Mississippi Legislature

 regular session 2019

By: Representative Clark

To: Education; Appropriations

House Bill No. 314

An act to create the "Mississippi universal prekindergarten program act of 2019"; to define the terms used herein; to provide for the public funding of the program which shall be available to parents and families on a voluntary participation basis; to prescribe the minimum standards of education required to be offered to children enrolled in the program; to prescribe the manner by which payments will be made to prekindergarten programs whether such programs be offered through the public school district of residence, an outside district or through a prequalified private provider; to establish the minimum standards required for the prequalification of private providers; to prescribe the manner by which local school districts shall account for students enrolled in prekindergarten programs for purposes of determining average daily attendance to calculate its annual budget request; to provide that the program shall be jointly administered by the state board of education and the division of early childhood care and development, which shall jointly promulgate rules and regulations governing the program; to provide for the expansion of school-based prekindergarten programs; to require the board and the division to establish a process to calculate the annual statewide tuition rate for prekindergarten education; to provide for an administrative procedures process for entities aggrieved by actions of the board and division; to require annual reports on the efficacy of the programs and any recommendation for improvement or discontinuation to the legislature; to bring forward section 37-21-51, Mississippi code of 1972, for the purpose of possible amendment; and for related purposes.

be it enacted by the legislature of the state of Mississippi:

section 1. This act shall be known and may be cited as the "Mississippi Universal Prekindergarten Program Act of 2019."
SECTION 2. (1) As used in this act the following terms shall have the meanings ascribed in this section, unless context clearly indicates otherwise:

(a) "Prekindergarten child" means any children who have not entered kindergarten but will have obtained four (4) years of age on or before September 1 of a school year.

(b) "Prekindergarten education" means services designed to provide to prekindergarten children developmentally appropriate early development and learning experiences based on Vermont's Early Learning Standards.

(c) "Prequalified private provider" has the same meaning as prescribed in Section 37-21-51. The term also means a private provider of prekindergarten education that is qualified pursuant to subsection (3) of this section.

(2) (a) No fewer than ten (10) hours per week of publicly funded prekindergarten education shall be available for thirty-five (35) weeks annually to each prekindergarten child whom a parent or guardian wishes to enroll in an available, prequalified program operated by a public school district or a private provider.

(b) If a parent or guardian chooses to enroll a prekindergarten child in an available, prequalified program, then, pursuant to the parent or guardian's choice, the school district of residence shall:
(i) Pay tuition pursuant to subsections (4) and (7) of this section upon the request of the parent or guardian to:

1. A prequalified private provider; or

2. A public school located outside the school district that operates a prekindergarten program that has been prequalified pursuant to subsection (3) of this section; or

(ii) Enroll the child in the prekindergarten education program that it operates.

(c) If requested by the parent or guardian of a prekindergarten child, the school district of residence shall pay tuition to a prequalified program operated by a private provider or a public school in another district even if the school district of residence operates a prekindergarten education program.

(d) If the supply of prequalified private and public providers is insufficient to meet the demand for publicly funded prekindergarten education in any region of the state, nothing in this section shall be construed to require a school district to begin or expand a program to satisfy that demand; but rather, in collaboration with the State Department of Education and the Mississippi Department of Human Services, the State Early Childhood Advisory Council shall meet with school districts and private providers in the region to develop a regional plan to expand capacity.

(3) Pursuant to rules jointly developed and administered by the State Board of Education and the Mississippi Department of
Human Services and adopted by the board the State Department of
Education and the Division of Early Childhood Care and Development
jointly may determine that a private or public provider of
prekindergarten education is qualified for purposes of this
section and include the provider in a publicly accessible database
of prequalified providers. At a minimum, the rules shall define
the process by which a provider applies for and maintains
prequalification status, shall identify the minimum quality
standards for prequalification, and shall include the following
requirements:

(a) A program of prekindergarten education, whether
provided by a school district or a private provider, shall have
received National Association for the Education of Young Children
(NAEYC) accreditation;

