

PRICE (SB202) comparison with HB442
May 14, 2023

HISTORY

In 2013 Alabama students were already doing poorly in relationship to their peers in other states, as well as those around the world. The federal testing mandate had been enforced since 2002. The Alabama legislature was looking for ways to unshackle Alabama schools from both the state and federal testing and regulations. That is when Alabama adopted the AAA which was merged with the Flexibility Act. Two years later we adopted charter schools. In 2013 the legislature made a commitment to allow more flexibility and innovation to address the needs of a diverse K-12 student population. This commitment by Alabama legislators is still in effect.

The legislature declared that their purpose was to "...advance the benefits of local school and school system autonomy in innovation and creativity **by allowing flexibility from state laws, regulations, and policies.**" They found that there was a critical need for "...innovative models of public education that are tailored to the unique circumstances and need of the students in all schools and communities, especially in schools and communities that are struggling to improve academic outcomes and close the achievement gap. Their intent was to "...allow school systems **greater flexibility** in meeting the educational need of a diverse student population..."

The PRICE model is an innovative flexible universal school choice alternative that has been shown to improve test scores of children moving to private schools and in the public schools nearby, especially those who have emotional, economic and academic challenges.

EXECUTIVE SUMMARY

I. HB442 creates a thick layer of bureaucracy with state laws, regulations and policies that would stifle creativity and autonomy in a school choice program. This is in direct opposition to Alabama's declared desires in the combined 2013 AAA and Flexibility Act. In contrast, PRICE empowers parents to provide an education for their child that best meets the needs of the child and reflects the values of the parents.

II. HB442 requires private, parochial and church schools to either relinquish their autonomy or comply with new state regulations and old federal mandates. This not only violates our strong state legal protections for private, parochial and church schools against additional regulations, but it forces participating schools to choose between surrendering First Amendment religious freedoms or participation. HB442 could likely result in a constitutional challenge in light of recent US Supreme Court cases (see SB202 findings). In contrast, PRICE intentionally does not use federal money and relies on the recent court cases to create Alabama's first universal school choice program. PRICE is thereby able to fully respect parent's constitutional rights and encourage the flexibility and the autonomy of individual school participants.

III. HB442 empowers the Department of Education (DOE), which has been directly and indirectly responsible for the continuous low ranking in public education academic outcomes over the last two decades, with oversight and control of a school choice program cluttered with regulations. The Education Trust Fund has had a 54% increase in revenues over the last five years. It is not a money problem. After years of testing Alabama K-12 proficiency in language, math and science is below 50%. It is not a testing problem. In contrast, PRICE is a universal program available to everyone and administered by the Department of Revenue (DOR). This maintains oversight by a state entity with a successful record and prior experience administering school choice programs. Such administration by the DOR eliminates the need for regulations and policy constraints imposed by the DOE in HB442.

	Bill lines	Alabama Fits All Scholarship Program HB442	Bill lines	Parental Rights in Children’s Education PRICE (SB202/HB295)
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BASIC DIFFERENCES				
		<p>1. <u>Heavy DOE regulation</u>. HB442 establishes a school choice program heavily regulated by the Alabama Department of Education (DOE).</p> <p>2. <u>Private, parochial and church school lose autonomy</u>. HB442 creates extensive rules and regulations for the program manager and all eligible providers including private, parochial and church schools, which hamstring all participants in the program.</p> <p>3. <u>Data collection</u>. HB442 collects personal and financial information from program managers, parents, students, participating schools, and other eligible providers.</p> <p>4. <u>Federal mandates</u>. HB442 imposes federal mandates which currently only apply to public schools. The application of these mandates could result in lower quality participation and constitutional challenges.</p>		<p>1. <u>Flexibility and Autonomy</u>: PRICE creates a universal school choice program to advance the benefits of parent and school “autonomy in innovation and creativity by allowing flexibility from state laws, regulations and policies.” See, §16-6D-2(b), Code of Alabama.</p> <p>2. <u>Parental empowerment</u>. PRICE empowers parents to fulfill their Constitutional rights to direct the education of their children.</p> <p>3. <u>State money</u>. PRICE only uses state money and does not subject participants to ANY federal mandates.</p> <p>4. <u>Constitutionality</u>. PRICE has been vetted by multiple constitutional lawyers including one from the Institute for Justice which litigated two recent school choice cases successfully before the US Supreme Court.</p>

DETAILS				
FEDERAL MANDATES and CONSTITUTIONAL QUESTIONS	268-272; 281-284; 591-594; 765-766; 799-800; 849-850; 868-869; 925-926; 1018-19;	HB442 incorporates federal mandates which will prevent some of the 501(c)3 entities, and private, parochial and church schools from participating. It may result in constitutional challenges since it effectively requires religious schools and entities to choose either not to participate or be subject to losing their autonomy.	159-167; 623-630	PRICE only uses state money therefore federal mandates are not necessary nor added to the Act. PRICE restates and acknowledges the legislative protections for private, parochial and church schools throughout the bill.

