

By: Senator(s) DeBar

To: Education;  
Appropriations

SENATE BILL NO. 2594

1 AN ACT TO REENACT SECTION 37-181-1, MISSISSIPPI CODE OF 1972,  
2 WHICH IS THE TITLE SECTION OF THE EQUAL OPPORTUNITY FOR STUDENTS  
3 WITH SPECIAL NEEDS ACT; TO AMEND SECTION 37-181-3, MISSISSIPPI  
4 CODE OF 1972, TO REVISE CERTAIN DEFINITIONS; TO AMEND SECTION  
5 37-181-5, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT QUALIFYING  
6 EXPENSES MUST HAVE BEEN INCURRED WITHIN THE AWARDED ESA SCHOOL  
7 YEAR; TO PROVIDE THAT COMPUTER HARDWARE AND SOFTWARE PURCHASED  
8 WITH ESA FUNDS SHALL BE DONATED TO A PUBLIC SCHOOL OR LIBRARY ONCE  
9 A STUDENT IS NO LONGER ELIGIBLE FOR THE ESA PROGRAM; TO PROVIDE  
10 THAT AN ORIGINAL ITEMIZED RECEIPT FOR EXPENSES IS TO BE RETURNED  
11 TO THE DEPARTMENT; TO PROVIDE THAT A STUDENT'S REMAINING ESA FUNDS  
12 SHALL BE DISTRIBUTED TO THE STUDENT'S HOME SCHOOL DISTRICT UPON A  
13 STUDENT'S RETURN TO HIS OR HER HOME SCHOOL DISTRICT; TO AMEND  
14 SECTION 37-181-7, MISSISSIPPI CODE OF 1972, TO REQUIRE THE  
15 DEPARTMENT TO MAINTAIN THE WAITLIST FOR ELIGIBLE STUDENTS IN  
16 CHRONOLOGICAL ORDER; TO AMEND SECTION 37-181-9, MISSISSIPPI CODE  
17 OF 1972, TO REMOVE THE AUTHORITY OF THE DEPARTMENT TO CONTRACT  
18 WITH A QUALIFIED NONPROFIT ORGANIZATION TO ADMINISTER THE ESA  
19 PROGRAM; TO AMEND SECTION 37-181-11, MISSISSIPPI CODE OF 1972, TO  
20 CLARIFY THAT ONLY THE PARENT OR GUARDIAN WHO SUBMITTED THE ESA  
21 APPLICATION IS AUTHORIZED TO SEEK REIMBURSEMENT FOR QUALIFIED  
22 EXPENSES; TO AMEND SECTION 37-181-13, MISSISSIPPI CODE OF 1972, TO  
23 REVISE PEER'S REVIEW OF THE ESA PROGRAM; TO AMEND SECTION  
24 37-181-15, MISSISSIPPI CODE OF 1972, TO REQUIRE ELIGIBLE SCHOOLS  
25 TO PROVIDE PARENTS WITH DETAILS OF ITS STUDENTS' RECORD OF  
26 ACHIEVEMENT AND ITS CAPACITY TO SERVE THE PARTICIPATING STUDENTS  
27 WITHIN THE SCOPE OF THEIR IEP; TO REQUIRE ELIGIBLE SCHOOLS TO  
28 MANDATE A STUDENT ASSESSMENT; TO REQUIRE ELIGIBLE SCHOOLS TO  
29 NOTIFY A PARENT OR GUARDIAN APPLYING FOR THE ESA PROGRAM THAT THE  
30 PARENT OR GUARDIAN WAIVES THE RIGHT OF THE PARTICIPATING STUDENT  
31 TO AN INDIVIDUAL ENTITLEMENT TO A FREE AND APPROPRIATE PUBLIC  
32 EDUCATION; TO AMEND SECTION 37-181-17, MISSISSIPPI CODE OF 1972,  
33 TO LIMIT THE DEPARTMENT'S REGULATION OF THE EDUCATIONAL PROGRAM OF  
34 A NONPUBLIC SCHOOL, POSTSECONDARY INSTITUTION OR EDUCATIONAL



