

SB202 INTRODUCED



1 2YBAKS-1
2 By Senators Stutts, Albritton, Shelnut, Barfoot, Sessions,
3 Livingston
4 RFD: Education Policy
5 First Read: 11-Apr-23
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SYNOPSIS:

This bill would create the Parental Rights in Children's Education (PRICE) Act for K-12 education.

This bill would secure the fundamental constitutional rights of parents to direct the education of their children according to their religious faith, beliefs, values, and morals.

This bill would create and provide for the PRICE Program and would establish a three-year phase-in period.

This bill would establish the roles and responsibilities of the Parent Advisory Board, the Commissioner of Revenue, and the State Department of Revenue.

This bill would provide for the funding of the PRICE ESA Fund and the PRICE Administration Fund for the costs of administrating the PRICE Program.

This bill would provide for the implementation and administration of the PRICE Program and the use of education savings accounts.

This bill would specify the qualified expenses that may be paid from an education savings account.

This bill would retain the autonomy of nonpublic schools and prevent additional state control over or interference with nonpublic schools, their students,



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29 and families.

30 This bill would provide for the auditing,
31 denials, and appeals of the PRICE Program and the
32 suspension of parents, participating students, and
33 education service providers.

34 This bill would also provide for legal remedies.

35

36 A BILL

37 TO BE ENTITLED

38 AN ACT

39

40 Relating to education; to establish the Parental Rights
41 in Children's Education (PRICE) Act relating to K-12
42 education; to secure the fundamental constitutional rights of
43 parents to direct the education of their children; to create
44 the PRICE Program; to establish a three-year phase-in period;
45 to provide definitions; to establish the roles and
46 responsibilities of the Parent Advisory Board, the
47 Commissioner of Revenue, and the Department of Revenue; to
48 create a process for granting education savings accounts; to
49 establish funding mechanisms for the costs of education
50 savings accounts and the administration of the program; to
51 specify qualified expenses; to create requirements for
52 education service providers; to establish an auditing, denial,
53 and appeal mechanism for expenses, parents, participating
54 students, and education service providers; to provide
55 safeguards against any additional state control over or
56 interference with nonpublic schools, their students, and their



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57 families; and to provide for legal remedies.

58 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

59 Section 1. This act shall be known and may be cited as
60 the Parental Rights in Children's Education (PRICE) Act.

61 Section 2. The Legislature finds and declares all of
62 the following:

63 (1) Because education is critical to the well being of
64 children, Alabama made the education of all school-age
65 children residing in this state mandatory and parents
66 responsible for the school attendance of their children.

67 (2) Parental involvement is essential for the academic
68 success and healthy development of children, strong families,
69 and a prosperous state. Parental involvement must therefore be
70 strongly valued and supported in the education of their
71 children. Parents generally know their children best, love
72 their children most, and from time immemorial have
73 traditionally been the primary advocates of the best interests
74 of their children.

75 (3) Parents have a fundamental constitutional right to
76 direct the upbringing and education of their children and to
77 impart to their children their faith, beliefs, values, and
78 morals through education and by choosing the type of
79 education, including nonpublic schools, their children
80 receive.

81 (4) If a state provides tuition assistance to parents
82 of children for a nonpublic K-12 education, the state may not
83 bar those parents from selecting religious schools due to
84 their religious affiliation or the religious instruction they



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85 provide. *Carson v. Makin*, 142 S.Ct. 1987 (2022).

86 (5) A state education funding program that is neutral
87 on its face and generally available, including religious
88 schools, does not violate the Establishment Clause of the
89 First Amendment to the United States Constitution. *Espinosa v.*
90 *Montana Department of Revenue*, 140 S.Ct. 2246 (2020).

91 (6) A state education funding program that prohibits
92 parents from choosing religious schools simply because they
93 are religious, violates the rights of parents under the Free
94 Exercise Clause of the First Amendment to the United States
95 Constitution. *Espinosa v. Montana Department of Revenue*, 140
96 S.Ct. 2246 (2020).

