

By: Representative White

To: Education

## HOUSE BILL NO. 1078

1 AN ACT TO AMEND SECTIONS 37-181-5, 37-181-7, 37-181-9,  
2 37-181-11, 37-181-15 AND 37-181-19, MISSISSIPPI CODE OF 1972, TO  
3 REMOVE OVERLY RESTRICTIVE LANGUAGE WHICH REQUIRED THE PARENT OR  
4 GUARDIAN OF AN ELIGIBLE STUDENT RECEIVING ESA FUNDS TO CERTIFY TO  
5 THE STATE DEPARTMENT OF EDUCATION THAT THE STUDENT HAS BEEN  
6 ACCEPTED INTO AN ELIGIBLE SCHOOL QUALIFIED TO PROVIDE SERVICES FOR  
7 THE PARTICIPATING STUDENT'S DISABILITY OR SPECIAL EDUCATION NEEDS,  
8 OR PROVIDE SERVICES ADDRESSING A PARTICIPATING STUDENT'S IEP; TO  
9 REMOVE THE REQUIREMENT THAT AN ELIGIBLE SCHOOL THAT FAILS TO  
10 COMPLY WITH THE CERTIFICATION REQUIREMENTS OF ITS ABILITY TO  
11 PROVIDE SERVICES FOR THE PARTICIPATING STUDENT'S DISABILITY OR  
12 SPECIAL EDUCATION NEEDS, OR PROVIDE SERVICES ADDRESSING A  
13 PARTICIPATING STUDENT'S IEP SHALL BE INELIGIBLE TO PARTICIPATE IN  
14 THE ESA PROGRAM THE FOLLOWING YEAR; TO REMOVE THE WAITLIST  
15 REQUIREMENT FOR STUDENTS ELIGIBLE TO RECEIVE AN EDUCATIONAL  
16 SCHOLARSHIP ACCOUNT UNDER THE "EQUAL OPPORTUNITY FOR STUDENTS WITH  
17 SPECIAL NEEDS ACT"; TO PROVIDE THAT, SUBJECT TO APPROPRIATION,  
18 EACH STUDENT'S ESA SHALL BE FUNDED AT THE STUDENT BASE AMOUNT AS  
19 DETERMINED UNDER THE "MISSISSIPPI STUDENT FUNDING FORMULA"; TO  
20 RESTRUCTURE THE FREQUENCY BY WHICH REIMBURSEMENT PAYMENTS SHALL BE  
21 MADE TO SERVICE PROVIDERS AND PARENTS FROM QUARTERLY TO MONTHLY;  
22 TO AUTHORIZE THE DEPARTMENT TO ENTER INTO A CONTRACTUAL AGREEMENT  
23 WITH A THIRD-PARTY VENDOR TO ADMINISTER THE ESA PROGRAM; TO CREATE  
24 THE "MISSISSIPPI FOSTER CHILD EDUCATION SCHOLARSHIP ACCOUNT  
25 PROGRAM ACT" FOR THE PURPOSE OF ESTABLISHING EDUCATION SCHOLARSHIP  
26 ACCOUNTS (FESAS) FOR FOSTER PARENTS, GUARDIANS OR RESPONSIBLE  
27 AGENCY OFFICIALS OF THE DEPARTMENT OF CHILD PROTECTION SERVICES  
28 FOR FOSTER CHILDREN; TO PRESCRIBE THE CRITERIA FOR DETERMINING  
29 ELIGIBILITY FOR PARTICIPATION IN THE PROGRAM AND RECEIPT OF  
30 PROGRAM FUNDS; TO PROVIDE FOR THE FUNDING OF EACH STUDENT'S FESA;  
31 TO STIPULATE THE OBLIGATIONS OF FOSTER PARENTS, LEGAL GUARDIANS,  
32 RESPONSIBLE CPS OFFICIALS, STUDENTS AND SCHOOLS TO BECOME AND  
33 REMAIN ELIGIBLE FOR PARTICIPATION; TO PRESCRIBE THE DUTIES OF THE  
34 DEPARTMENT OF EDUCATION REGARDING THE ADMINISTRATION OF THE FUNDS;



35 TO REQUIRE PEER TO PREPARE A BIENNIAL REPORT ON THE SUFFICIENCY OF  
36 FUNDING FOR FESAS AND STUDENT PERFORMANCE AND ASSESSMENT  
37 EVALUATION BEGINNING IN 2027 AND EVERY TWO YEARS THEREAFTER; TO  
38 PROVIDE FOR THE ADMINISTRATIVE, FINANCIAL AND ACADEMIC  
39 ACCOUNTABILITY STANDARDS TO BE ADHERED TO BY PARTICIPATING  
40 SCHOOLS; AND FOR RELATED PURPOSES.

