

By: Representative Roberson

To: Education;  
Appropriations

HOUSE BILL NO. 1268

1 AN ACT TO AMEND SECTION 37-181-7, MISSISSIPPI CODE OF 1972,  
 2 TO CREATE THE SPECIAL ESA FUND IN THE STATE TREASURY FOR THE  
 3 PURPOSE OF FUNDING EDUCATION SCHOLARSHIP ACCOUNTS; TO PROVIDE THAT  
 4 PAYMENTS TO THE SPECIAL ESA FUND SHALL BE CONSIDERED ADD-ON  
 5 PROGRAM COSTS UNDER THE MISSISSIPPI ADEQUATE EDUCATION PROGRAM; TO  
 6 REQUIRE THE STATE DEPARTMENT OF EDUCATION TO CALCULATE THE ANNUAL  
 7 COST OF NEW EDUCATION SCHOLARSHIP ACCOUNTS AND TO REQUIRE THE  
 8 DEPARTMENT TO INCLUDE THE COST IN ITS ANNUAL MAEP BUDGET REQUEST;  
 9 TO AMEND SECTION 37-181-9, MISSISSIPPI CODE OF 1972, TO PROVIDE  
 10 THAT STUDENTS WHO PARTICIPATE IN THE ESA PROGRAM ARE PARENTAL  
 11 PLACEMENTS UNDER IDEA; TO AMEND SECTION 37-151-5, MISSISSIPPI CODE  
 12 OF 1972, TO INCLUDE EDUCATION SCHOLARSHIP ACCOUNTS PROGRAM UNDER  
 13 THE DEFINITION OF THE TERM "ADD-ON PROGRAM COSTS"; TO AMEND  
 14 SECTION 37-151-7, MISSISSIPPI CODE OF 1972, TO INCLUDE PAYMENTS TO  
 15 THE SPECIAL ESA FUND IN THE CALCULATIONS OF THE TOTAL MAEP COST;  
 16 TO AMEND SECTIONS 37-151-101 AND 37-151-103, MISSISSIPPI CODE OF  
 17 1972, TO DIRECT THE PAYMENT OF FUNDS TO THE SPECIAL ESA FUND; TO  
 18 BRING FORWARD SECTIONS 37-181-1 THROUGH 37-181-5 AND 37-181-11  
 19 THROUGH 37-181-21, MISSISSIPPI CODE OF 1972, WHICH ARE THE  
 20 REMAINING SECTIONS OF THE EQUAL OPPORTUNITY FOR STUDENTS WITH  
 21 SPECIAL NEEDS ACT, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR  
 22 RELATED PURPOSES.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

24 **SECTION 1.** Section 37-181-7, Mississippi Code of 1972, is  
 25 amended as follows:

26 37-181-7. (1) The ESA program created in this chapter shall  
 27 be limited to five hundred (500) students in the school year  
 28 2015-2016, with new enrollment limited to five hundred (500)



29 additional students each year thereafter. \* \* \* Each student's  
30 ESA shall be funded at Six Thousand Five Hundred Dollars  
31 (\$6,500.00) for school year 2015-2016. For each subsequent year,  
32 this amount shall increase or decrease by the same proportion as  
33 the base student cost under Section 37-151-7(1)(b) is increased or  
34 decreased.

35       (2) There is created in the State Treasury the Special ESA  
36 Fund to pay for the Education Scholarship Accounts established  
37 under this chapter. Payments made to this fund are considered an  
38 add-on program cost, as defined under Section 37-151-5, and must  
39 be included in the Mississippi Adequate Education Program annual  
40 appropriation outside of the program calculations. Payments made  
41 to this fund must be made on a quarterly basis and in the same  
42 manner as Mississippi Adequate Education Program payments are made  
43 to school districts under Sections 37-151-101 and 37-151-103.  
44 Each October 1, the State Department of Education shall calculate  
45 the cost of new Education Scholarship Accounts for the following  
46 fiscal year by multiplying the number of accounts allowed by  
47 annual enrollment limits established under subsection (1) of this  
48 section by the amount for students prescribed in subsection (1).  
49 This amount must be included as the add-on program cost for the  
50 Special ESA Fund in the annual Mississippi Adequate Education  
51 Program budget request by the State Department of Education. The  
52 department also shall report to the Legislature the number of  
53 eligible applicants and funding amounts prescribed under



54 subsection (1) on January 15 and March 15 of each year and may  
55 revise its budget request to the Legislature for the Special ESA  
56 Fund based upon the revised number of eligible applicants. Any  
57 funds not associated with an active Education Scholarship Account  
58 will lapse into the State General Fund at the end of the fiscal  
59 year.

60 ( \* \* \*3) \* \* \* Eligible students shall be approved for  
61 participation in the program as follows:

62 (a) Until participation in the program reaches fifty  
63 percent (50%) of the annual enrollment limits in subsection (1) of  
64 this section, students shall be approved on a first-come,  
65 first-served basis, with applications being reviewed on a rolling  
66 basis;

67 (b) After participation reaches fifty percent (50%) of  
68 the annual enrollment limits in subsection (1) of this section,  
69 the department shall set annual application and notification  
70 deadlines not later than March 15 for the remaining number of  
71 available ESAs and begin to maintain a waiting list of eligible  
72 students. If the number of eligible students who apply for the  
73 program exceeds the remaining number of ESAs available, the  
74 department shall fill the available spaces using a random  
75 selection process that gives preference to students with an active  
76 Individualized Education Program (IEP); and

77 (c) Participating students who remain eligible for the  
78 program are automatically approved for participation for the



79 following year and are not subject to the random selection  
80 process.

81 ( \* \* \*4) No funds for an ESA may be expended from the  
82 Mississippi Adequate Education Program, nor shall any school  
83 district be required to provide funding for an ESA.

84 (5) When scholarship accounts have not been awarded or are  
85 denied or unclaimed, the department shall continue to enroll  
86 eligible applicants from a waiting list.

87 (6) Any funds remaining unused in a participating student's  
88 Education Scholarship Account may rollover to be used the next  
89 year.

90 **SECTION 2.** Section 37-181-9, Mississippi Code of 1972, is  
91 amended as follows:

92 37-181-9. (1) Students who participate in the programs are  
93 parental placements under 20 USC 1412(a)(10)(A) of the Individuals  
94 with Disabilities in Education Act (IDEA). The State Department  
95 of Education shall provide all parents of students with special  
96 needs with clear and understandable documentation explaining their  
97 rights under the program.

98 ( \* \* \*2) The department shall create a standard form that  
99 parents of students submit to establish their student's  
100 eligibility for an Education Scholarship Account. The department  
101 shall ensure that the application is readily available to  
102 interested families through various sources, including the



103 department's website and the copy of procedural safeguards  
104 annually given to parents.

105 ( \* \* \*3) The department shall provide parents of  
106 participating students with a written explanation of the allowable  
107 uses of Education Scholarship Accounts, the responsibilities of  
108 parents and the duties of the department. This information shall  
109 also be made available on the department's website.

110 ( \* \* \*4) The department shall annually notify all students  
111 with an IEP of the existence of the program and shall ensure that  
112 lower-income families are made aware of their potential  
113 eligibility.

114 ( \* \* \*5) The department may deduct an amount up to a limit  
115 of six percent (6%) from appropriations used to fund Education  
116 Scholarship Accounts to cover the costs of overseeing the funds  
117 and administering the program.

118 ( \* \* \*6) (a) The department shall make a determination of  
119 eligibility, and shall approve the application, within twenty-one  
120 (21) business days of receiving an application for participation  
121 in the program, subject to the provisions of Section 37-181-3(b).