(b) Approved by the Executive Director of the Division
of Early Childhood Care and Development and the State
Superintendent of Public Education, having met at a minimum, the
following:

(i) Voluntary enrollment of children;

(ii) Collaboration among prekindergarten providers
and other early childhood programs through the establishment of an
early learning collaborative;

(iii) Qualifications of master teachers, teachers
and assistants, which must conform to guidelines in Section
37-21-3;
(iv) At least fifteen (15) hours of annual professional development for program instructional staff, including professional development in early literacy;

(v) The use of state-adopted comprehensive early learning standards;

(vi) The use of a research-based curriculum that is designed to prepare students to be ready for kindergarten, with emphasis in early literacy, and is aligned with the comprehensive early learning standards;

(vii) The use of age-appropriate assessments aligned to the comprehensive early learning standards;

(viii) Teacher/child ratios of one (1) adult for every ten (10) children with a maximum of twenty (20) children per classroom and a minimum of five (5) children per classroom;

(ix) The provision of at least one (1) meal meeting state and federal nutrition guidelines for young children;

(x) Plans to screen and/or refer children for vision, hearing and other health issues;

(xi) Parent involvement opportunities;

(xii) Plans to serve children with disabilities as indicated under IDEA;

(xiii) The number of instructional hours to be provided, which shall equal no less than five hundred forty (540) instructional hours per school year for half-day programs and one
thousand eighty (1,080) instructional hours per school year for full-day programs; and 

(xiv) A budget detailing the use of funds for allowed expenses.

(c) A registered home provider that is not licensed and endorsed in early childhood education or early childhood special education shall receive regular, active supervision and training from a teacher who is licensed and endorsed in early childhood education or in early childhood special education.

(4) (a) On behalf of a resident prekindergarten child, a school district shall pay tuition for prekindergarten education for ten (10) hours per week for thirty-five (35) weeks annually to a prequalified private provider or to a public school outside the school district that is prequalified pursuant to subsection (3) of this section. However, the school district shall pay tuition for weeks that are within the school district's academic year. Tuition paid under this section shall be at a statewide rate, which may be adjusted regionally, that is established annually through a process jointly developed and implemented by the State Department of Education and the Mississippi Department of Human Services. A school district shall pay tuition through a request for remission of payment to the Division of Early Childhood Care and Development upon:

(i) Receiving notice from the child's parent or guardian that the child is or will be admitted to the
prekindergarten education program operated by the prequalified
private provider or the other district; and

(ii) Concurrent enrollment of the prekindergarten
child in the school district of residence for purposes of
budgeting and determining average daily attendance.

(b) In addition to any direct costs of operating a
prekindergarten education program, a school district of residence
shall include anticipated tuition payments and any administrative,
quality assurance, quality improvement, transition planning, or
other prekindergarten-related costs in its annual budget request
presented to the Legislature.

(c) The school district of residence may include within
its average daily attendance any prekindergarten child for whom it
has provided prekindergarten education or on whose behalf it has
paid tuition pursuant to this section.

(d) A prequalified private provider may receive
additional payment directly from the parent or guardian only for
prekindergarten education in excess of the hours paid for by the
school district pursuant to this section or for child care
services, or both. The provider is not bound by the statewide
rate established in this subsection when determining the rates it
will charge the parent or guardian.

(5) The State Superintendent of Public Education and the
Executive Director of the Division of Early Childhood Care and
Development shall jointly develop and agree to rules and present them to the State Board of Education for adoption as follows:

(a) To permit private providers that are not prequalified pursuant to subsection (3) of this section to create new or continue existing partnerships with school districts through which the school district provides supports that enable the provider to fulfill the requirements of subsection (3)(b) or (c), and through which the school district may or may not make in-kind payments as a component of the statewide tuition established under this section.

(b) To authorize a school district to begin or expand a school-based prekindergarten education program only upon prior approval obtained through a process jointly overseen by the State Board of Education and the Division of Early Childhood Care and Development, which shall be based upon analysis of the number of prekindergarten children residing in the school district and the availability of enrollment opportunities with prequalified private providers in the region. Where the data are not clear or there are other complex considerations, the local superintendents of schools may choose to conduct a community needs assessment.

