

1 HB633
2 213419-1
3 By Representatives Meadows and Wood (D)
4 RFD: Ways and Means Education
5 First Read: 15-APR-21

SYNOPSIS: This bill would create the Education Savings Account program which would allow parents to use the funds in the account which would have been allocated to their child at their resident school district for an education program of the parents' choosing.

A BILL
TO BE ENTITLED
AN ACT

Relating to education; to create the Education Savings Account program which would allow parents to use the funds in the account which would have been allocated to their child at their resident school district for an education program of the parents' choosing.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Education Savings Account Act.

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

3 (1) DEPARTMENT. The State Department of Education or
4 an organization chosen by the state.

5 (2) ELIGIBLE POSTSECONDARY INSTITUTION. A community
6 college, accredited university, or an accredited private
7 postsecondary institution.

8 (3) ELIGIBLE STUDENT. A student who is:

9 a.1. The child of a parent who is a member of the
10 Armed Forces of the United States and who is on active duty or
11 was killed in the line of duty. A child who meets the
12 requirements of this subparagraph is not subject to the
13 requirement of paragraph b. of this subdivision.

14 2. The subject of an individual education plan or
15 504 accommodation that has been issued according to Section
16 504 of the Rehabilitation Act of 1973. This includes, but is
17 not limited to, a student who has an intellectual disability,
18 speech or language impaired, deaf or hard of hearing, visually
19 impaired, dual sensory impaired, physically impaired,
20 emotionally handicapped, specific learning disabled, autistic,
21 or hospitalized or home bound because of illness or
22 disability.

23 3. A foster child who has achieved permanency
24 through adoption or guardianship.

25 b. Except as provided in subparagraph 1., attended a
26 primary or secondary school in this state during the prior
27 school year.

1 (4) ORGANIZATION. An organization that administers
2 or is approved to administer an education savings account for
3 an eligible student.

4 (5) PARENT. A resident of this state who is a
5 parent, guardian, custodian, or other person with the
6 authority to act on behalf of the child.

7 (6) PARTICIPATING SCHOOL. A private school that
8 provides education to elementary or secondary students, or
9 both, and has notified the Department of Education of its
10 intention to participate in the program and comply with the
11 requirements of the program.

12 (7) PRIVATE TUTORING. Tutoring services provided by
13 tutors certified in Alabama or tutors accredited by a regional
14 or national accrediting organization.

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

17 Section 3. (a) The Alabama Education Savings Account
18 program is created and shall be implemented commencing with
19 the 2021-2022 school year. To participate in the program, the
20 parent of an eligible student shall qualify for the state to
21 make a grant to his or her child's education savings account
22 if the parents sign an agreement to do all of the following:

23 (1) To provide an education for the eligible student
24 in at least the subjects of reading, grammar, mathematics,
25 social studies, and science.

26 (2) Not to enroll the eligible student in a charter
27 school.

1 (3) Not to enroll in the Alabama Accountability Act
2 of 2013.

3 (4) Not to enroll in a public school unless it is
4 for contracted services specified in subdivision (11) of
5 subsection (b).

6 (b) Each parent participating in the Education
7 Savings Account program shall agree to use the funds deposited
8 in his or her eligible student's account for the following
9 qualifying expenses to educate the eligible student:

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

11 (2) Textbooks required by a participating school.

12 (3) Payment to a licensed or accredited tutor.

13 (4) Payment for purchase of curriculum or
14 instructional material.

15 (5) Tuition and fees for an approved nonpublic
16 online learning program.

17 (6) Fees for national norm-referenced examinations,
18 advanced placement examinations or similar courses, fees
19 associated with state-recognized industry examinations and any
20 examinations related to college or university admission.

21 (7) Contribution of not more than two thousand
22 dollars (\$2,000) per academic year to a Coverdell education
23 savings account established pursuant to 26 U.S.C. § 530 or a
24 qualified tuition program established pursuant to Section 26
25 U.S.C. § 529 for the benefit of the eligible student, except
26 that money used for elementary or secondary education expenses

1 shall be used for expenses otherwise allowed under this
2 section.

3 (8) Educational services for pupils with
4 disabilities from a licensed or accredited practitioner or
5 provider.

6 (9) Tuition and fees at an eligible postsecondary
7 institution.

8 (10) Textbooks required for college or university
9 courses.

10 (11) Contracted services from a public school
11 district, including individual classes.

12 (c) The amount the state shall deposit into an
13 education savings account for a participating eligible student
14 shall be equivalent to 95 percent of the calculated amount the
15 eligible student would have received in the district school to
16 which he or she would have been assigned. This equals the base
17 student allocation in the state funding formula multiplied by
18 the appropriate weights provided for the eligible students.

19 (d) A participating school, private tutor, eligible
20 postsecondary institution, or other educational provider may
21 not refund, rebate, or share a student's grant with a parent
22 or the student in any manner. The funds in an education
23 savings account may only be used for educational purposes.

