

1 HB452
2 218235-1
3 By Representative Meadows
4 RFD: Ways and Means Education
5 First Read: 03-MAR-22

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8 SYNOPSIS: This bill would create the Parent's Choice
9 Act.

10 This bill would create and provide for the
11 Parent's Choice Program and the membership and
12 duties of the Parent's Choice Board.

13 This bill would provide for the process for
14 creating, funding, and utilizing education savings
15 accounts.

16 This bill would specify which expenses are
17 qualified expenses.

18 This bill would provide for the renewal and
19 administration of education savings accounts.

20 This bill would provide for the auditing of
21 the program and the suspension of education service
22 providers.

23 This bill would also provide for the
24 responsibilities of resident school districts.

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 To establish the Parent's Choice Act relating to
4 K-12 education; to create the Parent's Choice Program and
5 provide for the membership and duties of the Parent's Choice
6 Board; to provide definitions; to establish the framework and
7 guidelines for education savings accounts; to create and
8 provide for the membership and duties of the Parent's Choice
9 Board; to create a process for awarding education savings
10 accounts; to establish funding mechanisms; to specify
11 qualified expenses; to create a renewal and administration
12 process; to create requirements for education service
13 providers; to establish an auditing mechanism and potential
14 suspension system for education service providers; to
15 establish responsibilities of resident school districts; and
16 to provide for legal proceedings.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. This act shall be known and may be cited
19 as the Parent's Choice Act.

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

22 (1) BOARD. The Parent's Choice Board.

23 (2) CURRICULUM. Either of the following:

24 a. A complete course of study for a particular
25 content area or grade level, including any supplemental
26 materials required by the curriculum.

27 b. A single source of instructional materials.

1 (3) DEPARTMENT. The State Department of Education.

2 (4) EDUCATION SAVINGS ACCOUNT. An account to which
3 funds are deposited by the Treasurer to pay qualifying
4 education expenses of a participating student pursuant to this
5 act as directed by a parent.

6 (5) EDUCATION SERVICE PROVIDER. An individual or
7 organization that receives payments from education savings
8 accounts to provide educational goods and services to
9 participating students.

10 (6) ELIGIBLE RECIPIENT. A student, other than a home
11 school student, who is a resident of this state and satisfies
12 eligibility criteria provided in this act as directed by a
13 parent.

14 (7) HOME SCHOOL STUDENT. A student who is receiving
15 home-based, parent-directed education in compliance with
16 Section 16-28-3, Code of Alabama 1975, through enrollment in
17 the home program of a church school or private school.

18 (8) PARENT. The biological or adoptive parent or
19 parents, grandparent or grandparents, legal guardian,
20 custodian, or other individual with legal authority to act on
21 behalf of an eligible recipient or participating student.

22 (9) PARTICIPATING SCHOOL. Any public or nonpublic
23 school that provides education to elementary or secondary
24 students, or both, has notified the Treasurer of its intention
25 to participate in the program and comply with the requirements
26 of the program and satisfies the requirements of this act. A
27 nonpublic school accredited by Cognia, the American

1 Association of Christian Schools, the North American Christian
2 School Accrediting Agency, the National Council for Private
3 School Accreditation, or partner agency, is a participating
4 school. Additional qualified educational entities, including
5 home-based programs, may be deemed a participating school.

6 (10) PARTICIPATING STUDENT. An elementary or
7 secondary school student who receives education savings
8 account funds pursuant to this act.

9 (11) PROGRAM. The Parent's Choice Program.

10 (12) RESIDENT SCHOOL DISTRICT. The county or city
11 school district in which the student resides.

12 (13) TREASURER. The State Treasurer.

13 Section 3. (a) The program shall be administered by
14 the Parent's Choice Board.

15 (b) The membership of the board shall consist of all
16 of the following:

17 (1) The Treasurer, or his or her designee.

18 (2) The State Finance Director, or his or her
19 designee.

20 (3) The State Auditor, or his or her designee.

21 (4) A representative of the Alabama Disabilities
22 Advocacy Program, appointed by the Governor, with the advice
23 and consent of the Senate, who shall serve a term of three
24 years.