(c) To require that the school district provides opportunities for effective parental participation in the prekindergarten education program.

(d) To establish a process by which:
(i) A parent or guardian notifies the school district that the prekindergarten child is or will be admitted to a prekindergarten education program not operated by the school district and concurrently enrolls the child in the school district pursuant to subsection (4)(a) of this section;

(ii) A school district:

1. Pays tuition pursuant to a schedule that does not inhibit the ability of a parent or guardian to enroll a prekindergarten child in a prekindergarten education program or the ability of a prequalified private provider to maintain financial stability;

2. Enters into an agreement with any provider to which it will pay tuition regarding quality assurance, transition and any other matters; and

(iii) A provider that has received tuition payments under this section on behalf of a prekindergarten child notifies a school district that the child is no longer enrolled.

(e) To establish a process to calculate an annual statewide tuition rate that is based upon the actual cost of delivering ten hours per week of prekindergarten education that meets all established quality standards and to allow for regional adjustments to the rate.

(f) To require a school district to include identifiable costs for prekindergarten programs and essential
early education services in its annual budgets and reports to the local governing authority.

(g) To require a school district to report to the State Department of Education annual expenditures made in support of prekindergarten and education, with distinct figures provided for expenditures made from the State General Fund, from the Mississippi Adequate Education Program Fund and from all other sources, which shall be specified.

(h) To provide an administrative process for:
   (i) A parent, guardian or provider to challenge an action of a school district or the state when the complainant believes that the school district or state is in violation of state statute or rules regarding prekindergarten education; and
   (ii) A school district to challenge an action of a provider or the state when the school district believes that the provider or the state is in violation of state statute or rules regarding prekindergarten education.

(i) To establish a system by which the State Department of Education and Division of Early Childhood Care and Development shall jointly monitor and evaluate prekindergarten education programs to promote optimal outcomes for children and to collect data that will inform future decisions. The department and the division shall be required to report annually to the Legislature in January. At a minimum, the system shall monitor and evaluate:
(i) Programmatic details, including the number of children served, the number of private and public programs operated, and the public financial investment made to ensure access to quality prekindergarten education;

(ii) The quality of public and private prekindergarten education programs and efforts to ensure continuous quality improvements through mentoring, training and technical assistance; and

(iii) The outcomes for children, including school readiness and proficiency in numeracy and literacy.

(j) To establish a process for documenting the progress of children enrolled in prekindergarten education programs and to require public and private providers to use the process to:

(i) Help individualize instruction and improve program practice; and

(ii) Collect and report child progress data to the State Superintendent of Public Education on an annual basis.

(6) Nothing in this section shall be construed to permit or require payment of public funds to a private provider of prekindergarten education in violation of Section 208 of the Mississippi Constitution of 1890 or in violation of the Establishment Clause of the United States Constitution.

(7) (a) Notwithstanding the requirement that a school district pay tuition to any prequalified public or private provider in the state, a school board may choose to limit the
geographic boundaries within which the school district shall pay
tuition by paying tuition solely to those prequalified providers
in which parents and guardians choose to enroll resident
prekindergarten children that are located within the school
district's "prekindergarten region" as determined in paragraph (b)
of this subsection.

(b) For purposes of this subsection, upon application
from the school board, a school district's prekindergarten region
shall be determined jointly by the State Department of Education
and the Division of Early Childhood Care and Development in
consultation with the school board, private providers of
prekindergarten education, parents and guardians of
prekindergarten children, and other interested parties pursuant to
a process adopted by rule under subsection (5) of this section. A
prekindergarten region:

(i) Shall not be smaller than the geographic
boundaries of the school district;

(ii) Shall be based in part upon the estimated
number of prekindergarten children residing in the school district
and in surrounding districts, the availability of prequalified
private and public providers of prekindergarten education,
commuting patterns and other region-specific criteria; and

(iii) Shall be designed to support existing
partnerships between the school district and private providers of
prekindergarten education.
(c) If a school board chooses to pay tuition to providers solely within its prekindergarten region, and if a resident prekindergarten child is unable to access publicly funded prekindergarten education within that region, then the child's parent or guardian may request, and in its discretion, the school district may pay tuition at the statewide rate for a prekindergarten education program operated by a prequalified provider located outside the prekindergarten region.