122 (b) The department shall provide for a procedure that  
123 children with a ruling of hearing impairment or children suspected  
124 of a hearing loss shall receive a comprehensive educational  
125 assessment which may include the areas of cognitive development,  
126 language/speech, audiological and academic achievement from the  
127 state-funded Mississippi Assistance Center for Hearing Loss.



128 Children with a ruling of visual impairment or children suspected  
129 of a visual impairment shall receive a comprehensive low vision  
130 evaluation from the state-funded Low Vision Clinic.

131 ( \* \* \*7) The home school district shall provide the parent  
132 of a participating student with a complete copy of the student's  
133 school records, while complying with the Family Educational Rights  
134 and Privacy Act of 1974 (20 USCS Section 1232(g)). The record  
135 shall be provided no later than thirty (30) days after a parent  
136 signs an agreement to participate in the program.

137 ( \* \* \*8) The State Board of Education may contract with a  
138 qualified nonprofit organization with expertise and training in  
139 working with parents to educate children with disabilities to  
140 administer the program.

141 **SECTION 3.** Section 37-151-5, Mississippi Code of 1972, is  
142 amended as follows:

143 37-151-5. As used in Sections 37-151-5 and 37-151-7:

144 (a) "Adequate program" or "adequate education program"  
145 or "Mississippi Adequate Education Program (MAEP)" shall mean the  
146 program to establish adequate current operation funding levels  
147 necessary for the programs of such school district to meet at  
148 least a successful Level III rating of the accreditation system as  
149 established by the State Board of Education using current  
150 statistically relevant state assessment data.

151 (b) "Educational programs or elements of programs not  
152 included in the adequate education program calculations, but which



153 may be included in appropriations and transfers to school  
154 districts" shall mean:

155 (i) "Capital outlay" shall mean those funds used  
156 for the constructing, improving, equipping, renovating or major  
157 repairing of school buildings or other school facilities, or the  
158 cost of acquisition of land whereon to construct or establish such  
159 school facilities.

160 (ii) "Pilot programs" shall mean programs of a  
161 pilot or experimental nature usually designed for special purposes  
162 and for a specified period of time other than those included in  
163 the adequate education program.

164 (iii) "Adult education" shall mean public  
165 education dealing primarily with students above eighteen (18)  
166 years of age not enrolled as full-time public school students and  
167 not classified as students of technical schools, colleges or  
168 universities of the state.

169 (iv) "Food service programs" shall mean those  
170 programs dealing directly with the nutritional welfare of the  
171 student, such as the school lunch and school breakfast programs.

172 (c) "Base student" shall mean that student  
173 classification that represents the most economically educated  
174 pupil in a school system meeting the definition of successful, as  
175 determined by the State Board of Education.

176 (d) "Base student cost" shall mean the funding level  
177 necessary for providing an adequate education program for one (1)



178 base student, subject to any minimum amounts prescribed in Section  
179 37-151-7(1).

180 (e) "Add-on program costs" shall mean those items which  
181 are included in the adequate education program appropriations and  
182 are outside of the program calculations:

183 (i) "Transportation" shall mean transportation to  
184 and from public schools for the students of Mississippi's public  
185 schools provided for under law and funded from state funds.

186 (ii) "Vocational or technical education program"  
187 shall mean a secondary vocational or technical program approved by  
188 the State Department of Education and provided for from state  
189 funds.

190 (iii) "Special education program" shall mean a  
191 program for exceptional children as defined and authorized by  
192 Sections 37-23-1 through 37-23-9, and approved by the State  
193 Department of Education and provided from state funds.

194 (iv) "Gifted education program" shall mean those  
195 programs for the instruction of intellectually or academically  
196 gifted children as defined and provided for in Section 37-23-175  
197 et seq.

198 (v) "Alternative school program" shall mean those  
199 programs for certain compulsory-school-age students as defined and  
200 provided for in Sections 37-13-92 and 37-19-22.



201 (vi) "Extended school year programs" shall mean  
202 those programs authorized by law which extend beyond the normal  
203 school year.

204 (vii) "University-based programs" shall mean those  
205 university-based programs for handicapped children as defined and  
206 provided for in Section 37-23-131 et seq.

207 (viii) "Bus driver training" programs shall mean  
208 those driver training programs as provided for in Section 37-41-1.

209 (ix) "Education Scholarship Accounts Program"  
210 means those ESAs for eligible students, as provided for in  
211 Sections 37-181-1 through 37-181-21.

212 (f) "Teacher" shall include any employee of a local  
213 school who is required by law to obtain a teacher's license from  
214 the State Board of Education and who is assigned to an  
215 instructional area of work as defined by the State Department of  
216 Education.

217 (g) "Principal" shall mean the head of an attendance  
218 center or division thereof.

219 (h) "Superintendent" shall mean the head of a school  
220 district.

221 (i) "School district" shall mean any type of school  
222 district in the State of Mississippi, and shall include  
223 agricultural high schools.

224 (j) "Minimum school term" shall mean a term of at least  
225 one hundred eighty (180) days of school in which both teachers and



226 pupils are in regular attendance for scheduled classroom  
227 instruction for not less than sixty-three percent (63%) of the  
228 instructional day, as fixed by the local school board for each  
229 school in the school district. It is the intent of the  
230 Legislature that any tax levies generated to produce additional  
231 local funds required by any school district to operate school  
232 terms in excess of one hundred seventy-five (175) days shall not  
233 be construed to constitute a new program for the purposes of  
234 exemption from the limitation on tax revenues as allowed under  
235 Sections 27-39-321 and 37-57-107 for new programs mandated by the  
236 Legislature.

237 (k) The term "transportation density" shall mean the  
238 number of transported children in average daily attendance per  
239 square mile of area served in a school district, as determined by  
240 the State Department of Education.

241 (l) The term "transported children" shall mean children  
242 being transported to school who live within legal limits for  
243 transportation and who are otherwise qualified for being  
244 transported to school at public expense as fixed by Mississippi  
245 state law.

246 (m) The term "year of teaching experience" shall mean  
247 nine (9) months of actual teaching in the public or private  
248 elementary and secondary schools and shall also include nine (9)  
249 months of actual teaching at postsecondary institutions accredited  
250 by the Southern Association of Colleges and Schools (SACS) or



251 equivalent regional accrediting body for degree-granting  
252 postsecondary institutions. In no case shall more than one (1)  
253 year of teaching experience be given for all services in one (1)  
254 calendar or school year. In determining a teacher's experience,  
255 no deduction shall be made because of the temporary absence of the  
256 teacher because of illness or other good cause, and the teacher  
257 shall be given credit therefor. Beginning with the 2003-2004  
258 school year, the State Board of Education shall fix a number of  
259 days, not to exceed forty-five (45) consecutive school days,  
260 during which a teacher may not be under contract of employment  
261 during any school year and still be considered to have been in  
262 full-time employment for a regular scholastic term. If a teacher  
263 exceeds the number of days established by the State Board of  
264 Education that a teacher may not be under contract but may still  
265 be employed, that teacher shall not be credited with a year of  
266 teaching experience. In determining the experience of school  
267 librarians, each complete year of continuous, full-time employment  
268 as a professional librarian in a public library in this or some  
269 other state shall be considered a year of teaching experience. If  
270 a full-time school administrator returns to actual teaching in the  
271 public schools, the term "year of teaching experience" shall  
272 include the period of time he or she served as a school  
273 administrator. In determining the salaries of teachers who have  
274 experience in any branch of the military, the term "year of  
275 teaching experience" shall include each complete year of actual



276 classroom instruction while serving in the military. In  
277 determining the experience of speech-language pathologists and  
278 audiologists, each complete year of continuous full-time post  
279 master's degree employment in an educational setting in this or  
280 some other state shall be considered a year of teaching  
281 experience. Provided, however, that school districts are  
282 authorized, in their discretion, to negotiate the salary levels  
283 applicable to certificated employees employed after July 1, 2009,  
284 who are receiving retirement benefits from the retirement system  
285 of another state, and the annual experience increment provided in  
286 Section 37-19-7 shall not be applicable to any such retired  
287 certificated employee.

