

By: Representatives Turner, Ladner

To: Education;  
Appropriations

HOUSE BILL NO. 539

1 AN ACT TO AMEND SECTION 37-181-7, MISSISSIPPI CODE OF 1972,  
2 TO THE STATE DEPARTMENT OF EDUCATION TO FUND AS MANY EDUCATION  
3 SCHOLARSHIP ACCOUNTS TO THE FULLEST EXTENT POSSIBLE; TO AMEND  
4 SECTION 37-181-9, MISSISSIPPI CODE OF 1972, TO REQUIRE THE  
5 DEPARTMENT TO ESTABLISH A PORTAL FOR THE ELECTRONIC TRANSFER OF  
6 INFORMATION BETWEEN THE DEPARTMENT, PARENTS AND INSTITUTIONS; TO  
7 REQUIRE SCHOOLS TO SUBMIT DOCUMENTATION OF PRE- AND POST-STUDENT  
8 ASSESSMENTS ON ESA RECIPIENTS; TO AMEND SECTION 37-181-11,  
9 MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT TO ANNUALLY  
10 AUDIT ESA PROGRAM ACTIVITIES TO ENSURE COMPLIANCE WITH DEPARTMENT  
11 POLICIES AND STATE LAW; AND FOR RELATED PURPOSES.

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

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

15 37-181-7. (1) (a) The ESA program created in this chapter  
16 shall be limited to five hundred (500) students in the school year  
17 2015-2016, with new enrollment limited to five hundred (500)  
18 additional students each year thereafter. Subject to  
19 appropriation from the General Fund, each student's ESA shall be  
20 funded \* \* \* up to Six Thousand Five Hundred Dollars (\$6,500.00)  
21 for school year 2015-2016. For each subsequent year, this amount  
22 shall increase or decrease by the same proportion as the base



23 student cost under Section 37-151-7(1)(b) is increased or  
24 decreased.

25 (b) The Department shall make all reasonable efforts to  
26 fund as many scholarships annually as possible. To this end, the  
27 department shall apply unused administrative funds or other funds  
28 not expended by scholarship recipients to increase the number of  
29 scholarships granted in a year.

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

32 (a) Until participation in the ESA program reaches  
33 fifty percent (50%) of the annual enrollment limits in subsection  
34 (1) of this section, students shall be approved on a first-come,  
35 first-served basis, with applications being reviewed on a rolling  
36 basis;

37 (b) After participation reaches fifty percent (50%) of  
38 the annual enrollment limits in subsection (1) of this section,  
39 the department shall set annual application deadlines for the  
40 remaining number of available ESAs and begin to maintain a waiting  
41 list of eligible students. The waitlist will be maintained in the  
42 chronological order in which applications are received. The  
43 department shall award ESA program applications in chronological  
44 order according to the waitlist; and

45 (c) Participating students who remain eligible for the  
46 ESA program are automatically approved for participation for the



47 following year and are not subject to the random selection  
48 process.

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

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

54 37-181-9. (1) (a) The department shall create a standard  
55 form that parents of students submit to establish their student's  
56 eligibility for an Education Scholarship Account. The department  
57 shall ensure that the application is readily available to  
58 interested families through various sources, including the  
59 department's website and the copy of procedural safeguards  
60 annually given to parents.

61 (b) To facilitate efficient processing of applications,  
62 reimbursements and other necessary communications, the department  
63 shall develop a portal for use by the department, parents and  
64 schools. The portal shall be operational by the beginning of the  
65 2023-2024 school year.

66 (2) The department shall provide parents of participating  
67 students with a written explanation of the allowable uses of  
68 Education Scholarship Accounts, the responsibilities of parents  
69 and the duties of the department. This information shall also be  
70 made available on the department's website.



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

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

79 (5) (a) The department shall make a determination of  
80 eligibility, and shall approve the application, within twenty-one  
81 (21) business days of receiving an application for participation  
82 in the ESA program, subject to the provisions of Section  
83 37-181-3(b).

84 (b) The department shall provide for a procedure that  
85 children with a ruling of hearing impairment or children suspected  
86 of a hearing loss shall receive a comprehensive educational  
87 assessment which may include the areas of cognitive development,  
88 language/speech, audiological and academic achievement from the  
89 state-funded Mississippi Assistance Center for Hearing Loss.  
90 Children with a ruling of visual impairment or children suspected  
91 of a visual impairment shall receive a comprehensive low vision  
92 evaluation from the state-funded Low Vision Clinic.

93 (6) The home school district shall provide the parent of a  
94 participating student with a complete copy of the student's school  
95 records, while complying with the Family Educational Rights and



96 Privacy Act of 1974 (20 USCS Section 1232(g)). The record shall  
97 be provided no later than thirty (30) days after a parent signs an  
98 agreement to participate in the ESA program.

99 (7) The department shall adopt policies requiring that all  
100 participating schools submit the certification required by Section  
101 37-181-15(i) and further require that participating schools submit  
102 all necessary documentation to establish that the ESA participants  
103 have met requirements for pre- and post-student assessments.  
104 Submission of the required certification shall be a precondition  
105 to authorizing ESA payments to parents in future years.

106 **SECTION 3.** Section 37-181-11, Mississippi Code of 1972, is  
107 amended as follows:

108 37-181-11. (1) (a) To ensure that funds are spent  
109 appropriately, the State Department of Education shall adopt rules  
110 and policies necessary for the administration of the ESA program,  
111 including the auditing of Education Scholarship Accounts, and  
112 shall conduct or contract for random audits throughout the year.

113 (b) The department shall annually request that its  
114 internal auditor conduct an audit of the ESA program to determine  
115 if funds have been properly disbursed, and the only eligible  
116 expenses have been reimbursed. The audit shall be based on a  
117 sample of, at a minimum, twenty-five (25) disbursements in a  
118 fiscal year. Additionally, the audit shall:

119 (i) Test for parental reimbursements being  
120 recorded as credits to the ESA;



121                   (ii) Test to determine if student recertifications  
122 required by Section 37-181-5(8) have been received and appropriate  
123 action has been taken; and

124                   (iii) Test to determine compliance with all  
125 policies adopted to comply with Section 37-181-5(9).

126           (2)   (a)   The department shall develop a system for payment  
127 of benefits, including, but not limited to, allowing educational  
128 service providers to invoice the department for qualified expenses  
129 consistent with Section 37-181-5(2), or allowing the parent or  
130 guardian who submitted the ESA program application to seek  
131 reimbursement for qualified expenses consistent with Section  
132 37-181-5(2).

133                   (b)   The department may make payments to educational  
134 service providers or reimbursement to the parent or guardian who  
135 submitted the ESA program application via check or warrant or  
136 electronic funds transfer or any other means of payment deemed to  
137 be commercially viable or cost-effective.

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

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



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

147 (5) The department shall establish or contract for the  
148 establishment of an anonymous telephone hotline for fraud  
149 reporting.

150 **SECTION 4.** This act shall take effect and be in force from  
151 and after July 1, 2023.