97 (7) Section 16-1-11(5), Code of Alabama 1975, provides
98 that "regulation by the state, including the State Department
99 of Education, the State Board of Education, or the State
100 Superintendent of Education, of any school with a religious
101 affiliation would be an unconstitutional burden on religious
102 activities in direct violation of the Alabama Religious
103 Freedom Amendment and the First Amendment to the United States
104 Constitution; and further that the State of Alabama has no
105 compelling interest to burden by license or regulation
106 nonpublic schools, which include private, church, parochial,
107 and religious schools offering educational instruction in
108 grades K-12, as well as home-based schools and home-schooled
109 students."

110 (8) This act intends to prevent discrimination against
111 parents who must pay both tuition and taxes if they choose a
112 nonpublic education, or who are denied that right because of a



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113 lack of funds, and to prevent violations of the Alabama
114 Religious Freedom Amendment and both the Establishment Clause
115 and the Free Exercise Clause of the First Amendment to the
116 United States Constitution.

117 Section 3. For the purposes of this act, the following
118 terms shall have the following meanings:

119 (1) ASSIGNED PUBLIC SCHOOL. The school to which an
120 eligible recipient or participating student is assigned based
121 on his or her Alabama address.

122 (2) BOARD. The Parent Advisory Board.

123 (3) COMMISSIONER. The Commissioner of Revenue.

124 (4) CURRICULUM. A course of study for content areas or
125 grade levels, including any supplemental materials or
126 resources required, recommended, or complementary to a course
127 of study.

128 (5) DEPARTMENT. The State Department of Revenue.

129 (6) EDUCATION SAVINGS ACCOUNT (ESA). An account in
130 which funds are deposited by the department for the parent of
131 a participating student to pay qualifying expenses.

132 (7) EDUCATION SERVICE PROVIDER. A participating school,
133 organization, vendor, or individual that provides educational
134 goods and services to participating students.

135 (8) ELIGIBLE RECIPIENT. A student who is a resident of
136 this state, a citizen of the United States, and eligible to
137 enroll in his or her assigned public school.

138 (9) NONPUBLIC SCHOOL. A nongovernment K-12 school
139 offering educational instruction. The term includes private
140 (religious and nonreligious), parochial, and church schools,



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141 including home-based education programs.

142 (10) PARENT. The biological or adoptive parent, legal
143 guardian, custodian, or other individual with legal authority
144 to act on behalf of an eligible recipient or participating
145 student.

146 (11) PARTICIPATING SCHOOL. Any public school or
147 nonpublic school that provides educational services to K-12
148 participating students.

149 (12) PARTICIPATING STUDENT. A resident of this state
150 and a citizen of the United States who is an elementary,
151 secondary, or postsecondary school student and uses ESA funds
152 pursuant to this act.

153 (13) PRICE PROGRAM. The program created by this act
154 which provides funds for a participating student's ESA to pay
155 for education instructional goods and services.

156 (14) QUALIFYING EXPENSES. Education expenses listed in
157 Section 9(a) that may be paid for by a parent with ESA funds
158 on behalf of a participating student.

159 Section 4. (a) The annual ESA amount for each
160 participating student shall be six thousand nine hundred
161 dollars (\$6,900) for the 2024-2025 school year, and shall be
162 adjusted annually by the department based on the percentage
163 change of the Education Trust Fund's share of the Foundation
164 Program from the prior year, if positive. The amount of
165 funding for a participating student for less than a full
166 fiscal year shall be prorated based on the portion of the
167 fiscal year the student receives funds from an ESA.

168 (b) The PRICE ESA Fund is created in the State Treasury



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169 to receive appropriations from the Legislature for the funding
170 of ESAs as provided by this act. The Legislature shall make
171 appropriations to this fund in amounts sufficient to fully
172 fund the projected amount of ESA deposits to be made the
173 proceeding fiscal year. Any monies remaining in the fund at
174 the end of a fiscal year shall not revert but shall remain in
175 the fund and are reappropriated for the purposes authorized by
176 this act.

177 (c) Each school year the department shall make periodic
178 deposits, equaling the total ESA amount, into the ESA of a
179 participating student beginning no later than August 1. Any
180 funds remaining in an ESA at the end of a fiscal year may be
181 carried over to the next fiscal year upon successful renewal
182 of the ESA or until any of the conditions in
183 subdivision(b) (13) or subsection (d) of Section 7 are met.

