

HB442 INTRODUCED



1 SK3V75-1
2 By Representatives Garrett, Collins
3 RFD: Ways and Means Education
4 First Read: 09-May-23
5
6 2023 Regular Session



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SYNOPSIS:

This bill would create the Alabama Fits All Scholarship Program.

This bill would require the State Board of Education to contract with a program manager to administer the program and would authorize the program manager to establish scholarship accounts on behalf of eligible students to pay for approved education goods and services.

This bill would prohibit a program manager from accepting scholarship funds in certain circumstances and would require other fiscal safeguards, auditing, and accountability measures.

This bill would require eligible schools and service providers to meet certain standards to be eligible to receive scholarship funds and would establish an annual and private portfolio submission to the program manager as an eligibility qualification.

This bill would authorize the program manager to administer the program and distribute scholarship funds and would require the State Board of Education to provide limited oversight of the program manager, including an appeal process for the program manager's administrative decisions.

This bill would require criminal history



HB442 INTRODUCED

29 background information checks for employees and
30 officers of a program manager, would provide for
31 program funding, and would also require the program
32 manager and the State Board of Education to submit
33 reports on the program to the Legislature.

34

35

36

A BILL

37

TO BE ENTITLED

38

AN ACT

39

40 To create the Alabama Fits All Scholarship Program;
41 require the State Board of Education to contract with a
42 program manager to administer the program; to authorize the
43 program manager to establish scholarship accounts on behalf of
44 eligible students; to prohibit a program manager from
45 accepting scholarship funds in certain circumstances; to
46 require fiscal safeguards and accountability measures; to
47 require eligible schools and service providers to meet certain
48 standards to be eligible to receive scholarship funds; to
49 authorize the program manager to distribute scholarship funds;
50 to require the State Board of Education to provide limited
51 oversight of the program manager, including an appeal process
52 for the program manager's administrative decisions; to
53 prohibit certain regulations of eligible schools and eligible
54 service providers; to require criminal history background
55 information checks for employees and officers of a program
56 manager; to provide for program funding; and to require the



HB442 INTRODUCED

57 program manager and the board to submit reports on the program
58 to the Legislature.

59 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

60 Section 1. This act shall be known and may be cited as
61 the Alabama Fits All Scholarship Program.

62 Section 2. For the purposes of this act, the following
63 terms shall have the following meanings:

64 (1) ELIGIBLE STUDENT. A student who satisfies all of
65 the following:

66 a. Who is eligible to participate in public school in
67 grades K-12.

68 b. Who is a resident of this state.

69 c. Who, during the school year for which the student is
70 applying for a scholarship account, does not receive a
71 scholarship under the Alabama Accountability Act of 2013,
72 Chapter 6D of Title 16, Code of Alabama 1975, or under any
73 other similar educational scholarship program available for
74 students in grades K-12.

75 d. Who, during the school year for which the student is
76 applying for a scholarship account, is not enrolled in a
77 public school upon receiving the scholarship.

78 e. Whose eligibility is not suspended or disqualified
79 under Section 6.

80 f. Who completes, to maintain eligibility, the
81 portfolio requirement described in subdivision (c)(4) of
82 Section 3.

83 (2) FEDERAL POVERTY LEVEL. The United States poverty
84 level as defined by the most recently revised poverty income



HB442 INTRODUCED

85 guidelines published by the United States Department of Health
86 and Human Services in the Federal Register.

87 (3) HOME-BASED SCHOLARSHIP STUDENT. A student who is
88 homeschooled and receives a scholarship under the program.

89 (4) NONPUBLIC SCHOOL. A nongovernment K-12 school
90 offering educational instruction. The term includes private
91 (religious and nonreligious), parochial, and church schools,
92 including home-based education programs.

93 (5) PROGRAM. The Alabama Fits All Scholarship Program
94 established by this act.

95 (6) PROGRAM MANAGER. An organization that satisfies all
96 of the following:

97 a. Is qualified as tax exempt under Section 501(c)(3),
98 Internal Revenue Code.

99 b. Is not affiliated with any international
100 organization.

101 c. Does not harvest data for the purpose of reproducing
102 or distributing the data to other entities.

103 d. Has no involvement in guiding or directing any
104 curriculum or curriculum standards.

105 e. Does not manage or otherwise administer a
106 scholarship under the Alabama Accountability Act of 2013,
107 Chapter 6D of Title 16, Code of Alabama 1975.

108 f. Has an agreement with the State Board of Education
109 that recognizes the organization as a program manager, in
110 accordance with this act.

111 (7) PROGRAM MANAGER EMPLOYEE. An individual working for
112 the program manager in a position in which the individual's



HB442 INTRODUCED

113 salary, wages, pay, or compensation, including as a
114 contractor, is paid from scholarship funds. The term does not
115 include any of the following:

116 a. An individual who volunteers for the program manager
117 or for a qualifying provider.

118 b. An individual who works for a qualifying provider.

119 c. A qualifying provider.

120 (8) PROGRAM MANAGER OFFICER. A member of the board of a
121 program manager or the chief administrative officer of a
122 program manager.

123 (9) QUALIFYING PROVIDER. One of the following entities
124 that is not a public school and is autonomous and not an agent
125 of the state, in accordance with Section 7:

126 a. An eligible school that the program manager approves
127 in accordance with Section 9.

128 b. An eligible service provider that the program
129 manager approves in accordance with Section 10.

130 (10) RELATIVE. A father, mother, husband, wife, son,
131 daughter, sister, brother, uncle, aunt, nephew, niece, first
132 cousin, mother-in-law, father-in-law, brother-in-law,
133 sister-in-law, son-in-law, or daughter-in-law.

134 (11) SCHOLARSHIP ACCOUNT. The account to which a
135 program manager allocates funds for the payment of approved
136 scholarship expenses in accordance with this act.