25 (5) Four members appointed by the Governor, with the
26 advice and consent of the Senate, who are parents, as defined
27 by this act. The Governor shall endeavor to appoint a variety

1 of public school parents, nonpublic school parents, and
2 parents of home-school students. The four shall be appointed
3 to initial staggered terms of one, two, or three years, with
4 two being appointed to three-year terms. Thereafter, these
5 appointed members shall serve three-year terms of office and
6 shall be eligible for reappointment.

7 (c) Each member of the board shall be a resident of
8 this state at the time of appointment and during his or her
9 entire term of office. The Governor shall coordinate his or
10 her appointments to assure the board membership is inclusive
11 and reflects the racial, gender, geographic, urban, rural, and
12 economic diversity of the state.

13 (d) A vacancy among appointed members shall be
14 filled by appointment of the Governor, with the advice and
15 consent of the Senate, for the unexpired term.
16 Appointments made at times when the Senate is not in regular
17 session shall be effective ad interim. Any appointment made by
18 the Governor while the Senate is in regular session shall be
19 submitted to the Senate not later than the third legislative
20 day following the date of the appointment;
21 any appointment made while the Senate is not in regular
22 session shall be submitted not later than the third
23 legislative day following the reconvening of the Legislature
24 in regular session. If the Senate fails to vote on the
25 confirmation of an appointee before adjourning sine die during
26 the regular session in which the name of the appointee
27 is submitted, the appointee is deemed to be confirmed. A

1 member shall serve until the later of the expiration of the
2 term for which he or she was appointed, or the appointment of
3 his or her successor.

4 (e) Members shall serve without compensation. The
5 Treasurer may pay all reasonable and necessary expenses,
6 including actual travel expenses, incurred in the conduct of
7 official duties, from the Parent's Choice Program Expense Fund
8 at the same rate paid to state employees.

9 (f) The board shall appoint an advisory committee
10 consisting of the following members: One representative each
11 from the Alabama Christian Education Association, the Alabama
12 Independent School Association, and the Catholic Diocese, and
13 at least three at large members. The advisors shall meet with
14 the board at least once a year and at other times as
15 determined necessary by the board.

16 (g) The Treasurer, or his or her designee, shall
17 serve as the chair and presiding officer of the board and may
18 provide office space and staff as requested by the board. A
19 vice chair shall be selected by the membership of the board
20 and shall preside over meetings in the absence of the chair.

21 (h) A majority of the members of the board shall
22 constitute a quorum for the transaction of business.

23 (i) The board shall be subject to the Alabama Open
24 Meetings Act, Chapter 25A of Title 36, Code of Alabama 1975,
25 and the open records law, Chapter 12 of Title 36, Code of
26 Alabama 1975.

1 Section 4. The board may take any action necessary
2 to effectuate this act and to successfully administer the
3 program, subject to applicable state and federal law
4 including, but not limited to, all of the following:

5 (1) Adopt and amend rules as necessary to implement
6 and administer this act pursuant to the Alabama Administrative
7 Procedure Act.

8 (2) Execute contracts and other instruments for
9 necessary goods and services, employ necessary personnel, and
10 engage the services of private consultants, actuaries,
11 auditors, counsel, managers, trustees, and any other
12 contractor or professional needed for rendering professional
13 and technical assistance and advice.

14 (3) Implement the program through the use of
15 financial organizations as account depositories and managers.

16 (4) Develop and impose requirements, policies,
17 procedures, and guidelines to implement and manage the
18 program.

19 (5) Determine whether an expenditure of education
20 savings account funds is or was a qualifying expense to
21 educate a participating student pursuant to Section 8. The
22 board may approve or deny expenditures by a majority vote.

23 (6) Review any appeals made pursuant to subsections
24 (b) and (d) of Section 11.

25 (7) Establish the method by which funds shall be
26 allocated to pay for administrative costs and assess, collect,
27 and expend administrative fees, charges, and penalties.

1 (8) Authorize the assessment, collection, and
2 retention of fees and charges against the amounts paid into
3 and the earnings on the trust funds by a financial
4 institution, investment manager, fund manager, or other
5 professional managing or investing the trust funds and
6 accounts.

7 (9) Invest and reinvest any of the funds and
8 accounts under the Treasurer and control of the board with a
9 financial institution, an investment manager, a fund manager,
10 or other professionals investing the funds and accounts.