(d) Except for the narrow exception permitting a school board to limit geographic boundaries under paragraph (a) of this subsection, all other provisions of this section and related rules shall continue to apply.

SECTION 3. (1) For purposes of determining the average daily attendance for the fiscal year 2020 budget, the long-term membership of prekindergarten children shall be the number of prekindergarten children for whom the school district anticipates it will provide prekindergarten education or pay tuition, or both, in fiscal year 2020; and

(2) For purposes of determining the average daily attendance for the fiscal year 2021 budget, the long-term membership of prekindergarten children shall be the total number of prekindergarten children for whom the school district provided prekindergarten education or paid tuition, or both, in fiscal year 2020, adjusted to reflect the difference between the estimated and actual count for that fiscal year.
SECTION 4. (1) The State Department of Education and the Division of Early Childhood Care and Development shall review existing quality standards for prekindergarten education programs and may revise established rules and regulations governing prekindergarten education to require higher standards of quality. However, no new standards shall take effect earlier than July 1, 2021. Changes to the quality standards shall be designed to ensure that programs are based on intentional, evidence-based practices that create a developmentally appropriate environment and support the delivery of an engaging program that supports the social, emotional, intellectual, language, literacy and physical development of prekindergarten children.

(2) In January of the 2020, 2021, and 2022 legislative sessions, the State Department of Education and the Division of Early Childhood Care and Development shall report to the House and Senate Committees on Education, to the House and Senate Committees on Appropriations, the House Committee on Youth and Family Affairs and the Senate Committee on Health and Welfare regarding the quality of prekindergarten education in the state.

(3) The State Department of Education, the Division of Early Childhood Care and Development and the State Early Childhood Advisory Council shall monitor and evaluate access to and enrollment in prekindergarten education programs under Section 2 of this act. On or before January 1, 2021, they shall report to the House and Senate Committees on Education, the House and Senate...
Committees on Appropriations, the House Committee on Ways and Means, and the Senate Committee on Finance regarding their evaluation, conclusions, and any recommendations for amendments to statute or related rule.

(4) The State Department of Education and the Division of Early Childhood Care and Development, in consultation with the Mississippi Association of School Superintendents, the Mississippi School Boards Association, the Mississippi Association of Educators and the State Early Childhood Advisory Council, shall develop a detailed proposal outlining the process and criteria by which the State Department of Education and the Division of Early Childhood Care and Development will determine the prekindergarten region of a school district if requested to do so pursuant to Section 2(7)(b) of this act. The State Department of Education and the Division of Early Childhood Care and Development shall present the proposal to the House and Senate Committees on Education on or before January 1, 2020. The State Department of Education and the Division of Early Childhood Care and Development shall also present any recommendations for amendments to statute, including repeal of or amendments to Section 2(7).

SECTION 5. On or before July 1, 2020, the State Superintendent of Public Education shall identify the private prekindergarten education programs to which school districts are paying tuition on behalf of resident prekindergarten children, determine the extent to which any program provides religious
prekindergarten education, and establish the steps the agency will
take to ensure that public funds are not expended in violation of
Section 208 of the Mississippi Constitution of 1890 or in
violation of the Establishment Clause of the United States
Constitution.

SECTION 6. Section 37-21-51, Mississippi Code of 1972, is
brought forward as follows:

37-21-51. (1) As used in this section:

(a) "Preschool or prekindergarten children" means any
children who have not entered kindergarten but will have obtained
four (4) years of age on or before September 1 of a school year.