288           (n) \* \* \* The term "average daily attendance" shall be  
289 the figure which results when the total aggregate full-day  
290 attendance during the period or months counted is divided by the  
291 number of days during the period or months counted upon which both  
292 teachers and pupils are in regular attendance for scheduled  
293 classroom instruction, \* \* \* less the average daily attendance for  
294 self-contained special education classes. For purposes of  
295 determining and reporting attendance, a pupil must be present for  
296 at least sixty-three percent (63%) of the instructional day, as  
297 fixed by the local school board for each school in the school  
298 district, in order to be considered in full-day attendance. Prior  
299 to full implementation of the adequate education program the



300 department shall deduct the average daily attendance for the  
301 alternative school program provided for in Section 37-19-22.

302 \* \* \*

303 (o) The term "local supplement" shall mean the amount  
304 paid to an individual teacher over and above the adequate  
305 education program salary schedule for regular teaching duties.

306 (p) The term "aggregate amount of support from ad  
307 valorem taxation" shall mean the amounts produced by the  
308 district's total tax levies for operations.

309 (q) The term "adequate education program funds" shall  
310 mean all funds, both state and local, constituting the  
311 requirements for meeting the cost of the adequate program as  
312 provided for in Section 37-151-7.

313 (r) "Department" shall mean the State Department of  
314 Education.

315 (s) "Commission" shall mean the Mississippi Commission  
316 on School Accreditation created under Section 37-17-3.

317 (t) The term "successful school district" shall mean a  
318 Level III school district as designated by the State Board of  
319 Education using current statistically relevant state assessment  
320 data.

321 (u) "Dual enrollment-dual credit programs" shall mean  
322 programs for potential or recent high school student dropouts to  
323 dually enroll in their home high school and a local community  
324 college in a dual credit program consisting of high school



325 completion coursework and a credential, certificate or degree  
326 program at the community college, as provided in Section  
327 37-15-38(19).

328 (v) "Charter school" means a public school that is  
329 established and operating under the terms of a charter contract  
330 between the school's governing board and the Mississippi Charter  
331 School Authorizer Board.

332 **SECTION 4.** Section 37-151-7, Mississippi Code of 1972, is  
333 amended as follows:

334 37-151-7. The annual allocation to each school district for  
335 the operation of the adequate education program shall be  
336 determined as follows:

337 (1) **Computation of the basic amount to be included for**  
338 **current operation in the adequate education program.** The  
339 following procedure shall be followed in determining the annual  
340 allocation to each school district:

341 (a) **Determination of average daily attendance.**  
342 Effective with fiscal year 2011, the State Department of Education  
343 shall determine the percentage change from the prior year of each  
344 year of each school district's average of months two (2) and three  
345 (3) average daily attendance (ADA) for the three (3) immediately  
346 preceding school years of the year for which funds are being  
347 appropriated. For any school district that experiences a positive  
348 growth in the average of months two (2) and three (3) ADA each  
349 year of the three (3) years, the average percentage growth over



350 the three-year period shall be multiplied times the school  
351 district's average of months two (2) and three (3) ADA for the  
352 year immediately preceding the year for which MAEP funds are being  
353 appropriated. The resulting amount shall be added to the school  
354 district's average of months two (2) and three (3) ADA for the  
355 year immediately preceding the year for which MAEP funds are being  
356 appropriated to arrive at the ADA to be used in determining a  
357 school district's MAEP allocation. Otherwise, months two (2) and  
358 three (3) ADA for the year immediately preceding the year for  
359 which MAEP funds are being appropriated will be used in  
360 determining a school district's MAEP allocation. In any fiscal  
361 year prior to 2010 in which the MAEP formula is not fully funded,  
362 for those districts that do not demonstrate a three-year positive  
363 growth in months two (2) and three (3) ADA, months one (1) through  
364 nine (9) ADA of the second preceding year for which funds are  
365 being appropriated or months two (2) and three (3) ADA of the  
366 preceding year for which funds are being appropriated, whichever  
367 is greater, shall be used to calculate the district's MAEP  
368 allocation. The district's average daily attendance shall be  
369 computed and currently maintained in accordance with regulations  
370 promulgated by the State Board of Education. The district's  
371 average daily attendance shall include any student enrolled in a  
372 Dual Enrollment-Dual Credit Program as defined and provided in  
373 Section 37-15-38(19). The State Department of Education shall  
374 make payments for Dual Enrollment-Dual Credit Programs to the home



375 school in which the student is enrolled, in accordance with  
376 regulations promulgated by the State Board of Education. The  
377 community college providing services to students in a Dual  
378 Enrollment-Dual Credit Program shall require payment from the home  
379 school district for services provided to such students at a rate  
380 of one hundred percent (100%) of ADA. All MAEP/state funding  
381 shall cease upon completion of high school graduation  
382 requirements.

383           (b) **Determination of base student cost.** Effective with  
384 fiscal year 2011 and every fourth fiscal year thereafter, the  
385 State Board of Education, on or before August 1, with adjusted  
386 estimate no later than January 2, shall submit to the Legislative  
387 Budget Office and the Governor a proposed base student cost  
388 adequate to provide the following cost components of educating a  
389 pupil in a successful school district: (i) instructional cost;  
390 (ii) administrative cost; (iii) operation and maintenance of  
391 plant; and (iv) ancillary support cost. For purposes of these  
392 calculations, the Department of Education shall utilize financial  
393 data from the second preceding year of the year for which funds  
394 are being appropriated.

395           For the instructional cost component, the Department of  
396 Education shall select districts that have been identified as  
397 instructionally successful and have a ratio of a number of  
398 teachers per one thousand (1,000) students that is between one (1)  
399 standard deviation above the mean and two (2) standard deviations



400 below the mean of the statewide average of teachers per one  
401 thousand (1,000) students. The instructional cost component shall  
402 be calculated by dividing the latest available months one (1)  
403 through nine (9) ADA into the instructional expenditures of these  
404 selected districts. For the purpose of this calculation, the  
405 Department of Education shall use the following funds, functions  
406 and objects:

407 Fund 1120 Functions 1110-1199 Objects 100-999, Functions  
408 1210, 1220, 2150-2159 Objects 210 and 215;

409 Fund 1130 All Functions, Object Code 210 and 215;

410 Fund 2001 Functions 1110-1199 Objects 100-999;

411 Fund 2070 Functions 1110-1199 Objects 100-999;

412 Fund 2420 Functions 1110-1199 Objects 100-999;

413 Fund 2711 All Functions, Object Code 210 and 215.

414 Prior to the calculation of the instructional cost component,  
415 there shall be subtracted from the above expenditures any revenue  
416 received for Chickasaw Cession payments, Master Teacher  
417 Certification payments and the district's portion of state revenue  
418 received from the MAEP at-risk allocation.