184 (d) The PRICE Administration Fund is created in the
185 State Treasury for the administration of the PRICE Program by
186 the department. The lesser of two million dollars
187 (\$2,000,000), or three percent of the amount appropriated each
188 fiscal year to the PRICE ESA Fund, shall be transferred each
189 fiscal year from the PRICE ESA Fund to the PRICE
190 Administration Fund. The expenses incurred by the department
191 in carrying out this act shall be paid from monies in the
192 PRICE Administration Fund. The Legislature may make additional
193 appropriations to the PRICE Administration Fund upon a showing
194 of the need for additional monies in the administration of the
195 PRICE Program. Any monies remaining in the fund at the end of
196 each fiscal year shall revert to the PRICE ESA Fund.



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197 (e) No monies shall be withdrawn or expended from the
198 funds created in this section for any purpose unless the
199 monies have been appropriated by the Legislature and allocated
200 pursuant to this act. Any monies appropriated shall be
201 budgeted and allotted pursuant to the Budget Management Act in
202 accordance with Article 4, commencing with Section 41-4-80 of
203 Chapter 4 of Title 41, Code of Alabama 1975, and only in the
204 amounts provided by the Legislature in the general
205 appropriations act or other appropriations act.

206 Section 5. The PRICE Program shall be phased in over a
207 three-year period as follows:

208 (1) Commencing with the 2024-2025 school year, any
209 child who is, was, or would have been eligible to enter
210 kindergarten pursuant to Section 16-28-4, Code of Alabama
211 1975, during that school year, or who will be enrolled in the
212 third, sixth, ninth, and twelfth grades during that school
213 year, or who is zoned for the lowest 30 percent of K-12 public
214 schools based on the state standardized assessment in reading
215 and math in the preceding year, qualifies for special
216 education, is homeless, is in foster care, or is the child of
217 a parent who is on active duty, serves in a reserve component
218 of the United States Armed Forces, or was killed in the line
219 of duty, along with the siblings of any eligible child
220 pursuant to this subdivision, may apply for participating
221 student status for the 2024-2025 school year, and each school
222 year thereafter.

223 (2) Commencing with the 2025-2026 school year, in
224 addition to the students eligible for participating student



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225 status under subdivision (1), any child who is, was, or would
226 have been eligible to enter kindergarten pursuant to Section
227 16-28-4, Code of Alabama 1975, during that school year, or who
228 will be enrolled in the third, sixth, ninth, and twelfth
229 grades during that school year, or who is zoned for the lowest
230 30 percent of K-12 public schools based on the state
231 standardized assessment in reading and math in the preceding
232 year, qualifies for special education, is homeless, is in
233 foster care, or is a child of a parent who is on active duty,
234 serves in a reserve component of the United States Armed
235 Forces, or was killed in the line of duty, along with the
236 siblings of any eligible child pursuant to this subdivision,
237 may apply for participating student status for the 2025-2026
238 school year, and each school year thereafter.

239 (3) For every school year thereafter, any child who is
240 an eligible recipient in the State of Alabama may apply for or
241 renew his or her participating student status.

242 Section 6. (a) There is created the Parent Advisory
243 Board. The board shall do all of the following:

244 (1) Consult with state departments or agencies, and
245 parents or administrators from the categories of education
246 options listed in subdivision (b)(4), as appropriate to carry
247 out these responsibilities.

248 (2) Review and provide recommendations to the
249 department on all of the following:

250 a. The implementation, administration, and improvement
251 of the PRICE Program policies, procedures, and systems.

252 b. The concerns and complaints of parents of



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253 participating students.

254 c. Questionable education service providers and other
255 qualified expenses.

256 d. Appeals of denied expenses and the barring of
257 parents and education service providers from the PRICE Program
258 pursuant to Section 13.

259 (b) The membership of the board shall consist of the
260 following members:

261 (1) The commissioner, or his or her designee, shall
262 serve as chair of the board and shall be a nonvoting member
263 unless there is a tie.

264 (2) The Governor, or his or her designee.

265 (3) The Lieutenant Governor, or his or her designee.

266 (4) The President Pro Tempore of the Senate and the
267 Speaker of the House of Representatives shall each appoint
268 four parents of eligible recipients intending to participate
269 or of participating students, one from each of the following
270 four categories, as listed in Sections 16-1-11.2 and
271 16-1-11.3, Code of Alabama 1975:

272 a. Private schools (non-religious and religious).