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

42 **SECTION 1.** Section 37-181-5, Mississippi Code of 1972, is  
43 amended as follows:

44 37-181-5. (1) An eligible student shall qualify to  
45 participate in the ESA program if the parent or guardian signs an  
46 agreement promising:

47 (a) To provide an organized, appropriate educational  
48 program with measurable annual goals to their participating  
49 student and to provide an education for the participating student  
50 in at least the subjects of reading, grammar, mathematics, social  
51 studies and science;

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

55 (c) Not to enroll their participating student in a  
56 public school and to acknowledge as part of the agreement that the  
57 eligible school has provided clear notice to the parent or  
58 guardian that the participating student has no individual  
59 entitlement to a free appropriate public education (FAPE) from  
60 their home school district, including special education and  
61 related services, for as long as the student is participating in  
62 the ESA program;



63 (d) Not to file for their participating student a  
64 certificate of enrollment indicating participation in a home  
65 instruction program under Section 37-13-91, Mississippi Code of  
66 1972; and

67 (e) Not to participate in the Mississippi Dyslexia  
68 Therapy Scholarship for Students with Dyslexia Program or the  
69 Mississippi Speech-Language Therapy Scholarship for Students with  
70 Speech-Language Impairments Program while participating in the ESA  
71 program.

72 (2) Parents or guardians shall use the funds deposited in a  
73 participating student's ESA for any of the following qualifying  
74 expenses, which shall be incurred within the awarded ESA school  
75 year, to educate the student using any of the below methods or  
76 combination of methods that meet the requirement in subsection  
77 (1)(a) of this section:

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

79 (b) Textbooks related to academic coursework;

80 (c) Payment to a tutor, as defined in Section  
81 37-181-3(h);

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

84 (e) Fees for nationally standardized norm-referenced  
85 achievement tests, including alternate assessments; and fees for  
86 Advanced Placement examinations or similar courses and any  
87 examinations related to college or university admission;



(f) Educational services or therapies from a licensed or certified practitioner or provider, including licensed or certified paraprofessionals or educational aides;

(g) Tuition and fees related to dual enrollment at a postsecondary institution;

(h) Textbooks related to academic coursework at a postsecondary institution;

(i) Surety bond payments if required by the department;

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

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

\* \* \*



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

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

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

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



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

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

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

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



any remaining funds shall be distributed to the student's home school district at the end of the awarded ESA school year.

**SECTION 2.** Section 37-181-7, Mississippi Code of 1972, is amended as follows:

37-181-7. (1) New enrollment in the ESA program created in this chapter shall be \* \* \* available to all eligible students, as defined in Section 37-181-3. Subject to appropriation from the General Fund, each student's ESA shall be funded at \* \* \* the student base amount as determined under Section 37-151-203 for the 2025-2026 school year, and shall increase or decrease by the same proportion as the student base amount under Section 37-151-203 is increased or decreased for each subsequent year.

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

(a) Students shall be approved on a first-come, first-served basis, with applications being reviewed on a rolling basis; and

\* \* \*

( \* \* \* b) Participating students who remain eligible for the ESA program are automatically approved for participation for the following year \* \* \*.

(3) No funds for an ESA may be expended from the total funding formula funds provided in this chapter, nor shall any school district be required to provide funding for an ESA.



186       **SECTION 3.** Section 37-181-9, Mississippi Code of 1972, is  
187 amended as follows:

188       37-181-9. (1) The department shall create a standard form  
189 that parents or guardians of students submit to establish their  
190 student's eligibility for an Education Scholarship Account. The  
191 department shall ensure that the application is readily available  
192 to interested families through various sources, including the  
193 department's website and the copy of procedural safeguards  
194 annually given to parents or guardians.   \* \* \*

195       (2) The department shall provide parents or guardians of  
196 participating students with a written explanation of the allowable  
197 uses of Education Scholarship Accounts, the responsibilities of  
198 parents and the duties of the department. This information shall  
199 also be made available on the department's website.

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

204       (4) The department may deduct an amount up to a limit of six  
205 percent (6%) from appropriations used to fund Education  
206 Scholarship Accounts to cover the costs of overseeing the funds  
207 and administering the ESA program, which such funds may also be  
208 used to cover the cost assessed by a third-party vendor with whom  
209 the department has entered a contractual agreement to administer  
210 the program and ensure compliance with state regulations.