35 SERVICE PROVIDER TO THE AUTHORITY OF THIS CHAPTER; TO REQUIRE  
36 PARTICIPATING SCHOOLS TO SUBMIT STUDENT PERFORMANCE DATA TO THE  
37 DEPARTMENT AT THE END OF THE SCHOOL YEAR; TO REENACT SECTION  
38 37-181-19, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT THE  
39 DEPARTMENT MAY RECEIVE AND EXPEND CONTRIBUTIONS FROM ANY PUBLIC OR  
40 PRIVATE SOURCE TO FUND ESAS FOR PARTICIPATING STUDENTS; TO REENACT  
41 SECTION 37-181-21, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT  
42 THE PROVISIONS OF THIS ACT ARE SEVERABLE; TO CREATE NEW SECTION  
43 37-181-23, MISSISSIPPI CODE OF 1972, TO CODIFY AND EXTEND THE DATE  
44 OF THE AUTOMATIC REPEALER ON SECTIONS 37-181-1 THROUGH 37-181-23;  
45 TO AMEND SECTION 12, CHAPTER 441, LAWS OF 2015, TO DELETE THE  
46 AUTOMATIC REPEALER FROM WITHIN THE CHAPTER LAWS; AND FOR RELATED  
47 PURPOSES.

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

49 **SECTION 1.** Section 37-181-1, Mississippi Code of 1972, is  
50 reenacted as follows:

51 37-181-1. This chapter shall be known and may be cited as  
52 "The Equal Opportunity for Students with Special Needs Act."

53 **SECTION 2.** Section 37-181-3, Mississippi Code of 1972, is  
54 amended as follows:

55 37-181-3. The terms used in this chapter shall have the  
56 meanings ascribed herein, unless the context clearly indicates  
57 otherwise:

58 (a) "ESA program" means \* \* \* the Education Scholarship  
59 Account (ESA) program created in this chapter.

60 (b) "Eligible student" means any student who has had an  
61 active Individualized Education Program (IEP) within the  
62 past \* \* \* three (3) years and has maintained eligibility.

63 (c) "Participating student" means any student who meets  
64 the qualifications of an eligible student as defined in paragraph  
65 (b) of this section and is participating in an ESA program at an  
66 eligible school.



67 ( \* \* \*d) "Parent" means a resident of this state who  
68 is a parent, legal guardian, custodian or other person with the  
69 authority to act on behalf of the eligible student.

70 ( \* \* \*e) "Department" means the State Department of  
71 Education.

72 ( \* \* \*f) "Home school district" means the public  
73 school district in which the student resides.

74 ( \* \* \*g) "Eligible school" means a state-accredited  
75 nonpublic special purpose school, an accredited online learning  
76 program, or a nonpublic school with a special purpose program, as  
77 defined in Section 37-181-3(g), that has enrolled \* \* \* an  
78 eligible student. \* \* \* An eligible school does not include a  
79 home instruction program under Section 37-13-91, Mississippi Code  
80 of 1972, or a nonpublic school which does not independently,  
81 without assistance from the local education agency or the  
82 participating child's home school district, provide any services  
83 for students with disabilities or special education needs in  
84 accordance with federal law and applicable statutes and  
85 regulations, or in accordance with a participating student's IEP.

86 ( \* \* \*h) "Special purpose" within the meaning of  
87 Section 37-181-3(f) shall mean a state-accredited nonpublic school  
88 which independently, without assistance from the local education  
89 agency or the participating child's home school district, provides  
90 services for students with disabilities in accordance with federal  
91 law and applicable state statutes or regulations, and in



92 accordance with a participating student's IEP, or program at a  
93 nonpublic school which independently, without assistance from the  
94 local education agency or the participating child's home school  
95 district, provides services for students with disabilities or  
96 special education needs in accordance with federal law and  
97 applicable state statutes and regulations, and in accordance with  
98 a participating student's IEP.

99 ( \* \* \*i) "Tutor" means a person who is certified or  
100 licensed by a state, regional, or national certification, \* \* \*  
101 licensing, or accreditation organization or who has earned a valid  
102 teacher's license or who has experience teaching at an eligible  
103 postsecondary institution.

104 ( \* \* \*j) "Postsecondary institution" means a community  
105 college, college, or university accredited by a state, regional or  
106 national accrediting organization.

107 ( \* \* \*k) "Educational service provider" means an  
108 eligible school, tutor, or other person or organization that  
109 provides education-related services and products to participating  
110 students.

111 ( \* \* \*l) "Awarded ESA school year" means the duration  
112 of the academic school year in which ESA program funds are  
113 deposited in a student's ESA.