273 b. Church schools.

274 c. Parochial schools.

275 d. Home-based education programs.

276 (5) The Minority Leader of the Senate and the Minority
277 Leader of the House of Representatives shall each appoint one
278 parent of an eligible recipient intending to participate or of
279 a participating student, which shall be from one of the four
280 categories listed under subdivision (4).



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281 (c) The appointed members, as provided in subdivisions
282 (4) and (5) of subsection (b), shall initially serve staggered
283 terms of one, two, or three years as determined by the chair.
284 An appointment to fill a vacancy shall be made from the
285 corresponding category by the original appointing authority
286 for the remainder of the unexpired term. Board members may
287 serve up to two additional three-year terms thereafter.

288 (d) A parent may not serve on the board if he or she is
289 an employee or immediate relative of an employee of the State
290 Department of Education or provides goods or services to the
291 state to directly implement or administer the PRICE Program.

292 (e) A board member shall recuse himself or herself from
293 voting on any issue where he or she has a substantial
294 financial interest, or other conflict of interest excluding
295 the receipt of an ESA for his or her participating student.

296 (f) A board member may be removed or replaced by the
297 board at any time pursuant to a two-thirds majority vote of
298 the membership of the board.

299 (g) All members of the board shall be citizens of the
300 United States and legal residents of Alabama during his or her
301 entire term. The appointing authorities shall coordinate their
302 appointments to assure the board membership is inclusive and
303 reflects the racial, gender, geographic, urban, rural, and
304 economic diversity of the state. Board member designees and
305 parent appointments shall be selected from qualified
306 individuals who are well informed on nonpublic education
307 options, acquainted with the PRICE Program procedures, and in
308 touch with other parents who will be using the program



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309 (h) Members shall serve without compensation. The
310 department shall pay all reasonable and necessary expenses,
311 including per diem or actual travel expenses incurred in the
312 conduct of official duties, from the PRICE Administration Fund
313 at the same rate paid to state employees.

314 (i) The board shall meet in person at least quarterly.
315 Additionally, at the request of any board member, the board
316 may meet in person or virtually to transact business at any
317 time.

318 (j) A majority of the members of the Board shall
319 constitute a quorum for the transaction of business, unless
320 otherwise provided in this section.

321 (k) A vice chair shall be selected by a majority of the
322 entire membership of the board and shall preside over meetings
323 in the absence of the chair.

324 (l) The board is subject to the Alabama Open Meetings
325 Act, Chapter 25A of Title 36, Code of Alabama 1975, and the
326 open records law, Chapter 12 of Title 36, Code of Alabama
327 1975.

328 Section 7. (a) Rules, policies, and procedures adopted
329 by the department to implement and administer this act shall
330 do all of the following:

331 (1) Avoid bureaucracy or prescriptive mandates and may
332 not unnecessarily burden parents or education service
333 providers offering educational instruction goods and services.

334 (2) Value, enable, and support parental involvement.

335 (3) Encourage education service providers offering
336 educational instruction goods and services to provide parents



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337 and participating students with a broad array of educational
338 instruction options.

339 (4) Not subject nonpublic schools to additional
340 regulation or licensure.

341 (b) In addition to any other duty, obligation, or
342 authority provided in this act, the department shall do all of
343 the following:

344 (1) Execute contracts and other instruments for
345 necessary goods, services, and office space, employ necessary
346 personnel, and engage the services of private consultants,
347 auditors, counsel, managers, and other professionals or
348 organizations as needed for the implementation and
349 administration of the PRICE Program.

350 (2) Contract with financial organizations as account
351 depositories and managers.

352 (3) Not place PRICE Program funds in high risk,
353 long-term financial instruments. Any earned interest shall be
354 returned to the ESA of the participating student.

355 (4) Implement a commercially viable, cost-effective,
356 and parent friendly system for direct payments from and
357 refunds to ESAs for qualified expenses by electronic or online
358 funds transfer which assist in the administering of the PRICE
359 Program, automate reconciliation, and provide easy access to
360 data for audits while reducing the risk of fraud, waste, and
361 abuse. An ESA may not be reduced for electronic payment fees
362 or any other costs associated with the payment and refund
363 system.

364 (5) Adopt a registration application and process for



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365 approving participating students and education service
366 providers.