137 (12) SCHOLARSHIP EXPENSE. An expense described in
138 Section 3 that a parent or scholarship student incurs in the
139 education of the scholarship student for a service or goods
140 that a qualifying provider provides, including all of the



HB442 INTRODUCED

141 following:

142 a. Tuition and fees of a qualifying provider.

143 b. Fees and instructional materials at a college under
144 the jurisdiction of the Alabama Community College System.

145 c. Tutoring services.

146 d. Fees for after-school or summer education programs.

147 e. Textbooks, curricula, or other instructional
148 materials, including any supplemental materials or associated
149 online instruction that a curriculum or a qualifying provider
150 recommends.

151 f. Educational software and applications.

152 g. Supplies or other equipment related to a scholarship
153 student's educational needs.

154 h. Computer hardware or other technological devices
155 that are intended primarily for a scholarship student's
156 educational needs.

157 i. Fees for the following examinations, or for a
158 preparation course for the following examinations, that the
159 program manager approves:

160 1. A national norm-referenced or standardized
161 assessment described in Section 11, an advanced placement
162 examination, or another similar assessment.

163 2. A state-recognized industry certification
164 examination.

165 3. An examination related to college or university
166 admission.

167 j. Educational services for students with disabilities
168 from a licensed or accredited practitioner or provider,



HB442 INTRODUCED

169 including occupational, behavioral, physical, audiology, or
170 speech-language therapies.

171 k. Contracted services that the program manager
172 approves and that a local school system provides, including
173 individual classes, after-school tutoring services,
174 transportation, or fees or costs associated with participation
175 in extracurricular activities.

176 l. Ride fees or fares for a fee-for-service
177 transportation provider to transport the scholarship student
178 to and from a qualifying provider, not to exceed seven hundred
179 fifty dollars (\$750) in a given school year.

180 m. Expenses related to extracurricular activities,
181 field trips, educational supplements, and other educational
182 experiences.

183 n. Any other expense for a good or service that
184 satisfies both of the following:

185 1. A parent or scholarship student incurs in the
186 education of the scholarship student.

187 2. The program manager approves.

188 (13) SCHOLARSHIP FUNDS. Both of the following:

189 a. Funds that the Legislature appropriates for the
190 program.

191 b. Interest that scholarship funds accrue.

192 (14) SCHOLARSHIP STUDENT. An eligible student,
193 including a home-based scholarship student, for whom the
194 program manager establishes and maintains a scholarship
195 account in accordance with this act. The term does not include
196 a homeschooled student who does not receive a scholarship



HB442 INTRODUCED

197 award under the program.

198 Section 3. (a) There is established the Alabama Fits
199 All Scholarship Program under which, beginning March 1, 2024,
200 a parent may apply to a program manager on behalf of the
201 parent's student to establish and maintain a scholarship
202 account to cover the cost of a scholarship expense. The amount
203 of scholarship funds available is subject to appropriations by
204 the Legislature and may not exceed forty-five million dollars
205 (\$45,000,000) in the initial year.

206 (b) (1) The program manager shall establish and
207 maintain, in accordance with this act, scholarship accounts
208 for eligible students.

209 (2) The program manager shall do both of the following:

210 a. Determine that a student meets the requirements to
211 be an eligible student.

212 b. Subject to subdivision (3), each year the student is
213 an eligible student, maintain a scholarship account for the
214 scholarship student to pay for the cost of one or more
215 scholarship expenses that the student or student's parent
216 incurs in the student's education.

217 (3) Each year, subject to this act and legislative
218 appropriations, a scholarship student is eligible for no more
219 than:

220 a. For the 2024-2025 school year, six thousand nine
221 hundred dollars (\$6,900).

222 b. For each school year following the 2024-2025 school
223 year, the maximum allowed amount under this subdivision in the
224 previous year plus a percentage increase that is equal to the



HB442 INTRODUCED

225 five-year rolling average inflationary factor described in
226 Section 6.

227 (c) (1) A program manager shall establish a scholarship
228 account on behalf of an eligible student who submits a timely
229 application, unless the number of applications exceeds
230 available scholarship funds for the school year.

231 (2) If the number of applications exceeds the available
232 scholarship funds for a school year, the program manager shall
233 select students on a random basis, except as provided in
234 subsection (f).

235 (3) An eligible student or a public education student
236 shall submit an application for an initial scholarship or
237 renewal for each school year that the student intends to
238 receive scholarship funds.

239 (4)a. To maintain eligibility, the scholarship student
240 or the parent of the scholarship student shall annually
241 complete and deliver to the program manager a portfolio
242 describing the scholarship student's educational opportunities
243 and achievements under the program for the given year.

244 b. The program manager may not disclose the content of
245 a given scholarship student's portfolio except to the
246 scholarship student's parent.

247 (5) An eligible student who has applied for an
248 educational scholarship under the Alabama Accountability Act
249 of 2013, Chapter 6D of Title 16, Code of Alabama 1975, or any
250 other similar educational scholarship program available for
251 students in grades K-12, and who is wait listed or otherwise
252 not approved for participation in those programs, may apply



HB442 INTRODUCED

253 for a scholarship account under this program.

254 (d) (1) An application for a scholarship account shall
255 contain an acknowledgment by the student's parent that the
256 qualifying provider selected by the parent for the student's
257 enrollment or engagement is capable of providing education
258 services for the student.

259 (2) A scholarship account application form shall
260 contain the following statement: "I acknowledge all of the
261 following:

262 "a. A qualifying provider may not provide the same
263 level of disability services that are provided in a public
264 school.

265 "b. I will assume full financial responsibility for the
266 education of my scholarship recipient if I agree to this
267 scholarship account.

268 "c. Agreeing to establish this scholarship account has
269 the same effect as a parental refusal to consent to services
270 as described in 34 C.F.R. §300.300, issued under the
271 Individuals with Disabilities Education Act, 20 U.S.C. §1400,
272 et seq.