211 (5) (a) The department shall make a determination of  
212 eligibility, and shall approve the application, within twenty-one  
213 (21) business days of receiving an application for participation  
214 in the ESA program, subject to the provisions of Section  
215 37-181-3(b).

216 (b) The department shall provide for a procedure that  
217 children with a ruling of hearing impairment or children suspected  
218 of a hearing loss shall receive a comprehensive educational  
219 assessment which may include the areas of cognitive development,  
220 language/speech, audiological and academic achievement from the  
221 state-funded Mississippi Assistance Center for Hearing Loss.  
222 Children with a ruling of visual impairment or children suspected  
223 of a visual impairment shall receive a comprehensive low vision  
224 evaluation from the state-funded Low Vision Clinic.

225 (6) The home school district shall provide the parent or  
226 guardian of a participating student with a complete copy of the  
227 student's school records, while complying with the Family  
228 Educational Rights and Privacy Act of 1974 (20 USCS Section  
229 1232(g)). The record shall be provided no later than thirty (30)  
230 days after a parent signs an agreement to participate in the ESA  
231 program.

232 **SECTION 4.** Section 37-181-11, Mississippi Code of 1972, is  
233 amended as follows:

234 37-181-11. (1) To ensure that funds are spent  
235 appropriately, the State Department of Education shall adopt rules



and policies necessary for the administration of the ESA program, including the auditing of Education Scholarship Accounts, and shall conduct or contract for random audits throughout the year.

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

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

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

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

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



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

**SECTION 5.** Section 37-181-15, Mississippi Code of 1972, is amended as follows:

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

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

(b) Prior to a participating student's application for enrollment, provide parents or guardians with details of the school's programs, record of student achievement, qualifications, experience, capacities to serve students with special needs, and capacity to serve the participating student within the scope of their IEP;

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

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

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

(f) Require participating students to take a pre-assessment at the beginning of the school year and a post-assessment at the end of the school year. The eligible school shall have the option to select their current assessment used to demonstrate academic progress, a nationally standardized



norm-referenced achievement test, or a current state  
board-approved screener;

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

(h) Conduct criminal background checks on employees  
and:

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

(ii) Exclude from employment any person who might  
reasonably pose a threat to the safety of students; and

(i) An eligible school shall certify to the department  
upon enrollment of a participating student that the eligible  
school shall provide services for the participating student's  
disability or special education needs, or shall provide services  
addressing a participating student's IEP. Such certification must  
be received by the department before the ESA is reimbursed to an  
eligible student.

\* \* \*

**SECTION 6.** Section 37-181-19, Mississippi Code of 1972, is  
amended as follows:



37-181-19. (1) The State Department of Education may receive and expend contributions from any public or private source to fund ESAs for participating students.

(2) The department may enter into a contractual agreement with a third-party vendor to administer the ESA program and ensure compliance with state regulations.

**SECTION 7.** Sections 9 through 19 of this act shall be known and may be cited as the "Mississippi Foster Child Education Scholarship Account Program Act."

**SECTION 8.** As used in Sections 9 through 19 of this act the following terms shall have the meanings ascribed herein, unless context of use clearly requires otherwise:

(a) "FESA program" means the Foster Child Education Scholarship Account (FESA) program created in this chapter.

(b) "Eligible student" means a child who:

(i) Is in the custody of Department of Child Protection Services as a foster child or ward of the state; and

(ii) Has been in temporary placement exceeding six (6) consecutive months; and

(iii) Is not concurrently enrolled in a public school or receiving funding through another state or federal educational assistance program.

(c) "Qualified expenses" include, but are not limited to:



(i) Tuition and fees at an eligible school, as defined in this section;

(ii) Textbooks, digital books, or other instructional materials required for coursework;

(iii) Tutoring services provided by a certified teacher or licensed provider;

(iv) Curriculum purchases, including supplemental and enrichment materials;

(v) Fees for standardized testing, advanced placement examinations, or college entrance exams;

(vi) Educational services or therapies from licensed or certified providers, including speech therapy, occupational therapy, and mental health counseling;

(vii) Technology expenses, including computers, tablets, or software, deemed essential by the Department of Child Protection Services or an educational provider;

(viii) Dual enrollment or college credit fees and related textbooks or materials;

(ix) Costs associated with extracurricular or educational enrichment activities, such as music lessons, art classes, or STEM programs, as preapproved by Department of Child Protection Services.

(d) "Eligible school" means a state-accredited special purpose school, a state-accredited nonpublic school, or a nonpublic school located in the state that has enrolled a



participating student and is providing educational instruction and services to the participating student. An eligible school does not include a home instruction program under Section 37-13-91, Mississippi Code of 1972.