419 For the administrative cost component, the Department of  
420 Education shall select districts that have been identified as  
421 instructionally successful and have a ratio of an administrative  
422 staff to nonadministrative staff between one (1) standard  
423 deviation above the mean and two (2) standard deviations below the  
424 mean of the statewide average administrative staff to



425 nonadministrative staff. The administrative cost component shall  
426 be calculated by dividing the latest available months one (1)  
427 through nine (9) ADA of the selected districts into the  
428 administrative expenditures of these selected districts. For the  
429 purpose of this calculation, the Department of Education shall use  
430 the following funds, functions and objects:

431 Fund 1120 Functions 2300-2599, Functions 2800-2899,  
432 Objects 100-999;

433 Fund 2711 Functions 2300-2599, Functions 2800-2899,  
434 Objects 100-999.

435 For the plant and maintenance cost component, the Department  
436 of Education shall select districts that have been identified as  
437 instructionally successful and have a ratio of plant and  
438 maintenance expenditures per one hundred thousand (100,000) square  
439 feet of building space and a ratio of maintenance workers per one  
440 hundred thousand (100,000) square feet of building space that are  
441 both between one (1) standard deviation above the mean and two (2)  
442 standard deviations below the mean of the statewide average. The  
443 plant and maintenance cost component shall be calculated by  
444 dividing the latest available months one (1) through nine (9) ADA  
445 of the selected districts into the plant and maintenance  
446 expenditures of these selected districts. For the purpose of this  
447 calculation, the Department of Education shall use the following  
448 funds, functions and objects:

449 Fund 1120 Functions 2600-2699, Objects 100-699



450                   and Objects 800-999;  
451           Fund 2711 Functions 2600-2699, Objects 100-699  
452                   and Objects 800-999;  
453           Fund 2430 Functions 2600-2699, Objects 100-699  
454                   and Objects 800-999.

455           For the ancillary support cost component, the Department of  
456 Education shall select districts that have been identified as  
457 instructionally successful and have a ratio of a number of  
458 librarians, media specialists, guidance counselors and  
459 psychologists per one thousand (1,000) students that is between  
460 one (1) standard deviation above the mean and two (2) standard  
461 deviations below the mean of the statewide average of librarians,  
462 media specialists, guidance counselors and psychologists per one  
463 thousand (1,000) students. The ancillary cost component shall be  
464 calculated by dividing the latest available months one (1) through  
465 nine (9) ADA into the ancillary expenditures instructional  
466 expenditures of these selected districts. For the purpose of this  
467 calculation, the Department of Education shall use the following  
468 funds, functions and objects:

469           Fund 1120 Functions 2110-2129, Objects 100-999;  
470           Fund 1120 Functions 2140-2149, Objects 100-999;  
471           Fund 1120 Functions 2220-2229, Objects 100-999;  
472           Fund 2001 Functions 2100-2129, Objects 100-999;  
473           Fund 2001 Functions 2140-2149, Objects 100-999;  
474           Fund 2001 Functions 2220-2229, Objects 100-999.



475           The total base cost for each year shall be the sum of the  
476 instructional cost component, administrative cost component, plant  
477 and maintenance cost component and ancillary support cost  
478 component, and any estimated adjustments for additional state  
479 requirements as determined by the State Board of Education.

480 Provided, however, that the base student cost in fiscal year 1998  
481 shall be Two Thousand Six Hundred Sixty-four Dollars (\$2,664.00).

482           For each of the fiscal years between the recalculation of the  
483 base student cost under the provisions of this paragraph (b), the  
484 base student cost shall be increased by an amount equal to forty  
485 percent (40%) of the base student cost for the previous fiscal  
486 year, multiplied by the latest annual rate of inflation for the  
487 State of Mississippi as determined by the State Economist, plus  
488 any adjustments for additional state requirements such as, but not  
489 limited to, teacher pay raises and health insurance premium  
490 increases.

491           (c)   **Determination of the basic adequate education**  
492 **program cost.** The basic amount for current operation to be  
493 included in the Mississippi Adequate Education Program for each  
494 school district shall be computed as follows:

495           Multiply the average daily attendance of the district by the  
496 base student cost as established by the Legislature, which yields  
497 the total base program cost for each school district.

498           (d)   **Adjustment to the base student cost for at-risk**  
499 **pupils.** The amount to be included for at-risk pupil programs for



500 each school district shall be computed as follows: Multiply the  
501 base student cost for the appropriate fiscal year as determined  
502 under paragraph (b) by five percent (5%), and multiply that  
503 product by the number of pupils participating in the federal free  
504 school lunch program in such school district, which yields the  
505 total adjustment for at-risk pupil programs for such school  
506 district.

507 (e) **Add-on program cost.** The amount to be allocated to  
508 school districts and to the Special ESA Fund in addition to the  
509 adequate education program cost for add-on programs for each  
510 school district and to the Special ESA Fund shall be computed as  
511 follows:

512 (i) Transportation cost shall be the amount  
513 allocated to such school district for the operational support of  
514 the district transportation system from state funds.

515 (ii) Vocational or technical education program  
516 cost shall be the amount allocated to such school district from  
517 state funds for the operational support of such programs.

518 (iii) Special education program cost shall be the  
519 amount allocated to such school district from state funds for the  
520 operational support of such programs.

521 (iv) Gifted education program cost shall be the  
522 amount allocated to such school district from state funds for the  
523 operational support of such programs.



524 (v) Alternative school program cost shall be the  
525 amount allocated to such school district from state funds for the  
526 operational support of such programs.

527 (vi) Extended school year programs shall be the  
528 amount allocated to school districts for those programs authorized  
529 by law which extend beyond the normal school year.

530 (vii) University-based programs shall be the  
531 amount allocated to school districts for those university-based  
532 programs for handicapped children as defined and provided for in  
533 Section 37-23-131 et seq., Mississippi Code of 1972.

534 (viii) Bus driver training programs shall be the  
535 amount provided for those driver training programs as provided for  
536 in Section 37-41-1, Mississippi Code of 1972.

537 The sum of the items listed above (i) transportation, (ii)  
538 vocational or technical education, (iii) special education, (iv)  
539 gifted education, (v) alternative school, (vi) extended school  
540 year, (vii) university-based, and (viii) bus driver training shall  
541 yield the add-on cost for each school district.

542 (f) **Total projected adequate education program cost.**

543 The total Mississippi Adequate Education Program cost shall be the  
544 sum of the total basic adequate education program cost (paragraph  
545 (c)), and the adjustment to the base student cost for at-risk  
546 pupils (paragraph (d)) for each school district, plus an amount  
547 calculated in the manner prescribed under Section 37-181-7(2) for  
548 Special ESA Fund payments. In any year in which the MAEP is not



549 fully funded, the Legislature shall direct the Department of  
550 Education in the K-12 appropriation bill as to how to allocate  
551 MAEP funds \* \* \* for that year.

552 (g) The State Auditor shall annually verify the State  
553 Board of Education's estimated calculations for the Mississippi  
554 Adequate Education Program that are submitted each year to the  
555 Legislative Budget Office on August 1 and the final calculation  
556 that is submitted on January 2.

557 (2) **Computation of the required local revenue in support of**  
558 **the adequate education program.** The amount that each district  
559 shall provide toward the cost of the adequate education program  
560 shall be calculated as follows:

561 (a) The State Department of Education shall certify to  
562 each school district that twenty-eight (28) mills, less the  
563 estimated amount of the yield of the School Ad Valorem Tax  
564 Reduction Fund grants as determined by the State Department of  
565 Education, is the millage rate required to provide the district  
566 required local effort for that year, or twenty-seven percent (27%)  
567 of the basic adequate education program cost for such school  
568 district as determined under paragraph (c), whichever is a lesser  
569 amount. In the case of an agricultural high school, the millage  
570 requirement shall be set at a level which generates an equitable  
571 amount per pupil to be determined by the State Board of Education.  
572 The local contribution amount for school districts in which there  
573 is located one or more charter schools will be calculated using



574 the following methodology: using the adequate education program  
575 twenty-eight (28) mill value, or the twenty-seven percent (27%)  
576 cap amount (whichever is less) for each school district in which a  
577 charter school is located, an average per pupil amount will be  
578 calculated. This average per pupil amount will be multiplied  
579 times the number of students attending the charter school in that  
580 school district. The sum becomes the charter school's local  
581 contribution to the adequate education program.