11 (10) Solicit and accept gifts, including bequests
12 and other testamentary gifts made by will, trust, or other
13 disposition; grants; loans; aid; and property, real or
14 personal, of any nature and from any source, or participate in
15 any other way in any federal, state, or local governmental
16 programs in carrying out the purposes of this act. The
17 Treasurer and board shall use the property received to
18 effectuate the desires of the donor, and shall convert the
19 property received into cash within 180 days after receipt.

20 Section 5. (a) Notification to the Treasurer of an
21 intention to participate in the program by a K-12 public
22 school or nonpublic school shall be submitted annually on or
23 before February 1, in writing, on a form provided by the
24 Treasurer. The notification shall include all of the
25 following:

26 (1) A statement detailing the extent of the
27 participation of the public school or nonpublic school.

1 (2) The number of participating students the public
2 school or nonpublic school could accommodate for the
3 immediately succeeding school year.

4 (b) The Treasurer shall develop, maintain, regularly
5 update, and publish a list of participating schools on the
6 website of the Treasurer.

7 Section 6. (a) The program is established to provide
8 the option for a parent to better meet the individual
9 education needs of his or her eligible student. Commencing
10 with the 2023-2024 school year, any student whose parent has
11 an adjusted gross income of 500 percent of the federal poverty
12 level on the immediately previous year's tax return, and any
13 student who is granted participating student status pursuant
14 to subdivisions (1) to (4), inclusive, shall be eligible to
15 join the program and participate in the program throughout his
16 or her K-12 school attendance years. The program shall be
17 phased in as follows:

18 (1) Commencing with the 2023-2024 school year, any
19 child who is, was, or would have been eligible to enter
20 kindergarten pursuant to Section 16-28-4, Code of Alabama
21 1975, during that school year, or who will be enrolled in the
22 first, fifth, and ninth grades during that school year, may
23 apply for participating student status for the 2023-2024
24 school year, and each school year thereafter.

25 (2) Commencing with the 2024-2025 school year, in
26 addition to the students eligible for participating student
27 status under subdivision (1), any child who is, was, or would

1 have been eligible to enter kindergarten pursuant to Section
2 16-28-4, Code of Alabama 1975, during that school year, or who
3 will be enrolled in the fifth and ninth grades during that
4 school year, may apply for participating student status for
5 the 2024-2025 school year, and each school year thereafter.

6 (3) Commencing with the 2025-2026 school year, in
7 addition to the students eligible for participating student
8 status under subdivision (1) and subdivision (2), any child
9 who is, was, or would have been eligible to enter kindergarten
10 pursuant to Section 16-28-4, Code of Alabama 1975, during that
11 school year, or who will be enrolled in the fifth and ninth
12 grades during that school year, may apply for participating
13 student status for the 2025-2026 school year, and each school
14 year thereafter.

15 (4) Commencing with the 2026-2027 school year, in
16 addition to the students eligible for participating student
17 status under subdivision (1), subdivision (2), and subdivision
18 (3), any child who is, was, or would have been eligible to
19 enter kindergarten pursuant to Section 16-28-4, Code of
20 Alabama 1975, during that school year, or who will be enrolled
21 in the fifth and ninth grades during that school year, may
22 apply for participating student status for the 2026-2027
23 school year, and each school year thereafter.

24 (b) The board shall create a standard application
25 form that a parent may submit to the Treasurer to establish
26 the eligibility of his or her student for the receipt of
27 education savings account funds, to be placed in a personal

1 education savings account to be used for qualifying education
2 expenses on behalf of the eligible recipient as provided for
3 in Section 8. Information about education savings account
4 funds and the application process shall be made available on
5 the website of the Treasurer and shall be mailed to the parent
6 of each eligible recipient by December 1, annually.

7 (c) The Treasurer shall make applications available
8 no later than March 1, 2023, and shall begin accepting
9 applications immediately thereafter. The board may update the
10 application as needed. The board shall issue an award letter
11 to eligible recipients within 45 days after receipt of a
12 completed application and all required documentation.

13 (d) The board shall approve an application for an
14 education savings account if all of the following
15 circumstances are satisfied:

16 (1) The parent of the student submits an application
17 for an education savings account, on or before June 1, in
18 accordance with the procedures established by rule of the
19 board.