273 "d. My child may return to a public school at any
274 time."

275 (3) Upon agreeing to establish a scholarship account,
276 the parent assumes full financial responsibility for the
277 education of the scholarship student, including the balance of
278 any expense incurred at a qualifying provider or for goods
279 that are not paid for by the scholarship student's scholarship
280 account.



HB442 INTRODUCED

281 (4) Agreeing to establish a scholarship account has the
282 same effect as a parental refusal to consent to services as
283 described in 34 C.F.R. §300.300, issued under the Individuals
284 with Disabilities Education Act, 20 U.S.C. §1400, et seq.

285 (5) The creation of the program or establishment of a
286 scholarship account on behalf of a student does not do either
287 of the following:

288 a. Imply that a public school did not provide a free
289 and appropriate public education for a student.

290 b. Constitute a waiver or admission by the state.

291 (e) A program manager may not charge a scholarship
292 account application fee.

293 (f) A program manager shall give an enrollment
294 preference based on the following order of preference:

295 (1) To an eligible student who used a scholarship
296 account in the previous school year.

297 (2) To an eligible student who did not use a
298 scholarship account in the previous school year and with a
299 family income at or below 200 percent of the federal poverty
300 level.

301 (3) To an eligible student who is a sibling of an
302 eligible student who uses a scholarship account at the time
303 the sibling applies for a scholarship account or used a
304 scholarship account in the school year immediately preceding
305 the school year for which the sibling is applying for a
306 scholarship account.

307 (4) To an eligible student who did not use a
308 scholarship account in the previous school year and with a



HB442 INTRODUCED

309 family income between 200 percent and 555 percent of the
310 federal poverty level.

311 (g) (1) Subject to subdivisions (2) through (5), a
312 parent may use a scholarship account to pay for a scholarship
313 expense that a parent or scholarship student incurs in the
314 education of the scholarship student.

315 (2) A scholarship student or the scholarship student's
316 parent may not use a scholarship account for an expense that
317 the student or parent does not incur in the education of the
318 scholarship student, including either of the following:

319 a. A rehabilitation program that is not primarily
320 designed for an educational purpose.

321 b. A travel expense other than a transportation
322 scholarship expense described paragraph (12)1. of Section 2.

323 (3) The program manager may not do either of the
324 following:

325 a. Approve a scholarship expense for a service that a
326 qualifying provider provides unless the program manager
327 determines that the scholarship student or the scholarship
328 student's parent incurred the expense in the education of the
329 scholarship student.

330 b. Reimburse a scholarship expense for a service or
331 good that a provider, that is not a qualifying provider,
332 provides unless both of the following are satisfied:

333 1. The parent or scholarship student submits a receipt
334 that shows the cost and type of service or good and the name
335 of the provider.

336 2. The program manager determines that the parent or



HB442 INTRODUCED

337 scholarship student incurred the expense in the education of
338 the scholarship student.

339 (4) The parent of a scholarship student may not receive
340 scholarship funds as payment for the parent's time spent
341 educating the parent's child.

342 (5) Except for cases in which a scholarship student or
343 the scholarship student's parent is convicted of fraud in
344 relation to scholarship funds, if a qualifying provider,
345 scholarship student, or scholarship student's parent repays an
346 expenditure from a scholarship account for an expense that is
347 not approved under this subsection, the program manager shall
348 credit the repaid amount back to the scholarship account
349 balance within 30 days after the day on which the program
350 manager receives the repayment.

351 (h) Notwithstanding any other provision of law, funds
352 that the program manager disburses under this act to a
353 scholarship account on behalf of a scholarship student do not
354 constitute state taxable income to the parent of the
355 scholarship student.

356 (i) The program manager shall prepare and disseminate
357 information on the program to a parent applying for a
358 scholarship account on behalf of a student, including the
359 information that the program manager provides in accordance
360 with Section 6.

361 (j) On or before September 1, 2023, and as frequently
362 as necessary to maintain the information, the State Board of
363 Education shall provide information on the website of the
364 State Board of Education, including all of the following:



HB442 INTRODUCED

365 (1) Scholarship account information.

366 (2) Information on the program manager, including the
367 program manager's contact information.

368 (3) An overview of the program.

369 Section 4. (a) Before the beginning of the school year
370 immediately following a school year in which a qualifying
371 provider receives scholarship funds equal to or more than five
372 hundred thousand dollars (\$500,000), the qualifying provider
373 shall file with the program manager a surety bond payable to
374 the program manager in an amount equal to the aggregate amount
375 of scholarship funds expected to be received during the school
376 year.

377 (b) If a program manager determines that a qualifying
378 provider has violated this act, the program manager may
379 interrupt disbursement of or withhold scholarship funds from
380 the qualifying provider.

381 (c) (1) If the program manager determines that a
382 qualifying provider no longer meets the eligibility
383 requirements described in this act, the program manager may
384 withdraw the organization's approval of the qualifying
385 provider.

386 (2) A provider or individual that does not have the
387 approval of the program manager in accordance with either of
388 the following may not accept scholarship funds for services
389 under this act:

390 a. Section 9, regarding eligible schools.

391 b. Section 10, regarding eligible service providers.

392 (d) If a qualifying provider requires partial payment



HB442 INTRODUCED

393 of tuition or fees before the beginning of the academic year
394 to reserve space for a scholarship student who has been
395 admitted to the qualifying provider, the program manager may
396 do both of the following:

397 (1) Pay the partial payment before the beginning of the
398 school year in which the scholarship funds are awarded.

399 (2) Deduct the amount of the partial payment from
400 subsequent scholarship fund deposits in an equitable manner
401 that provides the best availability of scholarship funds to
402 the student throughout the remainder of the school year.