582 (b) The State Department of Education shall determine  
583 the following from the annual assessment information submitted to  
584 the department by the tax assessors of the various counties: (i)  
585 the total assessed valuation of nonexempt property for school  
586 purposes in each school district; (ii) assessed value of exempt  
587 property owned by homeowners aged sixty-five (65) or older or  
588 disabled as defined in Section 27-33-67(2), Mississippi Code of  
589 1972; (iii) the school district's tax loss from exemptions  
590 provided to applicants under the age of sixty-five (65) and not  
591 disabled as defined in Section 27-33-67(1), Mississippi Code of  
592 1972; and (iv) the school district's homestead reimbursement  
593 revenues.

594 (c) The amount of the total adequate education program  
595 funding which shall be contributed by each school district shall  
596 be the sum of the ad valorem receipts generated by the millage  
597 required under this subsection plus the following local revenue



598 sources for the appropriate fiscal year which are or may be  
599 available for current expenditure by the school district:

600 One hundred percent (100%) of Grand Gulf income as prescribed  
601 in Section 27-35-309.

602 One hundred percent (100%) of any fees in lieu of taxes as  
603 prescribed in Section 27-31-104.

604 (3) **Computation of the required state effort in support of**  
605 **the adequate education program.**

606 (a) The required state effort in support of the  
607 adequate education program shall be determined by subtracting the  
608 sum of the required local tax effort as set forth in subsection  
609 (2)(a) of this section and the other local revenue sources as set  
610 forth in subsection (2)(c) of this section in an amount not to  
611 exceed twenty-seven percent (27%) of the total projected adequate  
612 education program cost as set forth in subsection (1)(f) of this  
613 section from the total projected adequate education program cost  
614 as set forth in subsection (1)(f) of this section.

615 (b) Provided, however, that in fiscal year 2015, any  
616 increase in the said state contribution to any district calculated  
617 under this section shall be not less than six percent (6%) in  
618 excess of the amount received by said district from state funds  
619 for fiscal year 2002; in fiscal year 2016, any increase in the  
620 said state contribution to any district calculated under this  
621 section shall be not less than four percent (4%) in excess of the  
622 amount received by said district from state funds for fiscal year



623 2002; in fiscal year 2017, any increase in the said state  
624 contribution to any district calculated under this section shall  
625 be not less than two percent (2%) in excess of the amount received  
626 by said district from state funds for fiscal year 2002; and in  
627 fiscal year 2018 and thereafter, any increase in the said state  
628 contribution to any district calculated under this section shall  
629 be zero percent (0%). For purposes of this paragraph (b), state  
630 funds shall include minimum program funds less the add-on  
631 programs, State Uniform Millage Assistance Grant Funds, Education  
632 Enhancement Funds appropriated for Uniform Millage Assistance  
633 Grants and state textbook allocations, and State General Funds  
634 allocated for textbooks.

635 (c) If the school board of any school district shall  
636 determine that it is not economically feasible or practicable to  
637 operate any school within the district for the full one hundred  
638 eighty (180) days required for a school term of a scholastic year  
639 as required in Section 37-13-63, Mississippi Code of 1972, due to  
640 an enemy attack, a man-made, technological or natural disaster in  
641 which the Governor has declared a disaster emergency under the  
642 laws of this state or the President of the United States has  
643 declared an emergency or major disaster to exist in this state,  
644 said school board may notify the State Department of Education of  
645 such disaster and submit a plan for altering the school term. If  
646 the State Board of Education finds such disaster to be the cause  
647 of the school not operating for the contemplated school term and



648 that such school was in a school district covered by the  
649 Governor's or President's disaster declaration, it may permit said  
650 school board to operate the schools in its district for less than  
651 one hundred eighty (180) days and, in such case, the State  
652 Department of Education shall not reduce the state contributions  
653 to the adequate education program allotment for such district,  
654 because of the failure to operate said schools for one hundred  
655 eighty (180) days.

656 (4) The Interim School District Capital Expenditure Fund is  
657 hereby established in the State Treasury which shall be used to  
658 distribute any funds specifically appropriated by the Legislature  
659 to such fund to school districts entitled to increased allocations  
660 of state funds under the adequate education program funding  
661 formula prescribed in Sections 37-151-3 through 37-151-7,  
662 Mississippi Code of 1972, until such time as the said adequate  
663 education program is fully funded by the Legislature. The  
664 following percentages of the total state cost of increased  
665 allocations of funds under the adequate education program funding  
666 formula shall be appropriated by the Legislature into the Interim  
667 School District Capital Expenditure Fund to be distributed to all  
668 school districts under the formula: Nine and two-tenths percent  
669 (9.2%) shall be appropriated in fiscal year 1998, twenty percent  
670 (20%) shall be appropriated in fiscal year 1999, forty percent  
671 (40%) shall be appropriated in fiscal year 2000, sixty percent  
672 (60%) shall be appropriated in fiscal year 2001, eighty percent



673 (80%) shall be appropriated in fiscal year 2002, and one hundred  
674 percent (100%) shall be appropriated in fiscal year 2003 into the  
675 State Adequate Education Program Fund. Until July 1, 2002, such  
676 money shall be used by school districts for the following  
677 purposes:

678 (a) Purchasing, erecting, repairing, equipping,  
679 remodeling and enlarging school buildings and related facilities,  
680 including gymnasiums, auditoriums, lunchrooms, vocational training  
681 buildings, libraries, school barns and garages for transportation  
682 vehicles, school athletic fields and necessary facilities  
683 connected therewith, and purchasing land therefor. Any such  
684 capital improvement project by a school district shall be approved  
685 by the State Board of Education, and based on an approved  
686 long-range plan. The State Board of Education shall promulgate  
687 minimum requirements for the approval of school district capital  
688 expenditure plans.

689 (b) Providing necessary water, light, heating,  
690 air-conditioning, and sewerage facilities for school buildings,  
691 and purchasing land therefor.

692 (c) Paying debt service on existing capital improvement  
693 debt of the district or refinancing outstanding debt of a district  
694 if such refinancing will result in an interest cost savings to the  
695 district.

696 (d) From and after October 1, 1997, through June 30,  
697 1998, pursuant to a school district capital expenditure plan



698 approved by the State Department of Education, a school district  
699 may pledge such funds until July 1, 2002, plus funds provided for  
700 in paragraph (e) of this subsection (4) that are not otherwise  
701 permanently pledged under such paragraph (e) to pay all or a  
702 portion of the debt service on debt issued by the school district  
703 under Sections 37-59-1 through 37-59-45, 37-59-101 through  
704 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,  
705 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt  
706 issued by boards of supervisors for agricultural high schools  
707 pursuant to Section 37-27-65, Mississippi Code of 1972, or  
708 lease-purchase contracts entered into pursuant to Section 31-7-13,  
709 Mississippi Code of 1972, or to retire or refinance outstanding  
710 debt of a district, if such pledge is accomplished pursuant to a  
711 written contract or resolution approved and spread upon the  
712 minutes of an official meeting of the district's school board or  
713 board of supervisors. It is the intent of this provision to allow  
714 school districts to irrevocably pledge their Interim School  
715 District Capital Expenditure Fund allotments as a constant stream  
716 of revenue to secure a debt issued under the foregoing code  
717 sections. To allow school districts to make such an irrevocable  
718 pledge, the state shall take all action necessary to ensure that  
719 the amount of a district's Interim School District Capital  
720 Expenditure Fund allotments shall not be reduced below the amount  
721 certified by the department or the district's total allotment



722 under the Interim Capital Expenditure Fund if fully funded, so  
723 long as such debt remains outstanding.