114 **SECTION 3.** Section 37-181-5, Mississippi Code of 1972, is  
115 amended as follows:



116 37-181-5. (1) An eligible student shall qualify to  
117 participate in the ESA program if the parent signs an agreement  
118 promising:

119 (a) To provide an organized, appropriate educational  
120 program with measurable annual goals to their participating  
121 student and \* \* \* to provide an education for the \* \* \*  
122 participating student in at least the subjects of reading,  
123 grammar, mathematics, social studies and science;

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

127 (c) Not to enroll their participating student in a  
128 public school and to acknowledge as part of the agreement that  
129 the \* \* \* eligible school has provided clear notice to the parent  
130 that the participating student has no individual entitlement to a  
131 free appropriate public education (FAPE) from their home school  
132 district, including special education and related services, for as  
133 long as the student is participating in the ESA program;

134 (d) Not to file for their participating student a  
135 certificate of enrollment indicating participation in a home  
136 instruction program under Section 37-13-91, Mississippi Code of  
137 1972; and

138 (e) Not to participate in the Mississippi Dyslexia  
139 Therapy Scholarship for Students with Dyslexia Program or the  
140 Mississippi Speech-Language Therapy Scholarship for Students with



141 Speech-Language Impairments Program while participating in the ESA  
142 program.

143 (2) Parents shall use the funds deposited in a participating  
144 student's ESA for any of the following qualifying expenses, which  
145 shall be incurred within the awarded ESA school year, to educate  
146 the student using any of the below methods or combination of  
147 methods that meet the requirement in subsection (1)(a) of this  
148 section:

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

150 (b) Textbooks related to academic coursework;

151 (c) Payment to a tutor, as defined in Section  
152 37-181-3(g);

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

155 \* \* \*

156 ( \* \* \*e) Tuition and/or fees for online learning  
157 programs or academic courses designed to result in earning a high  
158 school diploma, alternate diploma, certificate or equivalency;

159 ( \* \* \*f) Fees for nationally standardized  
160 norm-referenced achievement tests, including alternate  
161 assessments; and fees for Advanced Placement examinations or  
162 similar courses and any examinations related to college or  
163 university admission;



164 ( \* \* \*g) Educational services or therapies from a  
165 licensed or certified practitioner or provider, including licensed  
166 or certified paraprofessionals or educational aides;

167 \* \* \*

168 ( \* \* \*h) Tuition and fees related to dual enrollment  
169 at a postsecondary institution;

170 ( \* \* \*i) Textbooks related to academic coursework at a  
171 postsecondary institution;

172 ( \* \* \*j) Surety bond payments if required by the  
173 department;

174 ( \* \* \*k) No more than Fifty Dollars (\$50.00) in annual  
175 consumable school supplies necessary for educational services and  
176 therapies, daily classroom activities, and tutoring;

177 ( \* \* \*l) Computer hardware and software and other  
178 technological devices if an eligible school, licensed or certified  
179 tutor, licensed or certified educational service practitioner or  
180 provider, or licensed medical professional verifies in writing  
181 that these items are essential for the student to meet annual,  
182 measurable educational and academic goals or goals within the  
183 scope of the eligible student's IEP. Once a student is no  
184 longer \* \* \* participating in the ESA program, computer hardware  
185 and software and other technological devices purchased with ESA  
186 funds \* \* \* shall be donated to a public school or public library.  
187 Qualifying expenses for computer hardware and software include  
188 only those expenses incurred within the awarded ESA school year.



189 (3) Neither a participating student, nor anyone on the  
190 student's behalf, may receive cash or cash-equivalent items, such  
191 as gift cards or store credit, from any refunds or rebates from  
192 any provider of services or products in \* \* \* the ESA program.  
193 Any refunds or rebates shall be credited directly to the  
194 participating student's ESA. The funds in an ESA may only be used  
195 for education-related purposes as defined in this chapter.

196 (4) (a) Eligible schools, postsecondary institutions and  
197 educational service providers that serve participating students  
198 shall provide \* \* \* the parent or guardian who submitted the ESA  
199 program application with \* \* \* an original itemized receipt,  
200 including the service provider's name and address, for all  
201 qualifying expenses. The parent or guardian who submitted the ESA  
202 application shall provide the original itemized receipt to the  
203 department.

204 (b) In lieu of providing the parent or guardian who  
205 submitted the ESA program application with an original itemized  
206 receipt, the eligible schools, postsecondary institutions and  
207 educational service providers may provide to the department an  
208 original itemized receipt, including the service provider's name  
209 and address, for all qualifying expenses.