24 (e) Parents shall be allowed to make payments for
25 the costs of educational programs and services not covered by
26 the funds in their accounts.

1 (f) A participating student shall be counted in the
2 enrollment figures for his or her resident school district for
3 the purposes of calculating state aid to the resident school
4 district. The funds needed for a grant to an education savings
5 account shall be subtracted from the state school aid payable
6 to the student's resident school district.

7 (g) Funds received pursuant to this section may not
8 be construed as constituting taxable income to the parent.

9 (h) Eligible students previously enrolled in the
10 program shall have priority renewal in the following years.

11 Section 4. (a) An organization wishing to administer
12 the program shall do the following:

13 (1) Notify the department of its intent to
14 administer education savings accounts for eligible students.

15 (2) Demonstrate to the department that the
16 organization has been granted exemption from the federal
17 income tax as an organization described in Section 501(c)(3)
18 of the Internal Revenue Code.

19 (3) Conduct criminal background checks on all of its
20 employees and board members and exclude from employment or
21 governance any individual who may reasonably pose a risk to
22 the appropriate use of funds.

23 (4) Publicly report by September 1 of each calendar
24 year information prepared by a certified public accountant
25 verifying that the organization has been in compliance with
26 all the requirements set forth in this act during the previous
27 academic year.

1 (b) An organization may establish education savings
2 accounts for eligible students by:

3 (1) Receiving applications and determining student
4 eligibility in accordance with the requirements of this
5 section. When an application is received, the organization
6 must provide the department with information on the student to
7 enable the department to report the student for funding in
8 accordance with Section 5.

9 (2) Establishing and maintaining separate accounts
10 for each eligible student.

11 (3) Verifying qualifying expenditures pursuant to
12 this subsection.

13 (4) Returning any unused funds to the department
14 when the student is no longer eligible for an education
15 savings account.

16 (c) The department shall make payments to eligible
17 students' education savings accounts on a quarterly basis.

18 (d) For purposes of continuity of educational
19 choice, the program payments made under this section shall
20 remain in force until a student participating in the program
21 participates in any of the prohibited activities specified in
22 this subsection, returns to a public school, graduates from
23 high school, or attains 22 years of age, whichever occurs
24 first. A participating student who enrolls in a public school
25 or public school program is considered to have returned to a
26 public school for the purpose of determining the end of the
27 program's term; provided, however, that purchasing contracted

1 services from a public school system in compliance with
2 subdivision (11) of subsection (b) of Section 3 does not
3 signify enrollment.

4 (e) The department shall provide funds for program
5 administration. These funds shall come from the remaining five
6 percent of funds not deposited into an education savings
7 account pursuant to subsection (c) of Section 3, and may be
8 disbursed as follows:

9 (1) Each organization shall receive an
10 administrative fee based on the number of students
11 participating through such organizations. In the first three
12 years of an organization's participation in the program, the
13 department shall grant an amount equal to four percent of the
14 funds annually deposited into the accounts of eligible
15 students participating in the program through the organization
16 pursuant to subsection (c) of Section 3.

17 (2) The department shall receive an administrative
18 fee totaling one percent of total program funds.

19 (3) The department shall establish reasonable fees
20 for private financial management firms participating in the
21 program based upon market rates, to be paid by the
22 organization.

23 Section 5. (a) The department shall ensure that
24 eligible students and their parents are informed annually of
25 which schools will be participating in the Education Savings
26 Account program. Special attention shall be paid to ensuring

1 that lower-income families are made aware of the program and
2 their options.

3 (b) The department shall create a standard form that
4 parents of eligible students can submit to establish their
5 student's eligibility for the education savings account
6 program. The department shall ensure that the application is
7 readily available to interested families through various
8 sources, including the Internet.

9 (c) The department shall provide parents of
10 participating students with a written explanation of the
11 allowable uses of education savings accounts, the
12 responsibilities of parents, and the duties of the department.

13 (d) The department shall maintain a list of approved
14 providers.

15 (e) The department shall require quarterly reports
16 by a participating organization regarding the number of
17 students participating in the program, the providers of
18 services to students, and other information deemed necessary
19 by the department.

20 (f) The department shall compare the list of
21 students participating in the program with the public school
22 enrollment lists before each program payment to avoid
23 duplicate payments.

24 (g) The department may bar a participating school or
25 education provider from the Education Savings Account program
26 if the department establishes that the participating school or
27 education provider has:

1 (1) Routinely failed to comply with the
2 accountability standards established in this act.

3 (2) Failed to provide the eligible student with the
4 educational services funded by the education savings account.

5 (h) If the department decides to bar a participating
6 school or education provider from the program, it shall notify
7 eligible students and their parents of this decision as soon
8 as practicable. The department shall coordinate the timing to
9 coincide with the end of the school year.