(b) An "early learning collaborative" is a district or
countywide council that writes and submits an application to
participate in the voluntary prekindergarten program. An early
learning collaborative is comprised, at a minimum, of a public
school district and/or a local Head Start affiliate if in
existence, private or parochial schools, or one or more licensed
child care centers. Agencies or other organizations that work
with young children and their families may also participate in the
collaborative to provide resources and coordination even if those
agencies or organizations are not prekindergarten providers.

(c) A "prekindergarten provider" is a public, private
or parochial school, licensed child care center or Head Start
center that serves prekindergarten children and participates in
the voluntary prekindergarten program.
(d) A "lead partner" is a public school district or other nonprofit entity with the instructional expertise and operational capacity to manage the early learning collaborative's prekindergarten program as described in the collaborative's approved application for funds. The lead partner serves as the fiscal agent for the collaborative and shall disburse awarded funds in accordance with the collaborative's approved application. The lead partner must facilitate a professional learning community for the teachers in the prekindergarten program and lead the collaborative. The lead partner ensures that the collaborative adopts and implements curriculum and assessments that align with the comprehensive early learning standards. The public school district shall be the lead partner if no other qualifying lead partner is selected.

(e) "Comprehensive early learning standards" are standards adopted by the State Board of Education that address the highest level of fundamental domains of early learning to include, but not be limited to, physical well-being and motor development, social/emotional development, approaches toward learning, language development and cognition and general knowledge. The comprehensive early learning standards shall also include standards for emergent literacy skills, including oral communication, knowledge of print and letters, phonological and phonemic awareness, and vocabulary and comprehension development.
(f) A "research-based curriculum" is an age-appropriate curriculum that is based on the findings of current research and has been found to be effective in improving student learning.

(2) To ensure that all children have access to quality early childhood education and development services, the Legislature finds and declares the following:

(a) Parents have the primary duty to educate their young preschool children;

(b) The State of Mississippi can assist and educate parents in their role as the primary caregivers and educators of young preschool children;

(c) There is a need to explore innovative approaches and strategies for aiding parents and families in the education and development of young preschool children; and

(d) There exists a patchwork of prekindergarten entities but no coordination of services and there needs to be a coordination of these services.

(3) (a) This subsection shall be known and may be cited as the "Early Learning Collaborative Act of 2013."

(b) Effective with the 2013-2014 school year, the Mississippi State Department of Education shall establish a voluntary prekindergarten program, which shall be a collaboration among the entities providing prekindergarten programs including Head Start, licensed child care facilities and licensed public, parochial and private school prekindergarten programs. This
program shall be implemented no later than the 2014-2015 school year. Enrollment in the prekindergarten program shall be coordinated with the Head Start agencies in the local areas and shall not be permitted to cause a reduction in children served by the Head Start program. Under this program, eligible entities may submit an application for funds to (i) defray the cost of additional and/or more qualified teaching staff, appropriate educational materials and equipment and to improve the quality of educational experiences offered to four-year-old children in early care and education programs, and/or to (ii) extend developmentally appropriate education services at such programs currently serving four-year-old children to include practices of high quality instruction, and to (iii) administer, implement, monitor and evaluate the programs, and to (iv) defray the cost of professional development and age-appropriate child assessment.

(c) Subject to the availability of funds appropriated therefor, the State Department of Education shall administer the implementation, monitoring and evaluation of the voluntary prekindergarten program, including awards and the application process.

(i) The department shall establish a rigorous and transparent application process for the awarding of funds. Lead partners shall submit the applications on behalf of their early learning collaborative.
(ii) The department will establish monitoring policies and procedures that, at a minimum, will include at least one (1) site visit a year.

(iii) The department will provide technical assistance to collaboratives and their providers to improve the quality of prekindergarten programs.

(iv) The department will evaluate the effectiveness of each early childhood collaborative and each prekindergarten provider. If the State Department of Education adopts a statewide kindergarten screening that assesses the readiness of each student for kindergarten, the State Department of Education shall adopt a minimum rate of readiness that each prekindergarten provider must meet in order to remain eligible for prekindergarten program funds. Each parent who enrolls his or her child in the prekindergarten program must submit the child for the statewide kindergarten screening, regardless of whether the child is admitted to kindergarten in a public school.