403 (e) If a scholarship student described in subdivision
404 (d) (1) chooses to withdraw from or otherwise not engage with
405 the qualifying provider before the beginning of the school
406 year:

407 (1) The qualifying provider shall remit the partial
408 payment described in subdivision (d) (1) to the program
409 manager; and

410 (2) The program manager shall credit the remitted
411 partial payment to the scholarship student's scholarship
412 account.

413 Section 5. (a) (1) In accordance with Article 5,
414 commencing with Section 41-4-110, of Chapter 4 of Title 41,
415 the State Board of Education shall issue a request for
416 proposals, on or before June 15, 2023, and enter an agreement
417 with no more than one organization that qualifies as tax
418 exempt under Section 501(c) (3), Internal Revenue Code, for the
419 State Board of Education to recognize as the program manager,
420 on or before September 1, 2023.



HB442 INTRODUCED

421 (2) An organization that responds to a request for
422 proposals described in subdivision (1) shall submit all of the
423 following information in the organization's response:

424 a. A copy of the organization's incorporation
425 documents.

426 b. A copy of the organization's Internal Revenue
427 Service determination letter qualifying the organization as
428 being tax exempt under Section 501(c)(3), Internal Revenue
429 Code.

430 c. A description of the methodology the organization
431 shall use to verify a student's eligibility under this act.

432 d. A description of the organization's proposed
433 scholarship account application process.

434 e. An affidavit or other evidence that the organization
435 satisfies all of the following:

436 1. Is not affiliated with any international
437 organization.

438 2. Does not harvest data for the purpose of reproducing
439 or distributing the data to another entity.

440 3. Has no involvement in guiding or directing any
441 curriculum standards.

442 (3) The State Board of Education shall ensure that the
443 agreement described in subdivision (1) satisfies all of the
444 following:

445 a. Ensures the efficiency and success of the program.

446 b. Does not impose any requirements on the program
447 manager that satisfy either of the following:

448 1. Are not essential to the basic administration of the



HB442 INTRODUCED

449 program.

450 2. Create restrictions, directions, or mandates
451 regarding instructional content or curriculum.

452 (b) The State Board of Education may regulate and take
453 enforcement action as necessary against a program manager in
454 accordance with the State Board of Education's agreement with
455 the program manager.

456 (c) (1) If the State Board of Education determines that
457 a program manager has violated this act or the State Board of
458 Education's agreement with the program manager, the State
459 Board of Education shall send written notice to the program
460 manager explaining the violation and the remedial action
461 required to correct the violation.

462 (2) A program manager that receives a notice described
463 in subdivision (1), no later than 60 days after the day on
464 which the program manager receives the notice, shall correct
465 the violation and report the correction to the State Board of
466 Education.

467 (3)a. If a program manager that receives a notice
468 described in subdivision (1) fails to correct a violation in
469 the time period described in subdivision (2), the State Board
470 of Education may bar the program manager from further
471 participation in the program.

472 b. A program manager may appeal a decision of the State
473 Board of Education under paragraph a. in accordance with the
474 Alabama Administrative Procedures Act.

475 (4) A program manager may not accept state funds while
476 the program manager satisfies either of the following:



HB442 INTRODUCED

477 a. Is barred from participating in the program under
478 paragraph (3)a.

479 b. Has an appeal pending under paragraph (3)b.

480 (5) A program manager that has an appeal pending under
481 paragraph (3)b. may continue to administer scholarship
482 accounts during the pending appeal.

483 (d) The State Board of Education shall establish a
484 process for a program manager to report the information the
485 program manager is required to report to the State Board of
486 Education under Section 6.

487 (e) The State Board of Education shall adopt rules
488 pursuant to the Alabama Administrative Procedures Act, and
489 include provisions in the State Board of Education's agreement
490 with the scholarship organization for either of the following:

491 (1) Subject to subsection (f), the administration of
492 scholarship accounts and disbursement of scholarship funds if
493 a program manager is barred from participating in the program
494 under paragraph (c)(3)a.

495 (2) Audit and report requirements as described in
496 Section 6.

497 (f)(1) The State Board of Education shall include in
498 the rules described in subdivision (e)(1) measures to ensure
499 that the establishment and maintenance of scholarship accounts
500 and enrollment in the program are not disrupted if the program
501 manager is barred from participating in the program.

502 (2) The State Board of Education, if the program
503 manager is barred from participating in the program, may issue
504 a new request for proposals and enter into a new agreement



HB442 INTRODUCED

505 with an alternative program manager in accordance with this
506 section.

507 (g) (1) On or before January 1, 2024, the State Board of
508 Education shall do all of the following:

509 a. Adopt rules, in accordance with the Alabama
510 Administrative Procedures Act, to establish a process for a
511 scholarship student or a scholarship student's parent to
512 appeal any administrative decision of the program manager for
513 State Board of Education resolution within 30 days after the
514 day of the appeal, including both of the following:

515 1. Scholarship expense denials.

516 2. Determinations regarding enrollment eligibility or
517 suspension or disqualification under Section 6.

518 b. Make information available regarding the appeals
519 process on the State Board of Education's website and on the
520 scholarship application.

521 (2) If the State Board of Education stays or reverses
522 an administrative decision of the program manager on appeal,
523 the program manager may not withhold scholarship funds or
524 application approval for the scholarship student on account of
525 the appealed administrative decision unless as the State Board
526 of Education expressly allows.

527 (h) The State Board of Education may not include a
528 provision in any rule that creates or implies a restriction,
529 direction, or mandate regarding instructional content or
530 curriculum.

531 Section 6. (a) The program manager shall administer the
532 program, including all of the following administrative duties:



HB442 INTRODUCED

533 (1) Maintaining an application website that includes
534 information on enrollment, relevant application dates, and
535 dates for notification of acceptance.

536 (2) Reviewing applications from and determining if an
537 applicant is either of the following:

538 a. An eligible school under Section 9.

539 b. An eligible service provider under Section 10.

540 (3) Establishing an application process, including
541 application dates opening before March 1, 2024, in accordance
542 with Section 3.