210 ( \* \* \* 5) Payment for educational services through an ESA  
211 shall not preclude parents from paying for educational services  
212 using non-ESA funds.

213 \* \* \*





214 (6) For purposes of continuity of educational attainment,  
215 students who enroll in the ESA program shall remain eligible to  
216 receive quarterly ESA payments until the participating student  
217 returns to a public school, completes high school, completes the  
218 school year in which the student reaches the age of twenty-one  
219 (21), or does not have eligibility verified by a parent as  
220 required under subsection (8) of this section, whichever occurs  
221 first.

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

225 (8) Every three (3) years after initial enrollment in the  
226 ESA program, a parent of a participating student, except a student  
227 diagnosed as being a person with a permanent disability, shall  
228 document that the student continues to be identified by the school  
229 district, a federal or state government agency, or a licensed  
230 physician or psychometrist as a child with a disability, as  
231 defined by the federal Individuals with Disabilities Education Act  
232 (20 USCS Section 1401(3)).

233 (9) \* \* \* An eligible student shall be allowed to return to  
234 his home school district at any time after enrolling in the ESA  
235 program, in compliance with regulations adopted by the department  
236 providing for the least disruptive process for doing so.  
237 Upon \* \* \* the participating student's return to his or her home  
238 school district, \* \* \* the student's Education Scholarship Account



239 shall be closed and any remaining funds shall be \* \* \* distributed  
240 to the \* \* \* student's home school district at the end of the  
241 awarded ESA school year.

242 (10) The department shall begin accepting applications for  
243 the ESA program on July 1, 2015.

244 **SECTION 4.** Section 37-181-7, Mississippi Code of 1972, is  
245 amended as follows:

246 37-181-7. (1) The ESA program created in this chapter shall  
247 be limited to five hundred (500) students in the school year  
248 2015-2016, with new enrollment limited to five hundred (500)  
249 additional students each year thereafter. Subject to  
250 appropriation from the General Fund, each student's ESA shall be  
251 funded at Six Thousand Five Hundred Dollars (\$6,500.00) for school  
252 year 2015-2016. For each subsequent year, this amount shall  
253 increase or decrease by the same proportion as the base student  
254 cost under Section 37-151-7(1)(b) is increased or decreased.

255 (2) Subject to appropriation, eligible students shall be  
256 approved for participation in the ESA program as follows:

257 (a) Until participation in the ESA program reaches  
258 fifty percent (50%) of the annual enrollment limits in subsection  
259 (1) of this section, students shall be approved on a first-come,  
260 first-served basis, with applications being reviewed on a rolling  
261 basis;

262 (b) After participation reaches fifty percent (50%) of  
263 the annual enrollment limits in subsection (1) of this section,



264 the department shall set annual application deadlines for the  
265 remaining number of available ESAs and begin to maintain a waiting  
266 list of eligible students. \* \* \* The waitlist will be maintained  
267 in the chronological order in which applications are received.  
268 The department shall award ESA program applications in  
269 chronological order according to the waitlist; and

270 (c) Participating students who remain eligible for the  
271 ESA program are automatically approved for participation for the  
272 following year and are not subject to the random selection  
273 process.

274 (3) No funds for an ESA may be expended from the Mississippi  
275 Adequate Education Program, nor shall any school district be  
276 required to provide funding for an ESA.

277 **SECTION 5.** Section 37-181-9, Mississippi Code of 1972, is  
278 amended as follows:

279 37-181-9. (1) The department shall create a standard form  
280 that parents of students submit to establish their student's  
281 eligibility for an Education Scholarship Account. The department  
282 shall ensure that the application is readily available to  
283 interested families through various sources, including the  
284 department's website and the copy of procedural safeguards  
285 annually given to parents.

286 (2) The department shall provide parents of participating  
287 students with a written explanation of the allowable uses of  
288 Education Scholarship Accounts, the responsibilities of parents



289 and the duties of the department. This information shall also be  
290 made available on the department's website.

291 (3) The department shall annually notify all students with  
292 an IEP of the existence of the ESA program and shall ensure that  
293 lower-income families are made aware of their potential  
294 eligibility.

295 (4) The department may deduct an amount up to a limit of six  
296 percent (6%) from appropriations used to fund Education  
297 Scholarship Accounts to cover the costs of overseeing the funds  
298 and administering the ESA program.