367 (6) Assist a participating student in the following
368 manner: If an education service provider requires partial
369 payment of tuition or fees before the start of the school year
370 to reserve space for a participating student, the partial
371 payment may be paid by the department before the start of the
372 school year in which the ESA is awarded and deducted from a
373 subsequent ESA deposit. If a parent decides not to use the
374 education service provider, the partial reservation payment
375 shall be returned to the department and credited to the ESA of
376 the participating student.

377 (7) Make periodic deposits, equaling the total ESA
378 amount, into the ESA of a participating student pursuant to
379 Section 4(c).

380 (8) Make information regarding the PRICE Program
381 readily available to the public on the website of the
382 department. Information on the website may include the ESA
383 application process, responsibilities of parents, qualifying
384 expenses for ESA funds, updated lists of education service
385 providers and their responsibilities, the registration
386 process, duties of the department or other organizations that
387 may assist in the administration of the PRICE Program, and
388 other pertinent information.

389 (9) Inform parents of eligible recipients of the
390 existence of the PRICE Program by January 1 of each year
391 through a variety of means. In addition, a summary of the
392 information provided online pursuant to subdivision (8) shall



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393 be mailed by January 1, for the first three years after the
394 effective date of this act, and then mailed or emailed to all
395 parents of eligible recipients who are not parents of a
396 participating student in the PRICE Program, by January 1 of
397 each year thereafter.

398 (10) Provide a helpline and other means to answer
399 questions, at a minimum, during normal weekday business hours.

400 (11) Adopt procedures to provide the least disruptive
401 process for participating students to transfer between
402 participating schools and to leave the PRICE Program
403 including, but not limited to, all of the following:

404 a. When a participating student enrolls as a full-time
405 student in his or her assigned public school, payments into
406 the ESA of the participating student shall immediately cease.
407 However, for ESAs that have been open for at least one full
408 school year, the ESA shall remain open and active for the
409 parent to pay qualifying expenses to educate the student from
410 funds remaining in the ESA. When no funds remain in the ESA of
411 a student, or the student reaches 21 years of age, the
412 department shall close the ESA and return any remaining funds
413 to the PRICE ESA Fund.

414 b. If an eligible recipient decides to return to the
415 PRICE Program, payments into the existing ESA of the student
416 may resume if the ESA is still open and active. A new ESA may
417 be established if the ESA of the student was closed.

418 c. A participating student may transfer between
419 participating schools only between semesters, unless the
420 participating school undergoes a substantial change in



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421 operation or the family of the participating student
422 involuntarily suffers a substantial hardship, such as moving
423 to another part of the state. In the event of a hardship, the
424 parent may petition the department to transfer the
425 participating student to another participating school and
426 should request a prorated refund from the previous
427 participating school to be deposited back into the ESA of the
428 participating student.

429 (12) Require a surety bond for education service
430 providers receiving more than one hundred thousand dollars
431 (\$100,000) in ESA funds.

432 (13) Deposit funds into the ESA of a participating
433 student pursuant to this act until any of the following occur:

434 a. The department determines that the participating
435 student is no longer an eligible recipient.

436 b. The department determines that there was substantial
437 and intentional misuse of the funds in the ESA for purposes
438 other than those permitted by the PRICE Program.

439 c. The parent or participating student withdraws from
440 the PRICE Program.

441 d. The participating student enrolls full-time in his
442 or her assigned public school.

443 e. The participating student graduates from high school
444 or ages out of his or her assigned public school.

445 (c) Any information provided to the department by a
446 nonpublic school or a parent of a home-based student pursuant
447 to this act shall be voluntary, may not be published by the
448 department without the written permission of the parent or



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449 chief administrative officer of the nonpublic school, and no
450 additional reporting requirements or regulations shall be
451 added by this act in violation of Sections 16-1-11.1 through
452 16-1-11.3, Code of Alabama 1975.

453 (d) If appropriate renewal of an ESA is made, the
454 department shall make the remaining ESA funds available to the
455 participating student for the payment of postsecondary
456 education expenses until the participating student becomes 21
457 years of age. In the event any of the circumstances in
458 subdivision (b) (13) occur, the department shall return unused
459 funds to the PRICE ESA Fund.