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

22 (3) The parent signs a contract with the board
23 agreeing to do all of the following:

24 a. Use education savings account funds exclusively
25 for qualifying expenses listed in Section 8.

26 b. Provide an age and skill level appropriate
27 education for an eligible recipient that challenges the

1 student and provides knowledge necessary to become
2 academically successful commensurate with their abilities and
3 talents.

4 c. Comply with the rules and requirements of the
5 program.

6 (4) The Treasurer has confirmed with the department
7 or participating nonpublic school that the student is an
8 eligible recipient. If the department or participating
9 nonpublic school does not respond to the confirmation request
10 of the Treasurer within 30 calendar days after the date of
11 receipt, the Treasurer shall consider the student an eligible
12 recipient.

13 (e) An application for an education savings account
14 is confidential and not a public record subject to release
15 pursuant to the open records law, Chapter 12 of Title 36, Code
16 of Alabama 1975.

17 (f) Participation and receipt of scholarship funds
18 pursuant to the Alabama Accountability Act of 2013, Chapter
19 6D, Title 16, Code of Alabama 1975, is supplemental to the
20 receipt of education savings account funds by a participating
21 student pursuant to this act.

22 (g) An eligible recipient participating in the
23 program is in compliance with mandatory school attendance
24 requirements provided in Section 16-28-3, Code of Alabama
25 1975, if his or her parent provides a copy of the notice of
26 intent to participate in the program to the county
27 superintendent of education.

1 Section 7. (a) There is created in the State
2 Treasury a special revenue fund designated and known as the
3 Parent's Choice Program Trust Fund. The fund shall be
4 administered by the Treasurer and shall consist of funds
5 appropriated by the Legislature in accordance with subsection
6 (b). Any funds appropriated annually to the Parent's Choice
7 Program Trust Fund that remain unexpended on September 30 of
8 each fiscal year shall be reappropriated annually and used for
9 the purposes authorized by this act.

10 (b) The amount of education savings account funding
11 granted to an eligible recipient on a yearly basis shall be
12 equal to 100 percent of the Education Trust Fund's share of
13 the prior year's Foundation Program Fund as provided in
14 Section 16-13-231(b)(2)g., Code of Alabama 1975, subject to
15 subsection (c). The amount of the funding to an eligible
16 recipient who is awarded funds from an education savings
17 account for less than a full fiscal year shall be prorated
18 based on the portion of the fiscal year the eligible recipient
19 receives funds from an education savings account.

20 (c) Expenditures from the Parent's Choice Program
21 Trust Fund shall be limited to the purposes set forth in this
22 act. To cover the annual administrative costs of the program,
23 an amount not exceeding four percent of the fund shall be
24 transferred annually to the Parent's Choice Program Expense
25 Fund established in subsection (h). If the number of
26 participating students increases significantly after any
27 fiscal year, the Treasurer may request an appropriation from

1 the Legislature to the Parent's Choice Program Expense Fund in
2 an amount equal to the increased administrative costs
3 associated with the increase in education savings accounts.

4 (d) The first deposit of education savings account
5 funds into an eligible recipient's education savings account
6 shall be subject to the execution of the parental agreement
7 required by Section 6. Upon execution of the required parental
8 agreement, and subject to Section 10, one half of the total
9 annually required deposit shall be made no later than August 1
10 of every year into the education savings account of an
11 eligible recipient, and one half of the total annually
12 required deposit shall be made no later than January 1 of
13 every year. Any funds remaining in an education savings
14 account at the end of a fiscal year may be carried over to the
15 next fiscal year upon successful renewal of the education
16 savings account.

17 (e) Funds deposited in the education savings account
18 of a student do not constitute taxable income to the parent or
19 the participating student.

20 (f) The Treasurer shall continue to make deposits
21 into the education savings account of an eligible recipient in
22 accordance with this section unless, and until, any of the
23 following conditions have occurred:

24 (1) The parent of the eligible recipient fails to
25 renew the education savings account or withdraws from the
26 program.

1 (2) The board determines that the student is no
2 longer eligible for education savings account funds.

3 (3) The board suspends or revokes participation in
4 the program for failure to comply with this act.

5 (4) The participating student successfully completes
6 a secondary education program.

7 (5) The participating student reaches 21 years of
8 age.