(d) Prekindergarten program funds shall be awarded to early childhood collaboratives whose proposed programs meet the program criteria. The criteria shall include:

(i) Voluntary enrollment of children;

(ii) Collaboration among prekindergarten providers and other early childhood programs through the establishment of an early learning collaborative;
(iii) Qualifications of master teachers, teachers and assistants, which must conform to guidelines in Section 37-21-3;

(iv) At least fifteen (15) hours of annual professional development for program instructional staff, including professional development in early literacy;

(v) The use of state-adopted comprehensive early learning standards;

(vi) The use of a research-based curriculum that is designed to prepare students to be ready for kindergarten, with emphasis in early literacy, and is aligned with the comprehensive early learning standards;

(vii) The use of age-appropriate assessments aligned to the comprehensive early learning standards;

(viii) Teacher/child ratios of one (1) adult for every ten (10) children with a maximum of twenty (20) children per classroom and a minimum of five (5) children per classroom;

(ix) The provision of at least one (1) meal meeting state and federal nutrition guidelines for young children;

(x) Plans to screen and/or refer children for vision, hearing and other health issues;

(xi) Parent involvement opportunities;

(xii) Plans to serve children with disabilities as indicated under IDEA;
(xiii) The number of instructional hours to be provided, which shall equal no less than five hundred forty (540) instructional hours per school year for half-day programs and one thousand eighty (1,080) instructional hours per school year for full-day programs; and

(xiv) A budget detailing the use of funds for allowed expenses.

Participating child care centers shall: (a) meet state child care facility licensure requirements unless exempted under Section 43-20-5, Mississippi Code of 1972, and (b) select and utilize a nationally recognized assessment tool, approved by the State Department of Education, designed to document classroom quality, which must be in place not later than July 1, 2016, as certified by the State Department of Education.

Within the prekindergarten program, a prekindergarten provider must comply with the antidiscrimination requirements applicable to public schools. A prekindergarten provider may not discriminate against a parent or child, including the refusal to admit a child for enrollment in the prekindergarten program, in violation of these antidiscrimination requirements. However, a prekindergarten provider may refuse to admit a child based on the provider's standard eligibility guidelines, provided that these guidelines do not violate the antidiscrimination requirements.

Consistent with the Legislature's recognition of the primacy of a parent's role in the education of a preschool-age child and the
related recognition of the state in assisting and educating parents in that role, if the State Department of Education adopts a statewide kindergarten screening that assesses the readiness of each student for kindergarten, the State Department of Education shall recognize each child's unique pattern of development when adopting a minimum rate of readiness that prekindergarten providers must meet in order to remain eligible for prekindergarten program funds. Each parent who enrolls his or her child in the prekindergarten program may submit the child for the statewide kindergarten screening, regardless of whether the child is admitted to kindergarten in a public school.

The State Department of Education may add program criteria not inconsistent with these requirements and shall develop policies and procedures to implement and enforce these criteria.

(e) The State Department of Education shall ensure that early learning collaboratives provide each parent enrolling a child in the voluntary prekindergarten program with a profile of every prekindergarten provider participating in the collaborative's geographic catchment area. The State Department of Education shall prescribe the information to be included in each profile as well as the format of the profiles. At a minimum, the profiles must include the prekindergarten provider's services, curriculum, instructor credentials and instructor-to-student ratio.
(f) A teacher, assistant teacher or other employee whose salary and fringe benefits are paid from state funds under this act shall only be classified as a state or local school district employee eligible for state health insurance benefits or membership in the Public Employees' Retirement System, if the person's employer is already an agency or instrumentality of the state, such as a school district, and the employee would be eligible for such benefits in the normal course of business.