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PRIVATE, PAROCHIAL AND CHURCH SCHOOLS	123-129; Sections 7, 9 and 10	Private, parochial and church schools and qualifying providers are subject to extensive rules and regulations in order to become a qualifying provider.	97-109; 239-340; 617-648;	Alabama has excellent state laws governing private, parochial and church schools. Non-government schools do better than public schools. Therefore, PRICE does not require additional rules or regulations to guarantee the quality of non-public private, parochial or church schools.
HOLLOW PROTECTIONS FOR PRIVATE, PAROCHIAL AND CHURCH SCHOOLS	751-756; 729; 743-744	“Except as provided in Section 4 regarding qualifying providers, Section 9 regarding eligible schools, or Section 10 regarding eligible service providers, a program manager may not require a qualifying provider to alter the qualifying provider’s creed, practices, admissions policies, hiring practices, or curricula in order to accept scholarship funds.” “Except as provided in this Act...” “Beyond any regulation necessary to administer this act...”	26-29; 97-109; 239-340; 445-452; 617-648; 635-644;	PRICE restates and acknowledges the legislative and constitutional protections for private, parochial and church schools multiple times throughout the bill.
TESTING		No testing requirement.		No testing requirement. Most, if not all private, parochial and church schools use a variety of tests to evaluate student progress, but they do not need or want the state to dictate what tests are to be used. Non-government schools have better academic outcomes than the public school.
DATA COLLECTION AND PUBLIC INFORMATION	483-487; 718-726; 573-575; 604-605	HB442 requires the program manager to provide DOE with various reports, information and data from the participants that may be accessed through the DOE webpage including information on a list of qualified providers.	445-452; 606-616	DOR may list provider information online with the providers permission.
	356-368; 576-594; 604-605	Lack of Privacy. HB442 allows parents and students to publicly rate private, parochial and church schools and other qualifying providers on the DOE webpage. This	445-452; 606-616	PRICE does not request unverified information or ratings from participating students of participating schools. Only allows information of private, parochial, or church

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		could violate privacy of information or create an unhealthy or unverified reporting system.		schools on DOR webpage WITH PERMISSION of the participating provider.
	847-848; 866-867; 923-930;	Service providers, including private, parochial and church schools must provide any information that the program manager requires.		
ADMINISTRATION	Sec 5&6; 413-530; 531-726;	DOE tightly regulates and oversees the program through a 501(c)3 program manager which administers the program.		DOR already has experience administering the AAA scholarship program through multiple 501(c)3 entities to distribute scholarships. As a state agency, it already complies with necessary accountability and accounting requirements. It does not need additional oversight.
	576-590	The program manager is required to use “private entities” to develop and implement the system.	344-349; 670; 683-684	The DOR is allowed to use private contractors to manage ESAs but is not required if it can be managed inhouse.
	1000-01	DOE manages the money in HB422.	350-363; 377-379; 168	PRICE funds are deposited into an account in the treasury which are managed by DOR. Therefore, these monies are never subject to the federal mandates that control the DOE.
		No notification	389-397	Notifies parents about the PRICE program.
		No helpline	398-399	Helpline
	456-482; 561-568	If program manager is accused of violating the act, the only recourse is an administrative appeal through the DOE, which is the agency that also oversees the administration and evaluates the program. There could easily be a conflict of interest if expenses are denied, or students or providers are barred. The program manager cannot be paid while the appeal is pending but must continue to provide services to the students.	256-258; 546-548; 700-703	PRICE provides alternate means of appeals.
		HB442 has NO PARENT INPUT.	Section 6	Department of Revenue (DOR) administers the program with recommendations from a participating parent /administrator advisory board. This allows the end user to

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		DOE is known for lack of transparency and responsiveness to parents and children, the end users.		Speak into the appropriate expenditures from experience and suggest program improvements.
	774-780	HB442 requires that program manager employees complete a criminal background check through the DOE.		DOR already has background check requirements for their employees working with money. All government departments already have background check requirements in place where appropriate.
FUNDING	204-205; 222-226	\$45,000,000.00 with inflationary factor	Amend.	\$50,000,000.00 cap for three years. [This is the agreed amendment amount.]
	221	\$6,900.00 Scholarship	159-165	\$6,900.00 ESA
PARENT AGREEMENTS	254-274; 275-290;	HB442 requires parents to “assume full financial responsibility for the education of child.” and agree to comply with federal laws. The agreement also indemnifies the state which already has broad protections. The agreement is somewhat confusing. It appears to be written for parents of children with special needs.	482-494	PRICE requires parents to provide a challenging education for their child that is appropriate for his or her age and skill level and to comply with the requirements to the PRICE program. [This allows accommodations with parents of children with special needs.]
PROGRAM	64-74	HB442 prohibits a participating student from receiving a AAA scholarship for <u>low-income</u> students.	549-556	PRICE allows AAA granting managers to decide if and how much AAA scholarship to distribute. It allows low income students to bridge the gap between ESA and tuition. They would never be allowed to pay twice for the same expense. The eligible expenses would just be paid from different funds. [An amendment is proposed to take this off.]
	369-376	Schools receiving more than \$500,000.00 must provide a bond.	429-431	Schools receiving more than \$100,000.00 must provide a bond.
	785-836; 851-855	Private, parochial and church schools with 150 Students or more must hire an auditor and provide financial information to program manager.		
	847-848	Private, parochial and church schools with less than 150 must provide ANY information the program manager requires.		

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	781-798;	Private, parochial and church schools and qualified providers must provide detailed audited financial information. This is costly and may prevent schools from participating. Further, it is not necessarily an important measure of satisfaction with parents.		.
	812-823	HB422 requires private, parochial and church schools and qualified providers employees to submit to background checks.		This is unnecessary. Private, parochial and church schools are already required to have background checks pursuant to §16-1-11.3
APPEALS	561-568	The only recourse is an administrative appeal through the DOE, which is the agency that also oversees and evaluates the program. DOE conducts all appeals from program managers, parents, and qualified providers. There could easily be a conflict of interest.		
	660-662;	STANDARD: Intentionally or substantially for being barred from program.	675-679; 691-693	STANDARD: Intentionally and substantially for being barred from program.