9 (g) If any of the conditions in subsection (f)
10 occur, the board shall notify the parent that the education
11 savings account of the eligible recipient shall be closed in
12 45 calendar days. If a parent fails to adequately address the
13 condition or conditions upon which closure is based, or does
14 not respond within 30 calendar days after receipt of notice,
15 the board shall close the education savings account and any
16 remaining monies shall be returned to the state.

17 (h) Either state achievement tests or nationally
18 recognized norm-referenced tests that measure learning gains
19 in math and language arts shall be annually administered to
20 all participating students in grades that require testing
21 under the accountability testing laws of this state for public
22 schools. Participating schools shall report test results to
23 parents and shall publish and submit composite results for
24 each grade to the board and the State Superintendent of
25 Education. The State Superintendent of Education shall compare
26 the academic achievement and learning gains of participating
27 students with nonparticipating students of the same

1 socioeconomic and educational backgrounds who complete the
2 same state achievement tests or nationally norm-referenced
3 tests.

4 (i) (1) There is created in the State Treasury a
5 special revenue fund designated and known as the Parent's
6 Choice Program Expense Fund. The expense fund shall consist of
7 monies received pursuant to this section, or any governmental
8 or private grants and any state Education Trust Fund
9 appropriations, if any, for the program. Any funds
10 appropriated annually to the Parent's Choice Program Expense
11 Fund that remain unexpended on September 30 of each fiscal
12 year, shall be reappropriated annually and used for the
13 purposes authorized by this act.

14 (2) All expenses incurred by the Treasurer or the
15 board in developing and administering the program shall be
16 payable from the Parent's Choice Program Expense Fund.

17 Section 8. (a) The parent of a participating student
18 shall agree to use the funds deposited in the education
19 savings account of his or her participating student only for
20 the following qualifying expenses to educate the student:

21 (1) Ongoing services provided by a public school
22 district pursuant to Section 9 including, but not limited to,
23 individual classes and extracurricular activities and
24 programs.

25 (2) Tuition or fees, or both, at a participating
26 school.

1 (3) Tutoring services provided by an individual or a
2 tutoring facility. Tutoring services may not be provided by an
3 immediate family member of the participating student.

4 (4) Fees for nationally standardized tests, advanced
5 placement examinations, any examinations related to college or
6 university admission, and tuition or fees, or both, for
7 preparatory courses for the assessments or exams in the same
8 manner as these fees are paid by the parents of
9 nonparticipating public school students.

10 (5) Tuition or fees, or both, for programs of study
11 or the curriculum of vocational courses, including, but not
12 limited to, courses that lead to an industry recognized
13 credential that satisfies a workforce need.

14 (6) Tuition or fees, or both, for online learning
15 programs.

16 (7) Tuition or fees, or both, for alternative
17 education programs.

18 (8) Fees for after school or summer education
19 programs.

20 (9) Educational services and therapies including,
21 but not limited to, occupational, behavioral, physical,
22 speech-language, and audiology therapies.

23 (10) Curriculum and textbooks or class materials,
24 including workbooks.

25 (11) Extracurricular activities, including
26 athletics, art, music, and literature.

27 (12) Computer hardware.

1 (13) Assistive technology, including braille
2 translation services.

3 (14) Qualifying college fees and tuition, including
4 fees for dual enrollment programs.

5 (15) Any other qualified expenses approved by the
6 board.

7 (b) The funds in an education savings account may
8 only be used for educational purposes in accordance with
9 subsection (a). Nothing in this section shall require that a
10 participating student be enrolled in either a private school
11 or nonpublic online school.

12 (c) Education savings account funds may not be
13 refunded, rebated, or shared with a parent or student in any
14 manner. Any refund or rebate for goods or services purchased
15 with education savings account funds shall be credited
16 directly to the education savings account of a participating
17 student.

18 (d) Nothing in this section shall prohibit the
19 parent of a participating student from making payments for the
20 costs of educational goods and services not covered by the
21 funds in the education savings account of his or her student,
22 however, personal deposits into an education savings account
23 are prohibited.

24 Section 9. (a) Before enrolling his or her child in
25 a kindergarten program, a parent may apply for an education
26 savings account on behalf of that child. Every year

1 thereafter, the parent may renew the enrollment of the child
2 in the program pursuant to this section.