460 Section 8. (a) A parent shall apply to the department
461 to establish an ESA for an eligible recipient. The department
462 shall accept and approve applications year-round on a first
463 come first served basis, and shall establish procedures for
464 approving applications and providing notice of approval to
465 eligible recipients within 30 days after receipt of a
466 completed application.

467 (b) The department shall create a standard application
468 form for parents to submit to establish the eligibility of
469 their student for the PRICE Program and shall ensure that the
470 application and all pertinent information is publicly
471 available and may be submitted in writing or through other
472 means, including the Internet.

473 (c) An application for an ESA is confidential and not a
474 public record subject to release pursuant to the open records
475 law.

476 (d) The department shall approve an ESA application if



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477 all of the following occur:

478 (1) The parent applies for an ESA in accordance with
479 the application procedures established by the department.

480 (2) The student on whose behalf the parent is applying
481 is an eligible recipient.

482 (3) The parent signs an agreement with the PRICE
483 Program committing to all of the following:

484 a. He or she has read and understands the information
485 on the public website of the department, or a written copy
486 regarding participation in the PRICE Program as provided in
487 subdivisions (b) (8) and (b) (9) of Section 7, and will comply
488 with the requirements of the PRICE Program.

489 b. He or she will provide a challenging education for
490 the eligible recipient that is appropriate for his or her age
491 and skill level.

492 c. He or she will only use the funds in the ESA for
493 qualifying expenses, will provide accompanying receipts, and
494 will ensure that all refunds received are credited to the ESA.

495 (e) The parent of a participating student shall submit
496 an annual renewal application in accordance with procedures
497 adopted by the department.

498 Section 9. (a) Parents of a participating student shall
499 agree to use the funds deposited in their student's ESA only
500 for the following qualifying expenses:

501 (1) Tuition, textbooks, and fees at education service
502 providers and online learning programs.

503 (2) Curriculum, textbooks, fees, and other
504 instructional and enrichment materials including, but not



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505 limited to, materials provided by vendors and associated
506 online instruction or materials required by either an
507 instructional program or education service provider.

508 (3) Services contracted for and provided by a public
509 school, district school, charter school, or magnet school
510 including, but not limited to, individual classes and
511 extracurricular activities and programs.

512 (4) Extracurricular educational activities including,
513 but not limited to, athletics, art, music, and literature.

514 (5) Tutoring services provided by an individual or
515 tutoring business. Tutoring services may not be paid to an
516 immediate family member of the participating student.

517 (6) Tuition, fees, textbooks, instructional materials,
518 and examination fees for vocational and GED courses at a
519 career-technical school or alternative education program.

520 (7) Tuition, fees, and textbooks for summer education
521 programs and specialized after school education programs,
522 excluding after school childcare.

523 (8) Educational services and therapies including, but
524 not limited to, occupational, behavioral, physical,
525 speech-language, and audiology therapies and braille
526 translation.

527 (9) Tuition, fees, and textbooks for postsecondary
528 education including, but not limited to, dual enrollment
529 programs, college-level examination programs (CLEP), and
530 postsecondary classes.

531 (10) Computer hardware and other technological devices
532 that are used primarily to help meet the educational needs of



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533 a participating student.

534 (11) Educational software and applications.

535 (12) School uniforms.

536 (13) Tuition and fees for preparatory courses and for
537 nationally standardized assessments, advanced placement
538 examinations, and examinations related to college or
539 university admission.

540 (14) Fees for transportation paid to a fee-for-service
541 transportation provider for the student to travel to and from
542 an individual providing qualifying educational services or an
543 education service provider.

544 (15) Any other educational expense approved by the
545 department.

546 (b) If a parent of a participating student submits an
547 educational expense that is denied by the department, an
548 appeal may be made pursuant to Section 13.

549 (c) Receipt of scholarship funds pursuant to the
550 Alabama Accountability Act of 2013, Chapter 6D, Title 16, Code
551 of Alabama 1975, does not impact the receipt of ESA funds by
552 the parent of a participating student pursuant to this act. An
553 adjustment, if any, of the Alabama Accountability Act
554 scholarship funds awarded to a participating student may be
555 made at the discretion of the scholarship granting
556 organization under that act.

557 (d) ESA funds paid for goods and services shall not be
558 refunded, rebated, or shared with a parent or participating
559 student in any manner, but shall be credited directly to the
560 ESA of the student.



