible student's  
289 graduation from high school.

290 Section 10. The resident school district shall provide  
291 a participating school or education service provider that has  
292 admitted an eligible student under the program with the  
293 complete copy of the eligible student's school records, while  
294 complying with the Family Educational Rights and Privacy Act  
295 of 1974, 20 U.S.C. § 1232g.

296 Section 11. Nothing in this act shall alter, amend, or  
297 limit the application of the Alabama High School Athletic  
298 Association's constitution and bylaws to member schools.

299 Section 12. This act shall become effective on the  
300 first day of the third month following its passage and  
301 approval by the Governor, or its otherwise becoming law.



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House of Representatives

305 Read for the first time and referred .....18-Apr-23  
306 to the House of Representatives  
307 committee on Ways and Means  
308 Education  
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310 Read for the second time and placed .....03-May-23  
311 on the calendar:  
312 2 amendments  
313  
314 Read for the third time and passed .....11-May-23  
315 as amended  
316 Yeas 99  
317 Nays 5  
318 Abstains 0  
319  
320

John Treadwell  
Clerk

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