543 (4) Reviewing and granting or denying applications for
544 a scholarship account.

545 (5) Providing an online portal for the parent of a
546 scholarship student to access the scholarship student's
547 account.

548 (6) Ensuring that scholarship funds in a scholarship
549 account are readily available to a scholarship student.

550 (7) Requiring a parent to notify the program manager if
551 the parent's scholarship student is no longer enrolled in or
552 engaging in a service for which the scholarship student
553 receives scholarship funds and that is provided to the
554 scholarship student for an entire school year.

555 (8) Obtaining reimbursement of scholarship funds from a
556 qualifying provider that provides the services in which a
557 scholarship student is no longer enrolled or with which the
558 scholarship student is no longer engaged.

559 (9) Expending all revenue from interest on scholarship
560 funds or investments on scholarship expenses.



HB442 INTRODUCED

561 (10) Each time the program manager makes an
562 administrative decision that is adverse to a scholarship
563 student or the scholarship student's parent, informing the
564 scholarship student and the scholarship student's parent of
565 the opportunity and process to appeal an administrative
566 decision of the program manager to the State Board of
567 Education in accordance with the process described in Section
568 5.

569 (11) Maintaining a protected internal wait list of all
570 eligible students who have applied to the program and are not
571 yet scholarship students, including any student who removed
572 his or her application from the wait list.

573 (12) Providing aggregate data regarding the number of
574 scholarship students and the number of eligible students on
575 the wait list described in subdivision (11).

576 (b) The program manager shall do all of the following:

577 (1) Contract with one or more private entities to
578 develop and implement a commercially viable, cost-effective,
579 and parent-friendly system to do all of the following:

580 a. Establish scholarship accounts.

581 b. Maximize payment flexibility by allowing all of the
582 following:

583 1. For payment of services to qualifying providers
584 using scholarship funds by electronic or online funds
585 transfer.

586 2. Preapproval of a reimbursement to a parent for a
587 good that is a scholarship expense.

588 c. Allow scholarship students and scholarship student's



HB442 INTRODUCED

589 parents to publicly rate, review, and share information about
590 qualifying providers.

591 (2) Ensure that the system complies with industry
592 standards for data privacy and cybersecurity, including
593 ensuring compliance with the Family Educational Rights and
594 Privacy Act, 34 C.F.R. Part 99.

595 (c) In advance of the program manager accepting
596 applications in accordance with Section 3 and as regularly as
597 information develops, the program manager shall provide
598 information regarding the program by publishing a program
599 handbook online for scholarship applicants, scholarship
600 students, parents, service providers seeking to become
601 qualifying providers, and qualifying providers that includes
602 information regarding all of the following:

603 (1) The policies and processes of the program.

604 (2) Approved scholarship expenses and qualifying
605 providers.

606 (3) The responsibilities of parents regarding the
607 program and scholarship funds.

608 (4) The duties of the program manager.

609 (5) The opportunity and process to appeal an
610 administrative decision of the program manager to the State
611 Board of Education in accordance with the process described in
612 Section 5.

613 (6) The role of any private financial management firms
614 or other private organizations with which the program manager
615 may contract to administer any aspect of the program.

616 (d) To ensure the fiscal security and compliance of the



HB442 INTRODUCED

617 program, the program manager shall do all of the following:

618 (1) Prohibit a program manager employee or program
619 manager officer from handling, managing, or processing
620 scholarship funds, if, based on a criminal history background
621 information check conducted in accordance with Section 8, the
622 State Board of Education identifies the program manager
623 employee or program manager officer as posing a risk to the
624 appropriate use of scholarship funds.

625 (2) Establish procedures to ensure a fair process to do
626 any of the following:

627 a. Suspend a scholarship student's eligibility for the
628 program in the event of the scholarship student's or
629 scholarship student's parent's:

630 1. Intentional or substantial misuse of scholarship
631 funds; or

632 2. Violation of this act or the terms of the program.

633 b. If the program manager obtains evidence of
634 fraudulent use of scholarship funds, refer the case to the
635 Attorney General for collection or criminal investigation.

636 c. Ensure that a scholarship student whose eligibility
637 is suspended or disqualified under this subdivision or
638 subdivision (3) based on the actions of the student's parent
639 regains eligibility if the student is placed with a different
640 parent or otherwise no longer resides with the parent related
641 to the suspension or disqualification.

642 (3) Notify the State Board of Education, scholarship
643 student, and scholarship student's parent in writing of all of
644 the following:



HB442 INTRODUCED

645 a. Of the suspension described in paragraph (2)a.

646 b. That no further transactions, disbursements, or
647 reimbursements are allowed.

648 c. That the scholarship student or scholarship
649 student's parent may take corrective action within 10 business
650 days of the day on which the program manager provides the
651 notification.

652 d. That without taking the corrective action within the
653 time period described in paragraph (3)c., the program manager
654 may disqualify the student's eligibility.

655 (e) (1) A program manager may not do either of the
656 following:

657 a. Disburse scholarship funds to a qualifying provider
658 or allow a qualifying provider to use scholarship funds if any
659 of the following occur:

660 1. The program manager determines that the qualifying
661 provider intentionally or substantially misrepresented
662 information on overpayment.

663 2. The qualifying provider fails to refund an
664 overpayment in a timely manner.

665 3. The qualifying provider routinely fails to provide
666 scholarship students with promised educational services.

667 b. Reimburse with scholarship funds an individual for
668 the purchase of a good or service if the program manager
669 determines that either of the following have occurred:

670 1. The scholarship student or the scholarship student's
671 parent requesting reimbursement intentionally or substantially
672 misrepresented the cost or educational purpose of the good or



HB442 INTRODUCED

673 service.

674 2. The relevant scholarship student was not the
675 exclusive user of the good or service.

676 (2) A program manager shall notify a scholarship
677 student if the program manager does either of the following:

678 a. Stops disbursement of the scholarship student's
679 scholarship funds to a qualifying provider under paragraph
680 (1)a.