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561 (e) Nothing in this act shall prohibit an education
562 service provider from requesting additional funds from a
563 parent to cover ordinary student costs related to attendance
564 at a participating school.

565 (f) A parent may make payments for the costs of
566 educational goods and services not covered by the funds in the
567 ESA of his or her student. However, personal deposits into an
568 ESA are not permitted.

569 (g) Funds deposited in the ESA of a participating
570 student do not constitute taxable income to the parent or
571 participating student.

572 Section 10. (a) An education service provider shall do
573 all of the following:

574 (1) Apply online to register for participation in the
575 PRICE Program.

576 (2) Agree not to refund, rebate, or share ESA funds
577 with a parent or a participating student in any manner, except
578 that funds may be remitted or refunded to an ESA in accordance
579 with procedures established by the department.

580 (3) Provide a parent of a participating student with a
581 receipt for all educational qualifying expenses.

582 (b) Participating nonpublic schools, except home-based
583 education programs, shall provide parents with information to
584 make informed decisions. The information shall be regularly
585 updated at least annually prior to the beginning of each
586 school year and shall be made available to parents on the
587 school website or in writing. The information shall include
588 all of the following:



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589 (1) The mission statement, values, objectives,
590 instructional programs, and organizational affiliations of the
591 nonpublic school.

592 (2) A comprehensive list of curricula by class and
593 grade level.

594 (3) Any student testing requirements, including state
595 and national testing and mental health or personality surveys
596 or evaluations, by class and grade level.

597 (c) In addition to the information provided in
598 subsection (b), participating nonpublic schools may
599 voluntarily provide parents with additional information
600 including, but not limited to:

601 (1) Extracurricular activities including athletics,
602 fine arts, field trips, and clubs.

603 (2) Crisis management safety plans.

604 (3) Any other additional information the participating
605 nonpublic school decides to provide.

606 (d) The provision of information by a participating
607 nonpublic school to parents pursuant to subsection (b) or
608 subsection (c) is solely for the purpose of assisting parents
609 to choose the best education option for their children. This
610 does not create a mandate or regulation by the state that
611 would be in violation of Sections 16-1-16.11.1 through
612 16-11-11.3, Code of Alabama 1975.

613 (e) A participating nonpublic school may allow the
614 department, but is not required, to publish information
615 provided in this section on the PRICE Program portion of the
616 website of the department.



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617 Section 11. (a) This act shall not be construed to
618 interfere with or limit the teaching of religious instruction
619 by any education service provider, by regulating its creed,
620 practices, admissions policy, hiring policy, code of conduct
621 for employees or students, tuition, fees, curriculum, or
622 policies or practices of any description.

623 (b) All education service providers shall be given
624 maximum freedom to provide for the educational needs of
625 participating students without government control and
626 participation in the program or receipt of payments from an
627 ESA shall not limit the independence or autonomy of an
628 education service provider, make it an agent of the state or
629 federal government, or make its actions the actions of the
630 state or federal government.

631 (c) Nothing in this act shall be construed to expand
632 the regulatory authority of the state, its officers, or any
633 school district to impose any additional regulation of
634 education service providers.

635 (d) The receipt of ESA funds and participation in the
636 PRICE Program directly or indirectly by a parent or
637 participating student and by any education service provider
638 that is a nonpublic school offering educational instruction in
639 grades K-12 does not subject the school or individual to
640 licensure or regulation by the state or any political
641 subdivision of the state and does not modify or repeal other
642 sections of state law, including Sections 16-1-11.1 through
643 16-1-11.3, Code of Alabama 1975, or otherwise affect the
644 exemption of nonpublic schools from state regulation.



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645 (e) The receipt of ESA funds or participation pursuant
646 to this act does not change or remove the exemption and
647 definition of a church school as provided in Section 16-28-1,
648 Code of Alabama 1975.

649 Section 12. (a) A public school or school district that
650 previously enrolled a participating student shall provide any
651 education service provider that has enrolled a participating
652 student with a complete copy of the participating student's
653 school records, while complying with the Family Educational
654 Rights and Privacy Act of 1974, 20 U.S.C. § 1232.

655 (b) A public school or school district may refuse to
656 provide educational services to a participating student who
657 resides outside of the school district or may establish a
658 policy to provide educational service options to out of
659 district students under certain conditions including, but not
660 limited to, the payment of reasonable fees for attendance.