3 (b) Annual renewal of the education savings account
4 of an eligible recipient shall be on a date, on or before June
5 1, as annually determined by the board. Notwithstanding any
6 changes in eligibility, a participating student who has
7 previously qualified for an education savings account remains
8 eligible to apply for renewal until one of the conditions
9 provided in subsection (f) of Section 7 occurs. The board
10 shall verify with the department and participating nonpublic
11 schools all of the following information by July 1 of each
12 year:

13 (1) A list of all active education savings accounts.

14 (2) The resident school district of each
15 participating student.

16 (3) For a participating student who chooses to
17 attend a participating school, annual confirmation of his or
18 her continued attendance at a nonpublic school that complies
19 with all requirements that other nonpublic school students are
20 required to satisfy under state law.

21 (c) During the initial year of operation of the
22 program, on or before July 15, each local superintendent of
23 education shall submit the determinations reported to him or
24 her pursuant to subsection (b) to the department. During
25 subsequent years, the submission date shall be determined by
26 the board.

1 (d) If a parent fails to renew the education savings
2 account of an eligible recipient, the board shall notify the
3 parent that the education savings account of the eligible
4 recipient shall be closed in 45 calendar days. If a parent
5 chooses not to renew or does not respond within 30 calendar
6 days after receipt of notice, the board shall close the
7 education savings account and any remaining monies shall be
8 returned to the state.

9 (e) If an eligible recipient decides to return to
10 the program after failing to renew, he or she shall reapply.

11 (f) The board, in consultation with the State Board
12 of Education, may adopt rules and policies to provide the
13 least disruptive process for participating students who desire
14 to stop receiving education savings account payments and
15 return full-time to a public school. A participating student
16 may only opt into or out of a participating school program in
17 between semesters, unless the participating school undergoes a
18 substantial change in operation that results in a hardship to
19 the participating student or his or her parent. In the event
20 of a hardship, the parent may petition the board to transfer
21 the participating student to another participating school and
22 may request a refund of any unexpended or prorated monies. The
23 board shall act upon a petition submitted pursuant to this
24 subsection within 30 calendar days after receipt.

25 (g) The board, in consultation with the State Board
26 of Education, may adopt rules and policies for participating
27 students who want to continue to receive services provided by

1 a public school or school district, including individual
2 classes and extracurricular programs. The board, in
3 consultation with the department, shall ensure that any public
4 school or school district providing services receives the
5 appropriate pro rata share of the education savings account
6 funds of a student based on the percentage of total
7 instruction provided to the student by the public school or
8 school district. Local boards of education may charge tuition
9 to participating students who enroll for services in a public
10 school from outside of the student's resident school district.
11 Participating students who enroll for services part-time in a
12 public school shall not be included in the number of students
13 in average daily membership used to determine the cost of the
14 Foundation Program. Nothing in this subsection prohibits a
15 participating student from using the funds deposited in his or
16 her education savings account on both services provided by a
17 public school or school district and other qualifying expenses
18 as provided for in Section 8.

19 Section 10. In addition to the duties, obligations,
20 and authority provided by this act, the board has the
21 following duties, obligations, and authority with respect to
22 the administration of education savings accounts:

23 (1) To maintain an updated list of participating
24 schools and ensure that the list is publicly available through
25 various sources including, but not limited to, the Internet.

26 (2) To provide parents with a written explanation of
27 the allowable uses of education savings account funds, the

1 responsibilities of parents, the duties of the Treasurer and
2 the board, and the role of any private financial management
3 firms or other private organizations that the board may
4 contract with to administer the program, or any aspect of the
5 program.

6 (3) To ensure that parents of students with a
7 disability receive notice, that participation in the program
8 is a parental placement under 20 U.S.C. § 1412 of the
9 Individuals with Disabilities Education Act, along with an
10 explanation of the rights that parentally placed students
11 possess under that act and any applicable state law.

12 (4) The board may contract with private
13 organizations to administer the program. This includes, but is
14 not limited to, private financial management firms to manage
15 education savings accounts.

16 (5) The board shall implement, or contract with a
17 private organization to implement, a commercially viable, cost
18 effective, and parent friendly system for payment for services
19 from education savings accounts to participating schools or
20 education service providers including, but not limited to, the
21 use of debit cards or other electronic or online fund
22 transfers. An education savings account may not be reduced for
23 debit card or electronic payment fees.