681 b. Refuses reimbursement under paragraph (1)b.

682 (f) (1) At any time, a scholarship student may change
683 the qualifying provider to which the scholarship student's
684 scholarship account makes distributions.

685 (2) If, during the school year, a scholarship student
686 changes the student's enrollment in or engagement with a
687 qualifying provider to another qualifying provider, the
688 program manager may prorate scholarship funds between the
689 qualifying providers based on the time the scholarship student
690 received the goods or services or was enrolled.

691 (g) A program manager may not subvert the enrollment
692 preferences required under Section 3 or other provisions of
693 this act to establish a scholarship account on behalf of a
694 relative of a program manager officer.

695 (h) The program manager shall do all of the following:

696 (1) Contract for annual and random audits on
697 scholarship accounts conducted as follows:

698 a. By a certified public accountant who is independent
699 from all of the following:

700 1. The program manager.



HB442 INTRODUCED

701 2. The State Board of Education.

702 3. The program manager's accounts and records
703 pertaining to scholarship funds.

704 b. In accordance with generally accepted auditing
705 standards.

706 (2) Demonstrate the program manager's financial
707 accountability by annually submitting to the State Board of
708 Education all of the following:

709 a. A financial information report that a certified
710 public accountant prepares and that includes the total number
711 and total dollar amount of scholarship funds disbursed during
712 the previous calendar year.

713 b. No later than 180 days after the last day of the
714 program manager's fiscal year, the results of the audits
715 described in subdivision (1), including the program manager's
716 financial statements in a format that meets generally accepted
717 accounting principles.

718 (i) (1) The State Board of Education shall review a
719 report described in this section and may request that the
720 program manager revise or supplement the report if the report
721 does not fully comply with this section.

722 (2) The program manager shall provide to the State
723 Board of Education a revised report or a supplement to the
724 report no later than 45 days after the day on which the State
725 Board of Education makes a request described in subdivision
726 (1).

727 Section 7. (a) Nothing in this act shall be interpreted
728 as doing any of the following:



HB442 INTRODUCED

729 (1) Except as expressly described in this act, granting
730 additional authority to any state agency or local school
731 system to regulate or control any of the following:

732 a. A nonpublic school, qualifying provider, or
733 homeschool.

734 b. Students receiving education from a nonpublic
735 school, qualifying provider, or homeschool.

736 (2) Applying to or otherwise affecting the freedom of
737 choice of a homeschooled student, including the curriculum,
738 resources, developmental planning, or any other aspect of the
739 homeschooled student's education.

740 (3) Expanding the regulatory authority of the state, a
741 state office holder, or a local school system to impose any
742 additional regulation of a qualifying provider beyond any
743 regulation necessary to administer this act.

744 (b) (1) A qualifying provider is entitled to maximum
745 freedom from unlawful governmental control in providing for
746 the educational needs of a scholarship student who attends or
747 engages with the qualifying provider.

748 (2) A qualifying provider is not an agent of the state
749 by virtue of the provider's acceptance of payment from a
750 scholarship account in accordance with this act.

751 (c) Except as provided in Section 4 regarding
752 qualifying providers, Section 9 regarding eligible schools, or
753 Section 10 regarding eligible service providers, a program
754 manager may not require a qualifying provider to alter the
755 qualifying provider's creed, practices, admissions policies,
756 hiring practices, or curricula in order to accept scholarship



HB442 INTRODUCED

757 funds.

758 (d) A local school system or a public school within a
759 local school system in which a scholarship student was
760 previously enrolled shall provide to the scholarship student's
761 parent a copy of all school records relating to the student
762 that the local school system possesses within 30 days after
763 the day on which the local school system or public school
764 receives the parent's request for the student's records,
765 subject to the Family Educational Rights and Privacy Act, 20
766 U.S.C. §1232g.

767 (e) By virtue of a scholarship student's involvement in
768 the program and unless otherwise expressly provided in
769 statute, a scholarship student is not either of the following:

770 (1) Enrolled in the public education system.

771 (2) Otherwise subject to statute, administrative rules,
772 or other state regulations as if the student was enrolled in
773 the public education system.

774 Section 8. The program manager and each employee and
775 officer of the program manager shall complete a criminal
776 history background information check. The criminal history
777 background check shall be administered in a manner prescribed
778 by the State Board of Education that is consistent with the
779 Alabama Child Protection Act of 1999, Chapter 22A of Title 16,
780 and rules adopted by the State Board of Education.

781 Section 9. (a) To be eligible to receive scholarship
782 funds on behalf of a scholarship student as an eligible
783 school, a nonpublic school with 150 or more enrolled students
784 shall do all of the following:



HB442 INTRODUCED

785 (1)a. Contract with an independent licensed certified
786 public accountant to conduct an agreed upon procedures
787 engagement as the State Board of Education adopts or obtain an
788 audit and report that satisfies all of the following:

789 1. Is conducted by a licensed independent certified
790 public accountant in accordance with generally accepted
791 auditing standards.

792 2. Presents the financial statements in accordance with
793 generally accepted accounting principles.

794 3. Audits financial statements from within the 12
795 months immediately preceding the audit.

796 b. Submit the audit report or report of the agreed upon
797 procedure to the program manager when the nonpublic school
798 applies to receive scholarship funds.

799 (2) Comply with the antidiscrimination provisions of 42
800 U.S.C. §2000d.

801 (3) Provide a written disclosure to the parent of each
802 prospective scholarship student, before the student is
803 enrolled, of all of the following:

804 a. The education services that the school shall provide
805 to the scholarship student, including the cost of the provided
806 services.

807 b. Tuition costs.

808 c. Additional fees the school shall require a parent to
809 pay during the school year.

810 d. The skill or grade level of the curriculum in which
811 the prospective scholarship student shall participate.