299 (5) (a) The department shall make a determination of  
300 eligibility, and shall approve the application, within twenty-one  
301 (21) business days of receiving an application for participation  
302 in the ESA program, subject to the provisions of Section  
303 37-181-3(b).

304 (b) The department shall provide for a procedure that  
305 children with a ruling of hearing impairment or children suspected  
306 of a hearing loss shall receive a comprehensive educational  
307 assessment which may include the areas of cognitive development,  
308 language/speech, audiological and academic achievement from the  
309 state-funded Mississippi Assistance Center for Hearing Loss.  
310 Children with a ruling of visual impairment or children suspected  
311 of a visual impairment shall receive a comprehensive low vision  
312 evaluation from the state-funded Low Vision Clinic.



313 (6) The home school district shall provide the parent of a  
314 participating student with a complete copy of the student's school  
315 records, while complying with the Family Educational Rights and  
316 Privacy Act of 1974 (20 USCS Section 1232(g)). The record shall  
317 be provided no later than thirty (30) days after a parent signs an  
318 agreement to participate in the ESA program.

319 \* \* \*

320 **SECTION 6.** Section 37-181-11, Mississippi Code of 1972, is  
321 amended as follows:

322 37-181-11. (1) To ensure that funds are spent  
323 appropriately, the State Department of Education shall adopt rules  
324 and policies necessary for the administration of the ESA program,  
325 including the auditing of Education Scholarship Accounts, and  
326 shall conduct or contract for random audits throughout the year.

327 (2) (a) The department \* \* \* shall develop a system for  
328 payment of benefits, including, but not limited to, allowing  
329 educational service providers to invoice the department \* \* \* for  
330 qualified expenses consistent with Section 37-181-5(2), or  
331 allowing \* \* \* the parent or guardian who submitted the ESA  
332 program application to seek reimbursement for qualified expenses  
333 consistent with Section 37-181-5(2).

334 (b) The department \* \* \* may make payments to  
335 educational service providers or reimbursement to \* \* \* the parent  
336 or guardian who submitted the ESA program application via check or



337 warrant or electronic funds transfer or any other means of payment  
338 deemed to be commercially viable or cost-effective.

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

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

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

348 (5) The department shall establish or contract for the  
349 establishment of an anonymous telephone hotline for fraud  
350 reporting.

351 **SECTION 7.** Section 37-181-13, Mississippi Code of 1972, is  
352 amended as follows:

353 37-181-13. (1) The Joint Legislative Committee on  
354 Performance Evaluation and Expenditure Review (PEER) shall prepare  
355 a biannual report, beginning in 2018 and every two (2) years  
356 thereafter, assessing \* \* \* efficacy of Education Scholarship  
357 Accounts, to include the sufficiency of funding, and recommending  
358 any suggested changes in state law or policy necessary to improve  
359 the ESA program.

360 (2) The report shall assess:



361           (a) The degree to which participating schools are  
362 meeting the needs of participating students as defined by the  
363 participating students' IEPs;

364           ( \* \* \*b) The level of participating students'  
365 satisfaction with the ESA program;

366           ( \* \* \*c) The level of parental satisfaction with the  
367 ESA program;

368           ( \* \* \*d) Participating students' performance on the  
369 participating school's current assessment used to demonstrate  
370 academic progress, nationally standardized norm-referenced  
371 achievement tests \* \* \*, or on pre-assessment and post-assessment  
372 at the beginning and end of the school year as required in Section  
373 37-181-15(f);

374           ( \* \* \*e) Participating students' performance on  
375 Advanced Placement examinations or similar courses and any  
376 examinations related to college or university admission;

377           ( \* \* \*f) The four-year high school graduation rates  
378 and college acceptance rates of participating students;

379           ( \* \* \*g) The percentage of funds used for each  
380 qualifying expense identified in Section 37-181-5(2); and

381           ( \* \* \*h) The fiscal impact to the state and home  
382 school districts of the ESA program, which must consider both the  
383 impact on revenue and the impact on expenses. Furthermore, the  
384 fiscal savings associated with students departing public schools



385 must be explicitly quantified, even if the public school losing  
386 the student(s) does not reduce its spending accordingly.

387 (3) The report shall:

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

390 (b) Protect the identity of participating students and  
391 schools by, among other things, keeping anonymous all  
392 disaggregated data.