724 (e) [Repealed]

725 (f) [Repealed]

726 (g) The State Board of Education may authorize the  
727 school district to expend not more than twenty percent (20%) of  
728 its annual allotment of such funds or Twenty Thousand Dollars  
729 (\$20,000.00), whichever is greater, for technology needs of the  
730 school district, including computers, software,  
731 telecommunications, cable television, interactive video, film,  
732 low-power television, satellite communications, microwave  
733 communications, technology-based equipment installation and  
734 maintenance, and the training of staff in the use of such  
735 technology-based instruction. Any such technology expenditure  
736 shall be reflected in the local district technology plan approved  
737 by the State Board of Education under Section 37-151-17,  
738 Mississippi Code of 1972.

739 (h) To the extent a school district has not utilized  
740 twenty percent (20%) of its annual allotment for technology  
741 purposes under paragraph (g), a school district may expend not  
742 more than twenty percent (20%) of its annual allotment or Twenty  
743 Thousand Dollars (\$20,000.00), whichever is greater, for  
744 instructional purposes. The State Board of Education may  
745 authorize a school district to expend more than said twenty  
746 percent (20%) of its annual allotment for instructional purposes



747 if it determines that such expenditures are needed for  
748 accreditation purposes.

749 (i) The State Department of Education or the State  
750 Board of Education may require that any project commenced under  
751 this section with an estimated project cost of not less than Five  
752 Million Dollars (\$5,000,000.00) shall be done only pursuant to  
753 program management of the process with respect to design and  
754 construction. Any individuals, partnerships, companies or other  
755 entities acting as a program manager on behalf of a local school  
756 district and performing program management services for projects  
757 covered under this subsection shall be approved by the State  
758 Department of Education.

759 Any interest accruing on any unexpended balance in the  
760 Interim School District Capital Expenditure Fund shall be invested  
761 by the State Treasurer and placed to the credit of each school  
762 district participating in such fund in its proportionate share.

763 The provisions of this subsection (4) shall be cumulative and  
764 supplemental to any existing funding programs or other authority  
765 conferred upon school districts or school boards.

766 (5) The State Department of Education shall make payments to  
767 charter schools for each student in average daily attendance at  
768 the charter school equal to the state share of the adequate  
769 education program payments for each student in average daily  
770 attendance at the school district in which the public charter  
771 school is located. In calculating the local contribution for



772 purposes of determining the state share of the adequate education  
773 program payments, the department shall deduct the pro rata local  
774 contribution of the school district in which the student resides  
775 as determined in subsection (2)(a) of this section.

776 **SECTION 5.** Section 37-151-101, Mississippi Code of 1972, is  
777 amended as follows:

778 37-151-101. It shall be the duty of the State Department of  
779 Education to file with the State Treasurer and the State Fiscal  
780 Officer such data and information as may be required to enable the  
781 said State Treasurer and State Fiscal Officer to distribute the  
782 common school funds and adequate education program funds by  
783 electronic funds transfer to the several school districts \* \* \*,  
784 charter schools and adequate education program funds by electronic  
785 funds transfer to the Special ESA Fund in the State Treasury at  
786 the time required and provided under the provisions of this  
787 chapter. Such data and information so filed shall show in detail  
788 the amount of funds to which each school district \* \* \*,  
789 school and the Special ESA Fund is entitled from such common  
790 school fund and adequate education program fund. Such data and  
791 information so filed may be revised from time to time as  
792 necessitated by law. At the time provided by law, the State  
793 Treasurer and the State Fiscal Officer shall distribute to the  
794 several school districts \* \* \*, charter schools the amounts to  
795 which they are entitled from the common school fund and shall  
796 distribute to the several school districts, charter schools and



797 the Special ESA Fund the amounts to which they are entitled from  
798 the adequate education program fund as provided by this chapter.  
799 Such distribution shall be made by electronic funds transfer to  
800 the depositories of the several school districts and charter  
801 schools and the Special ESA Fund designated in writing to the  
802 State Treasurer based upon the data and information supplied by  
803 the State Department of Education for such distribution. In such  
804 instances, the State Treasurer shall submit a request for an  
805 electronic funds transfer to the State Fiscal Officer, which shall  
806 set forth the purpose, amount and payees, and shall be in such  
807 form as may be approved by the State Fiscal Officer so as to  
808 provide the necessary information as would be required for a  
809 requisition and issuance of a warrant. A copy of the record of  
810 said electronic funds transfers shall be transmitted by the school  
811 district and charter school depositories to the Treasurer, who  
812 shall file duplicates and a duplicate of electronic funds transfer  
813 to the Special ESA Fund with the State Fiscal Officer. The  
814 Treasurer and State Fiscal Officer shall jointly promulgate  
815 regulations for the utilization of electronic funds transfers to  
816 school districts and charter schools and the Special ESA Fund.

817 **SECTION 6.** Section 37-151-103, Mississippi Code of 1972, is  
818 amended as follows:

819 37-151-103. (1) (a) Subject to the provisions of paragraph  
820 (c) of this subsection, funds due each school district and charter  
821 school under the terms of this chapter from the Adequate Education



822 Program Fund shall be paid in the following manner: Two (2)  
823 business days prior to the last working day of each month there  
824 shall be paid to each school district and charter school, by  
825 electronic funds transfer, one-twelfth (1/12) of the funds to  
826 which the district or charter school is entitled from funds  
827 appropriated for the Adequate Education Program Fund. However, in  
828 December those payments shall be made on December 15th or the next  
829 business day after that date. All school districts shall process  
830 a single monthly payroll for licensed employees and may process a  
831 single monthly or a semimonthly payroll for nonlicensed employees,  
832 in the discretion of the local school board, with electronic  
833 settlement of payroll checks secured through direct deposit of net  
834 pay for all school district employees. In addition, the State  
835 Department of Education may pay school districts and charter  
836 schools from the common school fund and the Adequate Education  
837 Program Fund on a date earlier than provided for by this section  
838 if it is determined that it is in the best interest of school  
839 districts and charter schools to do so.

840 (b) Subject to the provisions of paragraph (c) of this  
841 subsection, funds due the Special ESA Fund in the State Treasury  
842 created under Section 37-181-7 must be credited to the fund in the  
843 following manner: On such date as determined by the State Fiscal  
844 Officer during each quarter of the fiscal year, an amount equal to  
845 one-fourth (1/4) of the entire funds appropriated for that year as  
846 an add-on program cost for Special ESA Fund payments under the



847 Mississippi Adequate Education Program will be credited to the  
848 Special ESA Fund.

849           (c) \* \* \* If the cash balance in the State General Fund  
850 is not adequate on the due date to pay the amounts due to all  
851 school districts and charter schools in the state and the Special  
852 ESA Fund, as determined by the State Superintendent of Public  
853 Education, the State Fiscal Officer shall not transfer said funds  
854 payable to any school district or districts \* \* \*, charter schools  
855 or the Special ESA Fund until money is available to pay the amount  
856 due to all districts \* \* \*, charter schools and the Special ESA  
857 Fund.

858           (2) Notwithstanding any provision of this chapter or any  
859 other law requiring the number of children in average daily  
860 attendance or the average daily attendance of transported children  
861 to be determined on the basis of the preceding year, the State  
862 Board of Education is hereby authorized and empowered to make  
863 proper adjustments in allotments in cases where major changes in  
864 the number of children in average daily attendance or the average  
865 daily attendance of transported children occurs from one year to  
866 another as a result of changes or alterations in the boundaries of  
867 school districts, the sending of children from one county or  
868 district to another upon a contract basis, the termination or  
869 discontinuance of a contract for the sending of children from one  
870 county or district to another, a change in or relocation of  
871 attendance centers, or for any other reason which would result in



872 a major decrease or increase in the number of children in average  
873 daily attendance or the average daily attendance of transported  
874 children during the current school year as compared with the  
875 preceding year.