24 (6) The board shall seek to implement a commercially
25 viable, cost effective, and parent friendly system for
26 publicly rating, reviewing, and sharing information about
27 participating schools and education service providers, ideally

1 as part of the same system that facilitates the electronic or
2 online funds transfers to create a one-stop-shop for parents
3 and participating students.

4 (7) If an education service provider requires
5 partial payment of tuition or fees before the start of the
6 academic year to reserve space for a participating student
7 admitted to the education service provider, the partial
8 payment may be paid before the start of the school year in
9 which the education savings account funds are awarded, and
10 deducted in an equitable manner from subsequent education
11 savings account deposits to ensure adequate funds remain
12 available throughout the school year. If a participating
13 student decides not to use the education service provider, the
14 partial reservation payment shall be returned to the Treasurer
15 by the education service provider and credited to the
16 education savings account of the student.

17 (8) The Treasurer may accept gifts and grants from
18 any source to cover administrative costs, to inform the public
19 about the program, or to provide additional funding for
20 education savings accounts. These funds shall be deposited in
21 the Parent's Choice Program Expense Fund.

22 (9) The board may adopt rules, including emergency
23 rules if necessary, to meet timelines provided by this act,
24 that are not inconsistent with this act, and that are
25 necessary for the administration of this act including, but
26 not limited to, all of the following:

1 a. Establishing or contracting for the establishment
2 of a fraud reporting system.

3 b. Policies that require a surety bond for education
4 service providers receiving more than one hundred thousand
5 dollars (\$100,000) in education savings account funds.

6 c. Procedures for refunding payments from education
7 service providers back to education savings accounts.

8 d. Procedures for entering into reciprocal
9 agreements with other state education savings account agencies
10 or entities, whether public or private, to recognize and allow
11 education service providers approved in other states to
12 receive payments from education savings accounts under this
13 act.

14 (10) Any rules or policies adopted by the board
15 should avoid excessive bureaucracy and overly prescriptive
16 mandates and instead focus on easing parental involvement and
17 encouraging education service providers to provide parents and
18 participating students with a broad array of educational
19 options.

20 Section 11. (a) The board may adopt rules for the
21 auditing of individual education savings accounts and shall
22 conduct or contract for the random auditing of individual
23 education savings accounts as needed to ensure compliance with
24 this act and rules adopted pursuant to this act.

25 (b) As part of the auditing process, the board may
26 remove a parent or eligible recipient from the program and
27 close an education savings account for failure to comply with

1 the terms of the parental agreement, failure to comply with
2 applicable laws, failure of the student to remain eligible, or
3 intentional and fraudulent misuse of education savings account
4 funds. The board shall adopt procedures pursuant to the
5 Alabama Administrative Procedure Act, Chapter 22, Title 41,
6 Code of Alabama 1975, to ensure that a fair process exists to
7 determine the removal of a parent or eligible recipient from
8 the program and provide for the appeal of an ineligibility
9 determination to the board.

10 (c) The board may conduct or contract for the audit
11 of education service providers accepting payments from
12 education savings accounts if the board determines that the
13 education service provider has done any of the following:

14 (1) Intentionally and substantially misrepresented
15 information or failed to refund any overpayments in a timely
16 manner.

17 (2) Routinely failed to provide students with
18 promised educational goods or services.

19 (d) If the board determines that an education
20 service provider has intentionally and substantially misused
21 education savings account funds, the board may bar the
22 education service provider from continuing to receive
23 payments. The board shall create procedures to ensure that a
24 fair process exists to determine whether an education service
25 provider should be barred from receiving payment from
26 education savings accounts and provide for the appeal of a
27 determination to bar the education service provider to the

1 board. If the board bars an education service provider from
2 receiving payments from education savings accounts, the board
3 shall notify parents and students of its decision as quickly
4 as possible.

5 (e) If the board obtains evidence of potential
6 fraudulent use of education savings account funds, the board
7 may refer suspected cases to the Attorney General for purposes
8 of investigation, collection, and potential criminal
9 investigation.