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

394 (5) PEER shall provide the Legislature with a final copy of  
395 the \* \* \* report of the ESA program before December 31 \* \* \* each  
396 year the report is due. At the same time, the study shall also be  
397 placed in a prominent location on the PEER website.

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

401 **SECTION 8.** Section 37-181-15, Mississippi Code of 1972, is  
402 amended as follows:

403 37-181-15. To ensure that students are treated fairly and  
404 kept safe, all eligible schools shall:

405 (a) Comply with the nondiscrimination policies set  
406 forth in 42 USCS 1981;

407 (b) Prior to a participating student's application for  
408 enrollment, provide parents with details of the school's programs,  
409 record of student achievement, qualifications, experience, \* \* \*





410 capacities to serve students with special needs, and capacity to  
411 serve the participating student within the scope of their IEP  
412 without assistance from the local education agency or the  
413 participating student's home school district;

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

416 (d) Hold a valid occupancy permit if required by their  
417 municipality;

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

419 (f) \* \* \* Require participating students \* \* \* to take  
420 a pre-assessment at the beginning of the school year and a  
421 post-assessment at the end of the school year. The participating  
422 school shall have the option to select their current assessment  
423 used to demonstrate academic progress, a nationally standardized  
424 norm-referenced achievement test, or a current state  
425 board-approved screener;

426 (g) Notify a parent or guardian applying for the ESA  
427 program that the parent or guardian waives the right of the  
428 participating student to an individual entitlement to a free and  
429 appropriate public education (FAPE) from their home school  
430 district, including special education and related services, for as  
431 long as the student is participating in the ESA program; and

432 ( \* \* \* h) Conduct criminal background checks on  
433 employees \* \* \* and:



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

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

438 **SECTION 9.** Section 37-181-17, Mississippi Code of 1972, is  
439 amended as follows:

440 37-181-17. (1) An eligible nonpublic school is autonomous  
441 and not an agent of the state or federal government and therefore:

442 (a) The State Department of Education or any other  
443 government agency shall not \* \* \* regulate the educational program  
444 of a nonpublic school, postsecondary institution or educational  
445 service provider that accepts funds from the parent of a  
446 participating student beyond the requirements of the ESA program  
447 as promulgated in this chapter;

448 (b) The creation of the Education Scholarship Account  
449 program does not expand the regulatory authority of the state, its  
450 officers, or any school district to impose any additional  
451 regulation of nonpublic schools, postsecondary institutions or  
452 educational service providers beyond those necessary to enforce  
453 the requirements of the ESA program; and

454 (c) Eligible schools, postsecondary institutions and  
455 educational service providers shall be given the maximum freedom  
456 to provide for the educational needs of their students without  
457 governmental control. No eligible school, postsecondary  
458 institution or educational service provider shall be required to



459 alter its creed, practices, admission policies or curriculum in  
460 order to accept participating students.

461 (2) Participating schools must submit student performance  
462 data to the State Department of Education at the end of the school  
463 year, including the individual results of the pre-assessment and  
464 post-assessment required in Section 37-181-15(f).

465 ( \* \* \*3) In any legal proceeding challenging the  
466 application of this chapter to an eligible school, postsecondary  
467 institution or educational service provider the state bears the  
468 burden of establishing that the law is necessary and does not  
469 impose any undue burden on the eligible school, postsecondary  
470 institution or educational service provider.

471 **SECTION 10.** Section 37-181-19, Mississippi Code of 1972, is  
472 reenacted as follows:

473 37-181-19. The State Department of Education may receive and  
474 expend contributions from any public or private source to fund  
475 ESAs for participating students.

476 **SECTION 11.** Section 37-181-21, Mississippi Code of 1972, is  
477 reenacted as follows:

478 37-181-21. If any provision of this law or its application  
479 is held invalid, the invalidity does not affect other provisions  
480 or applications of this law which can be given effect without the  
481 invalid provision or application and to this end the provisions of  
482 this law are severable.



483           **SECTION 12.** The following shall be codified as Section  
484 37-181-23, Mississippi Code of 1972:

485           37-181-23. Sections 37-181-1 through 37-181-23, Mississippi  
486 Code of 1972, shall stand repealed on July 1, 2030.

487           **SECTION 13.** Section 12, Chapter 441, Laws of 2015, is  
488 amended as follows:

489           Section 12. This act shall take effect and be in force from  
490 and after its passage \* \* \*.

491           **SECTION 14.** This act shall take effect and be in force from  
492 and after its passage.