876 (3) In the event of an inordinately large number of  
877 absentees in any school district or charter school as a result of  
878 epidemic, natural disaster, or any concerted activity discouraging  
879 school attendance, then in such event school attendance for the  
880 purposes of determining average daily attendance under the  
881 adequate education program shall be based upon the average daily  
882 attendance for the preceding school year for such school district  
883 or charter school.

884 **SECTION 7.** Section 37-181-1, Mississippi Code of 1972, is  
885 brought forward as follows:

886 37-181-1. This chapter shall be known and may be cited as  
887 "The Equal Opportunity for Students with Special Needs Act."

888 **SECTION 8.** Section 37-181-3, Mississippi Code of 1972, is  
889 brought forward as follows:

890 37-181-3. The terms used in this chapter shall have the  
891 meanings ascribed herein, unless the context clearly indicates  
892 otherwise:

893 (a) "Program" means a five-year pilot program to  
894 implement the Education Scholarship Account (ESA) program created  
895 in this chapter.



896 (b) "Eligible student" means any student who has had an  
897 active Individualized Education Program (IEP) within the past five  
898 (5) years.

899 (c) "Parent" means a resident of this state who is a  
900 parent, legal guardian, custodian or other person with the  
901 authority to act on behalf of the eligible student.

902 (d) "Department" means the State Department of  
903 Education.

904 (e) "Home school district" means the public school  
905 district in which the student resides.

906 (f) "Eligible school" means a nonpublic school that has  
907 enrolled a participating student. An eligible school must be  
908 accredited by a state or regional accrediting agency or possess a  
909 provisional letter of accreditation from a state or regional  
910 accrediting agency or be approved/licensed by the State Department  
911 of Education. An eligible school does not include a home  
912 instruction program under Section 37-13-91, Mississippi Code of  
913 1972.

914 (g) "Tutor" means a person who is certified or licensed  
915 by a state, regional, or national certification or licensing  
916 organization or who has earned a valid teacher's license or who  
917 has experience teaching at an eligible postsecondary institution.

918 (h) "Postsecondary institution" means a community  
919 college, college, or university accredited by a state, regional or  
920 national accrediting organization.



921           (i) "Educational service provider" means an eligible  
922 school, tutor, or other person or organization that provides  
923 education-related services and products to participating students.

924           **SECTION 9.** Section 37-181-5, Mississippi Code of 1972, is  
925 brought forward as follows:

926           37-181-5. (1) An eligible student shall qualify to  
927 participate in the program if the parent signs an agreement  
928 promising:

929           (a) To provide an organized, appropriate educational  
930 program with measurable annual goals to their participating  
931 student and, to the extent reasonably deemed appropriate by the  
932 parent, to provide an education for the qualified student in at  
933 least the subjects of reading, grammar, mathematics, social  
934 studies and science;

935           (b) To document their participating student's  
936 disability at intervals and in a manner required under subsection  
937 (8) of this section;

938           (c) Not to enroll their participating student in a  
939 public school and to acknowledge as part of the agreement that the  
940 home school district has provided clear notice to the parent that  
941 the participating student has no individual entitlement to a free  
942 appropriate public education (FAPE) from their home school  
943 district, including special education and related services, for as  
944 long as the student is participating in the program;



945 (d) Not to file for their participating student a  
946 certificate of enrollment indicating participation in a home  
947 instruction program under Section 37-13-91, Mississippi Code of  
948 1972; and

949 (e) Not to participate in the Mississippi Dyslexia  
950 Therapy Scholarship for Students with Dyslexia Program or the  
951 Mississippi Speech-Language Therapy Scholarship for Students with  
952 Speech-Language Impairments Program while participating in the ESA  
953 program.

954 (2) Parents shall use the funds deposited in a participating  
955 student's ESA for any of the following qualifying expenses to  
956 educate the student using any of the below methods or combination  
957 of methods that meet the requirement in subsection (1)(a) of this  
958 section:

959 (a) Tuition and/or fees at an eligible school;

960 (b) Textbooks;

961 (c) Payment to a tutor;

962 (d) Payment for purchase of curriculum, including any  
963 supplemental materials required by the curriculum;

964 (e) Fees for transportation to and from an educational  
965 service provider paid to a fee-for-service transportation  
966 provider;

967 (f) Tuition and/or fees for online learning programs or  
968 courses;



969 (g) Fees for nationally standardized norm-referenced  
970 achievement tests, including alternate assessments; and fees for  
971 Advanced Placement examinations or similar courses and any  
972 examinations related to college or university admission;

973 (h) Educational services or therapies from a licensed  
974 or certified practitioner or provider, including licensed or  
975 certified paraprofessionals or educational aides;

976 (i) Services provided by a public school, including  
977 individual classes and extracurricular programs;

978 (j) Tuition and fees at a postsecondary institution;

979 (k) Textbooks related to coursework at a postsecondary  
980 institution;

981 (l) Surety bond payments if required by the department;

982 (m) No more than Fifty Dollars (\$50.00) in annual  
983 consumable school supplies necessary for educational services and  
984 therapies, daily classroom activities, and tutoring;

985 (n) Computer hardware and software and other  
986 technological devices if an eligible school, licensed or certified  
987 tutor, licensed or certified educational service practitioner or  
988 provider, or licensed medical professional verifies in writing  
989 that these items are essential for the student to meet annual,  
990 measurable goals. Once a student is no longer eligible for the  
991 program, computer hardware and software and other technological  
992 devices purchased with ESA funds may be donated to a library or a  
993 nonprofit organization with expertise and training in working with



994 parents to educate children with disabilities or a nonprofit  
995 organization with expertise and training in working with disabled  
996 adults.

997 (3) Neither a participating student, nor anyone on the  
998 student's behalf, may receive cash or cash-equivalent items, such  
999 as gift cards or store credit, from any refunds or rebates from  
1000 any provider of services or products in this program. Any refunds  
1001 or rebates shall be credited directly to the participating  
1002 student's ESA. The funds in an ESA may only be used for  
1003 education-related purposes. Eligible schools, postsecondary  
1004 institutions and educational service providers that serve  
1005 participating students shall provide parents with a receipt for  
1006 all qualifying expenses.

1007 (4) Payment for educational services through an ESA shall  
1008 not preclude parents from paying for educational services using  
1009 non-ESA funds.

1010 (5) ESA funds may not be used to attend an eligible school  
1011 that maintains its primary location in a state other than  
1012 Mississippi unless that school is approved for the Educable Child  
1013 Program; or unless the parent verifies in writing that their child  
1014 cannot reasonably obtain appropriate special education and related  
1015 services in Mississippi at a location within thirty (30) miles of  
1016 their legal residence.

1017 (6) For purposes of continuity of educational attainment,  
1018 students who enroll in the program shall remain eligible to



1019 receive quarterly ESA payments until the participating student  
1020 returns to a public school, completes high school, completes the  
1021 school year in which the student reaches the age of twenty-one  
1022 (21), or does not have eligibility verified by a parent as  
1023 required under subsection (8) of this section, whichever occurs  
1024 first.

1025 (7) Any funds remaining in a student's Education Scholarship  
1026 Account upon completion of high school shall be returned to the  
1027 state's General Fund.

