

# HB334 INTRODUCED



1 D7LUTT-1  
2 By Representatives Garrett, Collins  
3 RFD: Ways and Means Education  
4 First Read: 18-Apr-23  
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SYNOPSIS:

This bill creates the Students with Unique Needs (SUN) Education Scholarship Account Act and Program.

This bill would allow parents to use funds deposited in education scholarship accounts of eligible students, to provide an individualized education program for their children.

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) EDUCATION SERVICE PROVIDER. A licensed and



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29 accredited program or service providing educational services  
30 for students and approved by the State Department of  
31 Education.

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

36 a. The child of a parent who is a member of the Armed  
37 Forces of the United States, who is on active duty or was  
38 killed in the line of duty, and who may or may not have been  
39 enrolled in or attended a public K-12 school in the state  
40 during the previous school year.

41 b. A student who has an individual education plan or  
42 504 accommodation issued according to Section 504 of the  
43 Rehabilitation Act of 1973, including, but not limited to, a  
44 student who has an intellectual disability or is speech or  
45 language impaired, deaf or hard of hearing, visually impaired,  
46 dual sensory impaired, physically impaired, emotionally  
47 handicapped, specific learning disabled, autistic, or  
48 hospitalized or home bound because of illness or disability.

49 c. A foster child who has achieved permanency through  
50 adoption or guardianship.

51 d. Homeless and lacks fixed, regular, and adequate  
52 housing.

53 (3) PARENT. A resident of this state who is the parent,  
54 guardian, custodian, or other individual with authority to act  
55 on behalf of a child.

56 (4) PARTICIPATING SCHOOL. A private school that



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57 provides education to K-12 students and has notified the State  
58 Department of Education of its intention to participate in the  
59 program and comply with the requirements of the program.

60 (5) PRIVATE TUTORING. Tutoring services provided by  
61 tutors who are accredited by a regional or national  
62 accrediting organization.

63 (6) PROGRAM. The Students with Unique Needs (SUN)  
64 Education Scholarship Program.

65 (7) RESIDENT SCHOOL DISTRICT. The public school  
66 district in which the student resides.

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

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

75 (2) Refrain from enrolling the eligible student in a  
76 charter school.

77 (3) Refrain from enrolling or participating in the  
78 educational scholarship program provided through the Alabama  
79 Accountability Act of 2013.

80 (4) Refrain from enrolling in a public school unless it  
81 is for specific contracted services pursuant to subdivision  
82 (b) (8).

83 (b) Each parent participating in the program shall  
84 agree to use the funds in his or her eligible student's



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85 education scholarship account for the following qualifying  
86 expenses:

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

88 (2) Textbooks required by a participating school.

89 (3) Payments for private tutoring.

90 (4) Payments for the purchase of curricula or  
91 instructional materials.

92 (5) Tuition and fees for an approved nonpublic online  
93 learning program.

94 (6) Fees for statewide assessments, advanced placement  
95 examinations, or related courses, fees associated with  
96 state-recognized industry examinations, and any examinations  
97 related to college or university admission.

98 (7) Education services for students with disabilities  
99 from a licensed or accredited practitioner or education  
100 service provider.

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

103 (c) The amount the state shall deposit into an  
104 education scholarship account for a participating eligible  
105 student shall be 95 percent of the gross state Foundation  
106 Program cost-per-student for a public K-12 student during the  
107 applicable tax year.

108 (d) A participating school, private tutor, or other  
109 education service provider may not refund, rebate, or share  
110 any portion of a student's education scholarship account with  
111 a parent or the student in any manner. The funds in an  
112 education scholarship account may only be used for qualifying



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113 expenses.

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

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

118 Section 4. The program shall be limited to 500 students  
119 for the 2024-2025 school year, with new enrollment limited to  
120 500 additional students each school year thereafter. Subject  
121 to appropriations from the Education Trust Fund, the education  
122 scholarship account of a student shall be funded according to  
123 subsection (c) of Section 3.

124 Section 5. (a) The Department of Revenue shall adopt  
125 rules as necessary for the administration of the program.

126 (b) The Department of Revenue shall establish education  
127 scholarship accounts for eligible students by doing all of the  
128 following:

129 (1) Receiving applications and determining student  
130 eligibility in accordance with this section. Upon receipt of  
131 an application, the Department of Revenue shall provide to the  
132 State Department of Education information relating to the  
133 student which will allow the State Department of Education to  
134 include the student for funding.

135 (2) Establishing and maintaining separate accounts for  
136 each eligible student.

137 (3) Verifying qualifying expenditures.

138 (4) Returning any unused funds to the State Department  
139 of Education when a student is no longer eligible for an  
140 education scholarship account. The funds returned to the State



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141 Department of Education shall be allocated to the resident  
142 school district of the student.

143 (c) Program payments made pursuant to this section  
144 shall continue until a participating student enrolls in a  
145 public school or graduates from high school. Purchasing  
146 contracted services from a public school system pursuant to  
147 subdivision (b) (8) of Section 3 does not constitute  
148 enrollment.

149 (d) The Department of Revenue shall receive five  
150 percent of funds not deposited into an education scholarship  
151 account pursuant to subsection (c) of Section 3, as costs for  
152 administering the program.

153 (e) Participating schools and education service  
154 providers shall submit reports quarterly to the Department of  
155 Revenue detailing the number of students participating,  
156 services provided, and other information requested by the  
157 Department of Revenue.

158 (f) To avoid duplicate payments, the Department of  
159 Revenue shall compare the list of participating students with  
160 the public school enrollment lists provided by the State  
161 Department of Education before each program payment is made.