10 (i) The department may conduct or contract for the
11 auditing of accounts, and at a minimum, shall conduct random
12 audits of accounts on an annual basis. The department may make
13 any parent of an eligible student ineligible for the Education
14 Savings Account program in the event of substantial misuse of
15 the funds in the account.

16 (j) The department may refer cases of substantial
17 misuse of funds to law enforcement agencies for investigation
18 if evidence of fraudulent use of an account is obtained.

19 (k) The department shall qualify private financial
20 management firms to manage education savings accounts.

21 (l) The department shall adopt rules as necessary
22 for the administration of the Education Savings Account
23 program.

24 Section 6. (a) To ensure that each student is
25 treated fairly and kept safe, all participating private
26 schools shall do all of the following:

1 (1) Comply with all health and safety laws or codes
2 that apply to private schools.

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

5 (3) Certify that the school complies with the
6 nondiscrimination policies set forth in 42 U.S.C. § 1981.

7 (4) Conduct criminal background checks on employees.
8 The participating school then shall:

9 a. Exclude from employment any person not permitted
10 by state law to work in a public or private school.

11 b. Exclude from employment any person that might
12 reasonably pose a threat to the safety of students.

13 (5) Comply with the Alabama Child Protection Act of
14 1999, Chapter 22A of Title 16, Code of Alabama 1975.

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

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

19 (2) Demonstrate financial viability by showing that
20 any funds that might be provided from education savings
21 accounts can be repaid, if the school is to receive fifty
22 thousand dollars (\$50,000) or more during the school year, by:

23 a. Filing with the organization prior to the start
24 of the school year a surety bond payable to the state in an
25 amount equal to the aggregate amount of the funds from
26 education savings accounts expected to be paid during the

1 school year from eligible students admitted at the
2 participating school.

3 b. Filing with the organization prior to the start
4 of the school year financial information that demonstrates the
5 school has the ability to pay an aggregate amount equal to the
6 amount of the funds from education savings accounts expected
7 to be paid during the school year to eligible students
8 admitted to the participating school.

9 (c) In order to allow parents and taxpayers to
10 measure the achievements of the program, the following shall
11 occur:

12 (1) Parents shall ensure that:

13 a. Each year their eligible student takes either the
14 state achievement tests or nationally norm-referenced tests
15 that measure learning gains in math and language arts.
16 Students with disabilities for whom standardized testing is
17 not appropriate, as outlined in their individualized education
18 plan (IEP) are exempt from this requirement.

19 b. The results of these tests are provided to the
20 state or an organization chosen by the department on an annual
21 basis, beginning with the first year of testing.

22 c. The student information is reported in a way that
23 would allow the department to aggregate data by grade level,
24 gender, family income level, and race.

25 d. The department shall be informed of the eligible
26 student's graduation from high school.

27 (2) The department shall:

1 a. Ensure compliance with all student privacy laws.

2 b. Collect test results.

3 c. Provide the test results, associated learning
4 gains, and graduation rates to the public via a state website
5 after the third year of test and graduation related data
6 collection. The findings shall be aggregated by the student's
7 grade level, gender, family income level, number of years of
8 participation in the program, and race.

9 d. Provide graduation rates to the public via a
10 state website after the third year of test and test related
11 data collection.

12 e. Administer an annual parental satisfaction survey
13 that shall ask parents of students receiving education savings
14 accounts to express:

15 1. Their satisfaction with the program.

16 2. Their opinions on other topics, items, or issues
17 that the state finds would elicit information about the
18 effectiveness of the Education Savings Accounts program and
19 the number of years their child has participated in the
20 program.

21 (d) A participating private school is autonomous and
22 not an agent of the state or federal government and therefore:

23 (1) The department or any other state agency may not
24 in any way regulate the educational program of a participating
25 private school or education provider that accepts funds from
26 an education savings account.

1 (2) The creation of the education savings account
2 program does not expand the regulatory authority of the state,
3 its officers, or any school district to impose any additional
4 regulation of private schools or education providers beyond
5 those necessary to enforce the requirements of the program.

6 (3) Participating private schools and education
7 providers shall be given the maximum freedom to provide for
8 the educational needs of their students without government
9 control.

10 Section 7. The resident school district shall
11 provide a participating school or education provider that has
12 admitted an eligible student under this program with a
13 complete copy of the student's school records, while complying
14 with the Family Educational Rights and Privacy Act of 1974, 20
15 U.S.C. § 1232g.

16 Section 8. Organizations shall fully cooperate with
17 the department for the proper administration of this act,
18 including, but not limited to, responding to requests and
19 providing all necessary information the department may need.

20 Section 9. This act shall become effective on the
21 first day of the third month following its passage and
22 approval by the Governor, or its otherwise becoming law.