812 (4) Require the following individuals to submit to a



HB442 INTRODUCED

813 criminal history background information check in accordance
814 with Section 8, as a condition for employment or appointment,
815 as authorized by the Adam Walsh Child Protection and Safety
816 Act of 2006, Pub. L. No. 109-248:

817 a. An employee who does not hold one of the following:

818 1. A current Alabama educator license issued by the
819 State Board of Education.

820 2. If the nonpublic school is not physically located in
821 this state, a current educator license in the state where the
822 nonpublic school is physically located.

823 b. A contract employee.

824 (b) A nonpublic school described in subsection (a) is
825 not eligible to receive scholarship funds if any of the
826 following occur:

827 (1) The nonpublic school requires a scholarship student
828 to sign a contract waiving the scholarship student's right to
829 transfer to another qualifying provider during the school
830 year.

831 (2) The audit report described in subdivision (a)(1)
832 contains a going concern explanatory paragraph.

833 (3) The report of the agreed upon procedures described
834 in subdivision (a)(1) shows that the nonpublic school does not
835 have adequate working capital to maintain operations for the
836 first full year.

837 (c) To be eligible to receive scholarship funds on
838 behalf of a scholarship student as an eligible school, a
839 nonpublic school with fewer than 150 enrolled students shall
840 do all of the following:



HB442 INTRODUCED

841 (1) Provide to the program manager all of the
842 following:

843 a. A federal employer identification number.

844 b. The provider's address and contact information.

845 c. A description of each program or service the
846 provider proposes to offer a scholarship student.

847 d. Any other information as required by the program
848 manager.

849 (2) Comply with the antidiscrimination provisions of 42
850 U.S.C. §2000d.

851 (d) A nonpublic school described in subsection (c) is
852 not eligible to receive scholarship funds if the nonpublic
853 school requires a scholarship student to sign a contract
854 waiving the student's rights to transfer to another qualifying
855 provider during the school year.

856 (e) To be eligible to receive scholarship funds on
857 behalf of a scholarship student as an eligible school, a local
858 school system shall do all of the following:

859 (1) Provide to the program manager all of the
860 following:

861 a. A federal employer identification number.

862 b. The local school system's address and contact
863 information.

864 c. A description of each program or service the local
865 school system proposes to offer to scholarship students.

866 d. Any other information as required by the program
867 manager.

868 (2) Comply with the antidiscrimination provisions of 42



HB442 INTRODUCED

869 U.S.C. §2000d.

870 (3) Enter into an agreement with the program manager
871 regarding the provision of services to a scholarship student
872 through which:

873 a. The scholarship student does not enroll in the local
874 school system.

875 b. The local school system and program manager ensure
876 that a scholarship student does not participate in a course or
877 program at the local school system except in accordance with
878 the agreement described in this subsection under the program.

879 (f) A local school system described in subsection (e)
880 is not eligible to receive scholarship funds in either of the
881 following situations:

882 (1) The local school system requires a public education
883 system scholarship student to sign a contract waiving the
884 student's rights to transfer to another qualifying provider
885 during the school year.

886 (2) The local school system refuses to offer services
887 that do not require local school system enrollment to
888 scholarship students under the program.

889 (g) Residential treatment facilities licensed by the
890 state are not eligible to receive scholarship funds.

891 (h) A nonpublic school or local school system intending
892 to receive scholarship funds shall do both of the following:

893 (1) Submit an application to the program manager.

894 (2) Agree to not refund, rebate, or share scholarship
895 funds with scholarship students or scholarship student's
896 parents in any manner except remittances or refunds to a



HB442 INTRODUCED

897 scholarship account in accordance with this act and procedures
898 that the program manager establishes.

899 (i) The program manager shall do all of the following:

900 (1) If the nonpublic school or local school system
901 meets the eligibility requirements of this section, recognize
902 the nonpublic school or local school system as an eligible
903 school and approve the application.

904 (2) Make available to the public a list of eligible
905 schools approved under this section.

906 (j) A nonpublic school approved under this section that
907 changes ownership shall do all of the following:

908 (1) Cease operation as an eligible school until both of
909 the following occur:

910 a. The school submits a new application to the program
911 manager.

912 b. The program manager approves the new application.

913 (2) Demonstrate that the nonpublic school continues to
914 meet the eligibility requirements of this section.

915 Section 10. (a) To be an eligible service provider, a
916 private program or service shall do all of the following:

917 (1) Provide to the program manager all of the
918 following:

919 a. A federal employer identification number.

920 b. The provider's address and contact information.

921 c. A description of each program or service the
922 provider proposes to offer directly to a scholarship student.

923 d. Subject to subsection (b), any other information as
924 required by the program manager.



HB442 INTRODUCED

925 (2) Comply with the antidiscrimination provisions of 42
926 U.S.C. §2000d.

927 (3) Not act as a consultant, clearing house, or
928 intermediary that connects a scholarship student with or
929 otherwise facilitates the student's engagement with a program
930 or service that another entity provides.

931 (b) The program manager shall adopt policies that
932 maximize the number of eligible service providers, including
933 accepting new providers throughout the school year, while
934 ensuring education programs or services provided through the
935 program meet student needs and otherwise comply with this act.

936 (c) A private program or service intending to receive
937 scholarship funds shall do both of the following:

938 (1) Submit an application to the program manager.

939 (2) Agree to not refund, rebate, or share scholarship
940 funds with scholarship students or scholarship students'
941 parents in any manner except remittances or refunds to a
942 scholarship account in accordance with this act and procedures
943 that the program manager establishes.

944 (d) The program manager shall do all of the following:

945 (1) If the private program or service meets the
946 eligibility requirements of this section, recognize the
947 private program or service as an eligible service provider and
948 approve a private program or service's application to receive
949 scholarship funds on behalf of a scholarship student.

950 (2) Make available to the public a list of eligible
951 service providers approved under this section.

