



**House Ways and Means Education Reported Substitute
for HB334**

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A BILL
TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

(1) DEPARTMENT. The State Department of Education.

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

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

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



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

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

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

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

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

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

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

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



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57 Education Scholarship Program.

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

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

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

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

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

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

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

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

81 (2) Textbooks required by a participating school.

82 (3) Payments for private tutoring.

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

128 (3) Verifying qualifying expenditures.

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

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

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



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

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

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

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

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

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

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

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



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

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

173 (4) Comply with all student privacy laws.

174 (5) Collect test results.

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

251 (2) Comply with the same financial and academic
252 accountability requirements of a public school system.



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

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

257 (5) Comply with the Alabama Child Protection Act of
258 1999, Chapter 22A of Title 16, Code of Alabama 1975.

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

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

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

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

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

278 (c) In order to allow parents and taxpayers to measure
279 the achievements of the program, parents shall ensure all of
280 the following:



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

286 (2) Provide the results of these tests to the
287 department on an annual basis, beginning with the first year
288 of testing.

289 (3) That student information is reported in a way which
290 allows the department to aggregate data as required by this
291 act.

292 (4) Inform the department of an eligible student's
293 graduation from high school.

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

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

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