(g) Funding shall be provided for this program beginning with the 2014 fiscal year subject to appropriation by the Legislature as provided in paragraph (h) of this subsection. The department shall make an annual report to the Legislature and the Governor regarding the effectiveness of the program. The PEER Committee shall review those reports and other program data and submit an independent evaluation of program operation and effectiveness to the Legislature and the Governor on or before October 1 of the calendar year before the beginning of the next phased-in period of funding.

(h) The Legislature shall appropriate funds to implement the Early Education Collaborative Act of 2013 on a phased-in basis as follows:

1. The first phase shall be based on an annual state appropriation of not more than Eight Million Dollars ($8,000,000.00) and shall serve approximately three thousand five
hundred (3,500) children through five (5) to eight (8) early learning collaboratives and their prekindergarten providers;

2. The second phase shall be based on an annual state appropriation of not more than Sixteen Million Dollars ($16,000,000.00) and shall serve approximately seven thousand (7,000) children through ten (10) to fifteen (15) early learning collaboratives and their prekindergarten providers;

3. The third phase shall be based on an annual state appropriation of not more than Thirty-three Million Nine Hundred Fifty Thousand Dollars ($33,950,000.00) and shall serve approximately fifteen thousand (15,000) children through twenty (20) to twenty-five (25) early learning collaboratives and their prekindergarten providers.

(ii) Future phases shall be based on interest in the program and the effectiveness of the program as determined by the school readiness of participants. Each phase shall last for at least three (3) years but no more than five (5) years. The State Department of Education shall determine when to move to a new phase of the program, within the timeline provided herein.

(iii) Funding shall be provided to early learning collaboratives on the basis of Two Thousand One Hundred Fifty Dollars ($2,150.00) per student in a full-day program and One Thousand Seventy-five Dollars ($1,075.00) per student in a half-day program proposed in the collaborative's approved application. Once an early learning collaborative's plan is
approved and funded, the collaborative and/or its prekindergarten providers shall receive funds on an ongoing basis unless the collaborative and/or its prekindergarten providers no longer meet the criteria to participate in the program.

(iv) Early learning collaboratives shall match state funds on a 1:1 basis. Local matching funds may include local tax dollars, federal dollars as allowed, parent tuition, philanthropic contributions, or in-kind donations of facilities, equipment and services required as part of the program such as food service or health screenings.

(v) The State Department of Education shall reserve no more than five percent (5%) of the appropriation in any year for administrative costs. Funds remaining after awards to early learning collaboratives and the department's administrative needs are met may be carried over in the following year. In the first year of implementation of the program, the department may delay the awarding of funds until the 2014-2015 school year should time not be sufficient to establish the program's operation prior to the 2013-2014 school year.

(vi) In the initial phase of implementation, the State Department of Education shall award state funds under the Early Learning Collaborative Act of 2013 based on a community's capacity, commitment and need. To determine capacity, commitment and need, the State Department of Education shall require evidence of existing strong local collaborations of early education
stakeholders. Such evidence shall include, but not be limited to, collaborations resulting from any of the following:

1. Participation in Excel By 5;
2. Participation in Supporting Partnerships to Assure Ready Kids (SPARK);
3. Participation in the Gilmore Early Learning Initiative (GELI); or
4. Participation in the Mississippi Building Blocks.

In determining community need, the department shall consider low academic achievement within the public school districts participating in an applicant early learning collaborative and the number and percentage of children without quality prekindergarten options.

(vii) All authority granted to the State Department of Education to establish program rules is subject to the public processes established in the provisions of the Mississippi Administrative Procedures Law, including, but not limited to, filing notice of the proposed rules, public hearings and any economic impact statement with the Office of the Secretary of State before presenting such information to the State Board of Education for final approval.

SECTION 7. If any provisions of Sections 1 through 5 of this act, or the application of a provision to any person or circumstances, shall be held invalid, the remainder of this act,
and the application of the provision to persons or circumstances
other than those to which it is held invalid, shall not be
affected.

**SECTION 8.** This act shall take effect and be in force from
and after July 1, 2019.