162 (g) The Department of Revenue shall conduct or contract  
163 for the auditing of individual education scholarship accounts.  
164 At a minimum, the Department of Revenue shall conduct random  
165 audits of education scholarship accounts annually and, if a  
166 misuse of funds in an education scholarship account is  
167 discovered, may prohibit further participation by the parent  
168 in the program.



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169 (h) If evidence of fraudulent use of an account is  
170 found, the Department of Revenue shall refer the case to local  
171 or state law enforcement agencies for further investigation.

172 Section 6. (a) The State Department of Education shall  
173 do all of the following:

174 (1) Create, or contract for the creation of, a standard  
175 application form for parents of eligible students to submit to  
176 the Department of Revenue to establish their student's  
177 eligibility for the program and ensure the form is readily  
178 available through various sources, including the Internet.

179 (2) Provide to parents of participating students a  
180 written explanation of qualifying expenses, their  
181 responsibilities under the program, and the duties and  
182 responsibilities of the State Department of Education.

183 (3) Maintain and routinely update the list of approved  
184 education service providers on the State Department of  
185 Education website.

186 (4) Comply with all student privacy laws.

187 (5) Collect test results.

188 (6) Provide test results, associated learning gains,  
189 and graduation rates to the public on the State Department of  
190 Education website commencing with the fourth year of test and  
191 graduation related data collection. The information shall be  
192 aggregated by the grade level, gender, family income level,  
193 number of years of participation in the program, and race of  
194 the student.

195 (7) Provide graduation rates to the public on the State  
196 Department of Education website commencing with the fourth



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197 year of test and test related data collection.

198 Section 7. (a) To ensure that funds are spent  
199 appropriately, the Department of Revenue shall adopt rules and  
200 policies necessary for the auditing of education scholarship  
201 accounts.

202 (b) (1) The Department of Revenue shall develop a system  
203 for the payment of benefits including, but not limited to,  
204 allowing private schools and education service providers to  
205 invoice the Department of Revenue for qualified expenses or  
206 allowing the parent or guardian who submitted the program  
207 application to seek reimbursement for qualified expenses.

208 (2) The Department of Revenue may make direct payments  
209 to private schools and education service providers or  
210 reimbursement to the parent or guardian who submitted the  
211 program application pursuant to a check, warrant, electronic  
212 funds transfer, or any other means of payment deemed by the  
213 Department of Revenue to be commercially viable or cost  
214 effective. The system shall provide maximum flexibility to  
215 parents by facilitating requests for preapproval of and  
216 reimbursements for qualifying expenses.

217 (3) The Department of Revenue may also provide, by  
218 rule, for the payment of education service providers on a  
219 quarterly or annual basis.

220 (c) The Department of Revenue shall adopt a process for  
221 removing private school education service providers that  
222 defraud parents and for referring cases of fraud to law  
223 enforcement.

224 (d) The Department of Revenue shall establish or



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225 contract for the establishment of an online anonymous fraud  
226 reporting service.

227 (e) The Department of Revenue shall establish or  
228 contract for the establishment of an anonymous telephone  
229 hotline for fraud reporting.

230 Section 8. (a) The Department of Revenue shall be  
231 subject to the Alabama Administrative Procedure Act, Chapter  
232 22, Title 41, Code of Alabama 1975, and shall ensure that fair  
233 processes exist to determine whether an intentional or  
234 substantial misuse of the program funds have occurred.

235 (b) The Department of Revenue shall conduct or contract  
236 for audits of education service providers or any other  
237 recipients of education scholarship account funds where there  
238 is evidence of misuse of funds or other violations of the  
239 program.

240 (c) The Department of Revenue may bar a private school,  
241 an education service provider, or other recipient of education  
242 scholarship account funds from accepting payments from  
243 education scholarship accounts if the Department of Revenue  
244 determines the private school has done any of the following:

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

248 (2) Failed to provide an eligible student with the  
249 educational services funded by the education scholarship  
250 account.

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



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253 (d) If a participating school or education services  
254 provider is barred from the program, the State Department of  
255 Education shall notify eligible students and their parents of  
256 the decision as soon as practicable. The State Department of  
257 Education shall coordinate the prohibition to coincide with  
258 the end of the academic school year. Parents, participating  
259 students, education service providers, and other recipients of  
260 education scholarship account funds may make an administrative  
261 appeal of the Department of Revenue decision.

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

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

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

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

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

273 (5) Comply with the Alabama Child Protection Act of  
274 1999, Chapter 22A of Title 16, Code of Alabama 1975.

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

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

279 (2) Demonstrate financial viability by showing that any  
280 funds that may be provided from an education scholarship



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281 account may be repaid by doing all of the following:

282 a. Filing with the Department of Revenue prior to the  
283 start of the school year a surety bond payable to the state in  
284 an amount equal to the aggregate amount of the funds from  
285 education scholarship accounts expected to be paid during the  
286 school year from eligible students admitted at the  
287 participating school.

288 b. Filing with the Department of Revenue prior to the  
289 start of the school year financial information that  
290 demonstrates the school has the ability to pay an aggregate  
291 amount equal to the amount of the funds from education  
292 scholarship accounts expected to be paid during the school  
293 year to eligible students admitted to the participating  
294 school.

295 (c) In order to allow parents and taxpayers to measure  
296 the achievements of the program, parents shall ensure all of  
297 the following:

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

303 (2) Provide the results of these tests to the  
304 Department of Revenue on an annual basis, beginning with the  
305 first year of testing.

306 (3) That student information is reported in a way which  
307 allows the State Department of Education to aggregate data as  
308 required by this act.



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309 (4) Inform the State Department of Education of an  
310 eligible student's graduation from high school.

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

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

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