661 (c) A public school that becomes an educational service
662 provider shall be given maximum flexibility to accommodate
663 participating students and may create a process and establish
664 requirements for accepting, selecting, or limiting the number
665 of allowable participating students who are not assigned to
666 that public School.

667 Section 13. (a) The department shall adopt procedures
668 to ensure that fair processes exist to determine whether a
669 misuse of the PRICE Program has occurred.

670 (b) The department shall conduct or contract for the
671 auditing of individual ESAs and, at a minimum, shall conduct
672 random audits of ESAs on an annual basis. The department shall



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673 also conduct audits of individual ESAs where there is evidence
674 of misuse or other violation of this act.

675 (c) The department may make any parent or participating
676 student ineligible for the PRICE Program if there is evidence
677 of intentional and substantial misuse of ESA funds for
678 purposes other than permitted by the PRICE Program is
679 discovered. If a participating student is free from personal
680 misconduct, that student shall be eligible for an ESA in the
681 future if placed with a different parent to act on behalf of
682 the student.

683 (d) The department shall conduct or contract for audits
684 of education service providers or any other recipients of ESA
685 funds where there is evidence of intentional and substantial
686 misuse of ESA funds or other violations of this act.

687 (e) The department may bar an education service
688 provider or other recipient of ESA funds from accepting
689 payments from any ESA if the department determines that the
690 education service provider has done either of the following:

691 (1) Intentionally and substantially misrepresented
692 information, obtained ESA funds by fraud, or failed to refund
693 any over payments in a timely manner.

694 (2) Routinely failed to provide students with promised
695 educational goods or services.

696 (f) If the department bars an education service
697 provider or other recipient of ESA funds from receiving
698 payments from an ESA, the department shall timely notify each
699 affected parent and participating student of that decision.

700 (g) A parent, participating student, education service



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701 provider, and other recipient of ESA funds may ask the
702 department to reconsider its decision and appeal any final
703 decision of the department administratively.

704 (h) The department may refer suspected cases of
705 intentional and substantial misuse of ESA funds to the
706 Attorney General for the purpose of collection or criminal
707 investigation, or both, if evidence of fraudulent use of ESA
708 funds is discovered.

709 Section 14. Nothing in this act shall alter, amend, or
710 limit the application of the Alabama High School Athletic
711 Association constitution and bylaws to member schools.

712 Section 15. (a) A parent may bring suit for any
713 violation of this act and may raise this act as a claim or
714 defense in any judicial or administrative proceeding without
715 regard to whether the proceeding is brought by or in the name
716 of the state, a private individual, or any other party.

717 (b) Notwithstanding any other provision of law, an
718 individual may bring a suit for an actual or threatened
719 violation of this act and relief may be granted in a judicial
720 proceeding without regard to whether the individual commencing
721 the action has sought or exhausted available administrative
722 remedies.

723 (c) A prevailing party may recover appropriate relief
724 including, but not limited to, declaratory or injunctive
725 relief, compensatory damages, and reasonable attorney fees.

726 (d) The Attorney General may bring an action to enforce
727 compliance with this act.

728 (e) Except as provided in Section 36-1-12, Code of



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729 Alabama 1975, no liability shall arise on the part of the
730 department, the state, any school district or public school,
731 or the board based on the deposit or use of an ESA pursuant to
732 this act.

733 (f) Sovereign, governmental, state-agent, qualified
734 immunities, or any immunities to suit from liability pursuant
735 to the Constitution of Alabama of 2022, are waived and
736 abolished to the extent of liability created by this act, and
737 parties alleged to be responsible for any violation may be
738 sued in their official capacities.

739 (g) If any part of this act is challenged in a state
740 court as violating either the state or federal constitutions,
741 parents of eligible recipients and participating students
742 shall be permitted to intervene as of right in the lawsuit for
743 the purposes of defending the constitutionality of the PRICE
744 Program.

745 Section 16. The provisions of this act are severable.
746 If any part of this act is declared invalid or
747 unconstitutional, that declaration shall not affect the part
748 which remains.

749 Section 17. This act shall become effective immediately
750 following its passage and approval by the Governor, or its
751 otherwise becoming law.