10 Section 12. (a) To be eligible to accept payments
11 from an education savings account, an education service
12 provider shall do all of the following:

13 (1) Submit a notice of intent to participate in the
14 program to the Treasurer.

15 (2) Provide participating parents with a receipt for
16 all qualifying education expenses for a participating student.

17 (3) Agree not to refund, rebate, or share education
18 savings account funds with parents or students in any manner,
19 except that funds may be remitted or refunded to an education
20 savings account in accordance with Section 8.

21 (4) Certify that the education service provider will
22 not discriminate on any basis prohibited by 42 U.S.C. § 1981.

23 (5) Agree to require any employee who will have
24 contact with a participating student to submit to a criminal
25 history background check under the Alabama Child Protection
26 Act of 1999, Chapter 22A, Title 16, Code of Alabama 1975.

1 (6) In the case of a participating school, provide
2 notice of enrollment annually to the local superintendent of
3 education or participating nonpublic school of any student for
4 which tuition is being paid through the program.

5 (b) This act does not limit the independence or
6 autonomy of an education service provider or make the actions
7 of an education service provider the actions of the state.

8 (c) Education service providers shall be given
9 maximum freedom to provide for the educational needs of
10 participating students without governmental control.

11 (d) A participating school or education service
12 provider is not required to alter its creed, practices,
13 admission policy, tuition, fees, hiring policy, or curriculum
14 in order to accept eligible recipients whose parents pay
15 tuition or fees from an education savings account pursuant to
16 this act. Nothing in this act shall prohibit a participating
17 school from requesting additional funds from a parent to cover
18 ordinary student costs related to attendance at the
19 participating school.

20 (e) This act does not expand the regulatory
21 authority of the state, its officers, or any school district
22 to impose any additional regulation of education service
23 providers beyond those necessary to enforce the requirements
24 of the program.

25 Section 13. (a) The resident school district, school
26 district in which a participating student was last enrolled,
27 or participating nonpublic school, as applicable, shall

1 provide an education service provider that has enrolled the
2 student with a complete copy of the school records of the
3 student, while complying with the Family Educational Rights
4 and Privacy Act of 1974, 20 U.S.C. § 1232.

5 (b) A participating school district may refuse to
6 provide educational services to a participating student who
7 resides outside of the school district or may establish a
8 policy to provide educational services to nonresident students
9 under certain conditions including, but not limited to, the
10 payment of reasonable fees for attendance.

11 (c) The receipt of funds, directly or indirectly,
12 pursuant to this act by an education service provider,
13 eligible recipient, or parent, where the eligible recipient
14 attends an education service provider that is a nonpublic
15 school or is a home school student, does not subject the
16 school attended to licensure or regulation by the state or any
17 political subdivision of the state and does not modify any
18 other provision of state law, specifically including, but not
19 limited to, Section 16-1-11.1, Code of Alabama 1975, or
20 otherwise affect any exemptions from state regulation provided
21 for church schools. The receipt of funds pursuant to this act
22 shall not be considered the receipt of state or federal
23 funding so as to change the exemption and definition of a
24 church school provided in Section 16-28-1, Code of Alabama
25 1975.

26 Section 14. Transferring participating students and
27 participating schools shall maintain compliance with the

1 constitution and bylaws established by the Alabama High School
2 Athletic Association member schools.

3 Section 15. (a) In any legal proceeding challenging
4 the application of this act to a participating education
5 service provider, the state bears the burden of establishing
6 that the challenged action, rule, or requirement is necessary
7 and does not impose any undue burden on education service
8 providers.

9 (b) Except as provided in Section 36-1-12, Code of
10 Alabama 1975, no liability shall arise on the part of the
11 board, the state, or any local school district based on the
12 award or use of an education savings account pursuant to this
13 act.

14 (c) If any part of this act is challenged in a state
15 court as violating either the state or federal constitution,
16 the parent of any eligible participating student may intervene
17 in the lawsuit for the purposes of defending the
18 constitutionality of this act. For the purposes of judicial
19 administration, a court may limit the number of parents
20 permitted to intervene or require that all parents file a
21 joint brief, so long as they are not required to join any
22 brief filed on behalf of any named state defendant.

23 Section 16. This act shall become effective on the
24 first day of the first month following its passage and
25 approval by the Governor, or its otherwise becoming law.