952 (e) A private program or service approved under this



HB442 INTRODUCED

953 section that changes ownership shall do all of the following:

954 (1) Cease operation as an eligible service provider
955 until all of the following occur:

956 a. The program or service submits a new application to
957 the program manager.

958 b. The program manager approves the new application.

959 (2) Demonstrate that the private program or service
960 continues to meet the eligibility requirements of this
961 section.

962 Section 11. (a) Regarding a parent's right to academic
963 accommodations, nothing in this act restricts or affects a
964 parent's interests and role in the care, custody, and control
965 of the parent's child, including the duty and right to nurture
966 and direct the child's upbringing and education.

967 (b) (1) A parent may request that the program manager
968 facilitate any of the assessments provided to public school
969 students to the parent's scholarship student including, but
970 not limited to, college readiness assessments, reading grade
971 level assessments, and nationally norm-referenced assessments.

972 (2)a. Notwithstanding any other provision of law, the
973 entity administering an assessment described in subdivision
974 (1) to a scholarship student in accordance with this section
975 may not report the result of or any other data pertaining to
976 the assessment or scholarship student to an individual or
977 entity other than the program manager, the scholarship
978 student, or the scholarship student's parent.

979 b. The program manager may not report or communicate
980 the result or data described in paragraph a. to an individual



HB442 INTRODUCED

981 or entity other than the relevant scholarship student and the
982 scholarship student's parent unless the result or data is
983 included in a deidentified compilation of data related to all
984 scholarship students.

985 (3) In any communication from the program manager
986 regarding an assessment described in this subsection, the
987 program manager shall include a disclaimer that no assessment
988 is required.

989 (4) The completion of an optional assessment under this
990 section satisfies the portfolio eligibility qualification
991 described in subdivision (c)(4) of Section 3.

992 Section 12. (a) If a scholarship student enters or
993 reenters the public education system during a given school
994 year:

995 (1) No later than five business days after the day on
996 which the student enters or reenters the public education
997 system, the program manager shall immediately remove the
998 balance in the scholarship student's scholarship account for
999 other use within the program.

1000 (2) The State Board of Education may not distribute any
1001 remaining state funds to the program manager for the student.

1002 (3) The program manager may use the balance described
1003 in subdivision (1) for another scholarship student.

1004 (b) At the end of a school year, a program manager
1005 shall withdraw any remaining scholarship funds in a
1006 scholarship account and retain the scholarship funds for
1007 disbursement in the following year.

1008 (c)(1) To administer the program, the program manager



HB442 INTRODUCED

1009 may use up to the lesser of five percent or two million five
1010 hundred thousand dollars (\$2,500,000) of the funds the
1011 Legislature appropriates for the program.

1012 (2) Subject to subdivision (1), the funds for program
1013 administration described in subdivision (1) are nonlapsing.

1014 (3) The program manager may not retain administrative
1015 cost balances in excess of 25 percent of total administrative
1016 costs in any fiscal year.

1017 Section 13. Beginning in 2025 and in accordance with
1018 the Family Educational Rights and Privacy Act, 20 U.S.C.
1019 §1232g:

1020 (1) The program manager shall submit a report on the
1021 program to the Chairs of the Senate Finance and Taxation
1022 Education Committee and the House Ways and Means Education
1023 Committee no later than September 1 of each year that includes
1024 all of the following:

1025 a. The total amount of tuition and fees qualifying
1026 providers charged for the current year and previous two years.

1027 b. The total amount of goods paid for with scholarship
1028 funds in the previous year and a general characterization of
1029 the types of goods.

1030 c. Administrative costs of the program.

1031 d. The number of scholarship students from each county
1032 and the aggregate number of eligible students on the wait list
1033 described in Section 6.

1034 e. The percentage of first-time scholarship students
1035 who were enrolled in a public school during the previous
1036 school year or who entered kindergarten or a higher grade for



HB442 INTRODUCED

1037 the first time in Alabama.

1038 f. The program manager's strategy and outreach efforts
1039 to reach eligible students whose family income is at or below
1040 200 percent of the federal poverty level and related obstacles
1041 to enrollments.

1042 g. In the report that the program manager submits in
1043 2025, information on steps the program manager has taken and
1044 processes the program manager has adopted to implement the
1045 program.

1046 h. Any other information regarding the program and the
1047 program's implementation that the Chair of the Senate Finance
1048 and Taxation Education Committee or the Chair of the House
1049 Ways and Means Education Committee requests.

1050 (2) The State Board of Education shall also submit a
1051 report on the cost-effectiveness of the program to the Chairs
1052 of the Senate Finance and Taxation Education Committee and the
1053 House Ways and Means Education Committee no later than
1054 September 1 of each year.

1055 Section 14. (a) In any legal proceeding against the
1056 state in which a qualifying provider challenges the
1057 application of this act to the qualifying provider, the state
1058 shall bear the burden of establishing that the law is
1059 necessary and does not impose an undue burden on the
1060 qualifying provider.

1061 (b) The following bear no liability based on the award
1062 or use of scholarship funds under this act:

1063 (1) This state.

1064 (2) The State Board of Education.



HB442 INTRODUCED

1065 (3) The program manager.

1066 (4) A local school system.

1067 (c) If any provision of this act is the subject of a
1068 state or federal constitutional challenge in a state court,
1069 scholarship students and scholarship students' parents may
1070 intervene as a matter of right to defend the program's
1071 constitutionality, subject to any court order that all
1072 defending parents and scholarship students intervene jointly.

1073 Section 15. If any provision of this act or the
1074 application of any provision of this act to any individual,
1075 entity, or circumstance is held invalid by a final decision of
1076 a court of competent jurisdiction, the remaining provisions of
1077 this act remain effective without the invalidated provision or
1078 application.

1079 Section 16. This act shall become effective on the
1080 first day of the third month following its passage and
1081 approval by the Governor, or its otherwise becoming law.