1028 (8) Every three (3) years after initial enrollment in the  
1029 program, a parent of a participating student, except a student  
1030 diagnosed as being a person with a permanent disability, shall  
1031 document that the student continues to be identified by the school  
1032 district, a federal or state government agency, or a licensed  
1033 physician or psychometrist as a child with a disability, as  
1034 defined by the federal Individuals with Disabilities Education Act  
1035 (20 USCS Section 1401(3)).

1036 (9) A participating student shall be allowed to return to  
1037 his home school district at any time after enrolling in the  
1038 program, in compliance with regulations adopted by the department  
1039 providing for the least disruptive process for doing so. Upon a  
1040 participating student's return to his home school district, that  
1041 student's Education Scholarship Account shall be closed and any  
1042 remaining funds shall be returned to the state's General Fund.



1043 (10) The department shall begin accepting applications for  
1044 the program on July 1, 2015.

1045 **SECTION 10.** Section 37-181-11, Mississippi Code of 1972, is  
1046 brought forward as follows:

1047 37-181-11. (1) To ensure that funds are spent  
1048 appropriately, the State Department of Education shall adopt rules  
1049 and policies necessary for the administration of the program,  
1050 including the auditing of Education Scholarship Accounts, and  
1051 shall conduct or contract for random audits throughout the year.

1052 (2) (a) The department or qualified nonprofit shall develop  
1053 a system for payment of benefits, including, but not limited to,  
1054 allowing educational service providers to invoice the department  
1055 or designated nonprofit for qualified expenses consistent with  
1056 Section 37-181-5(2), or allowing parents to seek reimbursement for  
1057 qualified expenses consistent with Section 37-181-5(2).

1058 (b) The department or qualified nonprofit may make  
1059 payments to educational service providers or reimbursement to  
1060 parents via check or warrant or electronic funds transfer or any  
1061 other means of payment deemed to be commercially viable or  
1062 cost-effective.

1063 (c) The department may also establish by rule that some  
1064 payments to educational service providers will be made on a  
1065 quarterly basis, rather than an annual basis, if the educational  
1066 services will be rendered over an extended period of time.



1067 (3) The department shall adopt a process for removing  
1068 educational service providers that defraud parents and for  
1069 referring cases of fraud to law enforcement.

1070 (4) The department shall establish or contract for the  
1071 establishment of an online anonymous fraud reporting service.

1072 (5) The department shall establish or contract for the  
1073 establishment of an anonymous telephone hotline for fraud  
1074 reporting.

1075 **SECTION 11.** Section 37-181-13, Mississippi Code of 1972, is  
1076 brought forward as follows:

1077 37-181-13. (1) The Joint Legislative Committee on  
1078 Performance Evaluation and Expenditure Review (PEER) shall prepare  
1079 a biannual report, beginning in 2018 and every two (2) years  
1080 thereafter, assessing the sufficiency of funding for Education  
1081 Scholarship Accounts and recommending any suggested changes in  
1082 state law or policy necessary to improve the program.

1083 (2) The report shall assess:

1084 (a) The level of participating students' satisfaction  
1085 with the program;

1086 (b) The level of parental satisfaction with the  
1087 program;

1088 (c) Student performance on nationally standardized  
1089 norm-referenced achievement tests for those participating students  
1090 whose parents have requested participation in such tests;



1091 (d) Student performance on Advanced Placement  
1092 examinations or similar courses and any examinations related to  
1093 college or university admission;

1094 (e) The high school graduation rates and college  
1095 acceptance rates of participating students;

1096 (f) The percentage of funds used for each qualifying  
1097 expense identified in Section 37-181-5(2);

1098 (g) The fiscal impact to the state and home school  
1099 districts of the program, which must consider both the impact on  
1100 revenue and the impact on expenses. Furthermore, the fiscal  
1101 savings associated with students departing public schools must be  
1102 explicitly quantified, even if the public school losing the  
1103 student(s) does not reduce its spending accordingly.

1104 (3) The report shall:

1105 (a) Apply appropriate analytical and behavioral science  
1106 methodologies to ensure public confidence in the study; and

1107 (b) Protect the identity of participating students and  
1108 schools by, among other things, keeping anonymous all  
1109 disaggregated data.

1110 (4) PEER may accept grants to assist in funding the study.

1111 (5) PEER shall provide the Legislature with a final copy of  
1112 the evaluation of the program before December 31, 2018. At the  
1113 same time, the study shall also be placed in a prominent location  
1114 on the PEER website.



1115 (6) PEER must make its data and methodology available for  
1116 public review while complying with the requirements of the Family  
1117 Educational Rights and Privacy Act (20 USCS Section 1232(g)).

1118 **SECTION 12.** Section 37-181-15, Mississippi Code of 1972, is  
1119 brought forward as follows:

1120 37-181-15. To ensure that students are treated fairly and  
1121 kept safe, all eligible schools shall:

1122 (a) Comply with the nondiscrimination policies set  
1123 forth in 42 USCS 1981;

1124 (b) Prior to a participating student's application for  
1125 enrollment, provide parents with details of the school's programs,  
1126 qualifications, experience, and capacities to serve students with  
1127 special needs;

1128 (c) Comply with all health and safety laws or codes  
1129 that apply to nonpublic schools;

1130 (d) Hold a valid occupancy permit if required by their  
1131 municipality;

1132 (e) Have no public record of fraud or malfeasance;

1133 (f) Offer participating students the option of taking a  
1134 nationally standardized norm-referenced achievement test;

1135 (g) Conduct criminal background checks on employees.

1136 The eligible school then shall:

1137 (i) Exclude from employment any person not  
1138 permitted by state law to work in a nonpublic school; and



1139                   (ii) Exclude from employment any person who might  
1140 reasonably pose a threat to the safety of students.

1141           **SECTION 13.** Section 37-181-17, Mississippi Code of 1972, is  
1142 brought forward as follows:

1143           37-181-17. (1) An eligible nonpublic school is autonomous  
1144 and not an agent of the state or federal government and therefore:

1145                   (a) The State Department of Education or any other  
1146 government agency shall not in any way regulate the educational  
1147 program of a nonpublic school, postsecondary institution or  
1148 educational service provider that accepts funds from the parent of  
1149 a participating student;

1150                   (b) The creation of the Education Scholarship Account  
1151 program does not expand the regulatory authority of the state, its  
1152 officers, or any school district to impose any additional  
1153 regulation of nonpublic schools, postsecondary institutions or  
1154 educational service providers beyond those necessary to enforce  
1155 the requirements of the program; and

1156                   (c) Eligible schools, postsecondary institutions and  
1157 educational service providers shall be given the maximum freedom  
1158 to provide for the educational needs of their students without  
1159 governmental control. No eligible school, postsecondary  
1160 institution or educational service provider shall be required to  
1161 alter its creed, practices, admission policies or curriculum in  
1162 order to accept participating students.



1163 (2) In any legal proceeding challenging the application of  
1164 this chapter to an eligible school, postsecondary institution or  
1165 educational service provider the state bears the burden of  
1166 establishing that the law is necessary and does not impose any  
1167 undue burden on the eligible school, postsecondary institution or  
1168 educational service provider.

1169 **SECTION 14.** Section 37-181-19, Mississippi Code of 1972, is  
1170 brought forward as follows:

1171 37-181-19. The State Department of Education may receive and  
1172 expend contributions from any public or private source to fund  
1173 ESAs for participating students.

1174 **SECTION 15.** Section 37-181-21, Mississippi Code of 1972, is  
1175 brought forward as follows:

1176 37-181-21. If any provision of this law or its application  
1177 is held invalid, the invalidity does not affect other provisions  
1178 or applications of this law which can be given effect without the  
1179 invalid provision or application and to this end the provisions of  
1180 this law are severable.

1181 **SECTION 16.** This act shall take effect and be in force from  
1182 and after July 1, 2018.