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

(f) "Awarded FESA school year" means the duration of the school year in which FESA program funds are deposited in a student's FESA.

(g) "Responsible agency official" means an employee of the Mississippi Department of Child Protection Services who has been assigned as caseload manager, case worker, counselor or social worker for a child in the department's custody who has not received a permanent placement since becoming a ward of the state.

(h) An eligible school shall provide notice to a participating student's home school district when the eligible student enrolls in the eligible school with an FESA.

**SECTION 9.** (1) An eligible student shall qualify to participate in the FESA program if the foster parent, legal guardian or responsible agency official signs an agreement promising:

(a) To provide an organized, appropriate educational program with measurable annual goals to their participating student and to provide an education for the participating student



in at least the subjects of reading, grammar, mathematics, social studies and science;

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

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

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

(2) Parents, legal guardians or responsible agency officials shall use the funds deposited in a participating student's FESA for any of the qualified expenses defined in Section 8(c) of this act, which shall be incurred within the awarded FESA school year, to educate the student.

(3) Neither a participating student, nor anyone on the student's behalf, may receive cash or cash-equivalent items, such as gift cards or store credit, from any refunds or rebates from





any provider of services or products in the FESA program. Any refunds or rebates shall be credited directly to the participating student's FESA. The funds in an FESA may only be used for education-related purposes.

(4) (a) Eligible schools and educational service providers that serve participating students shall provide the foster parent, legal guardian or responsible agency official who submitted the FESA program application with an original itemized receipt, including the service provider's name and address, for all qualifying expenses. The foster parent, legal guardian or responsible agency official who submitted the FESA application shall provide the original itemized receipt to the Department of Child Protection Services.

(b) In lieu of providing the foster parent, legal guardian or responsible agency official who submitted the FESA program application with an original itemized receipt, the eligible schools and educational service providers may provide to the Department of Child Protection Services an original itemized receipt approved and signed off on by the foster parent, legal guardian or responsible agency official who submitted the FESA application, including the service provider's name and address, for all qualifying expenses.

(5) Payment for educational services through a FESA shall not preclude foster parents, legal guardians or responsible agency



432 officials from paying for educational services using non-FESA  
433 funds.

434 (6) For purposes of continuity of educational attainment,  
435 students who enroll in the FESA program shall remain eligible to  
436 receive quarterly FESA payments until the participating student  
437 returns to a public school, completes high school, or completes  
438 the school year in which the student reaches the age of twenty-one  
439 (21) if he or she is eligible for special education for  
440 individuals with disabilities under the federal Individuals with  
441 Disabilities Education Act (20 USCS Section 1401(3)), whichever  
442 occurs first as applicable.

443 (7) Any funds remaining in a student's Foster Child  
444 Education Scholarship Account upon completion of high school shall  
445 be deposited into the Kinkade Fostering Access and Inspiring True  
446 Hope (FAITH) Scholarship Program Fund.

447 (8) An eligible student shall be allowed to return to his  
448 home school district after enrolling in the FESA program, in  
449 compliance with regulations adopted by the Department of Child  
450 Protection Services which provide for the least disruptive process  
451 for doing so. Upon the participating student's return to his or  
452 her home school district, the student's Foster Education  
453 Scholarship Account shall be placed on temporary hold and  
454 quarterly payment to the FESA shall be withheld for such time as  
455 until verification is provided that the student has resumed  
456 enrollment in an eligible school or completed high school. Any



remaining funds in the student's FESA shall remain inviolate during the temporary holding period. However, upon completion of high school, any funds remaining in the FESA shall be deposited in accordance with subsection (7).

(9) A student's eligibility to participate in the Foster Child Education Scholarship Account Program, does not disqualify the student's ability to simultaneously participate in either the Equal Opportunity for Students with Special Needs FESA program, the Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program or the Mississippi Speech-Language Therapy Scholarship for Students with Speech-Language Impairments Program.

**SECTION 10.** (1) The Department of Child Protection Services shall manage and oversee FESA funds on behalf of each eligible child. The Department of Child Protection Services shall provide foster parents, legal guardians or responsible agency officials with guidance on eligible uses of funds and required documentation.

(2) (a) Foster parents, legal guardians or responsible agency officials shall submit receipts or invoices for qualified expenses to Department of Child Protection Services within thirty (30) days of incurring such expenses.

(b) The Department of Child Protection Services shall verify the expenses and submit reimbursement requests to the State Department of Education, which shall reimburse the Department of



Child Protection Services for qualified expenses within twenty-one (21) business days of receipt of documentation.

(c) Within ten (10) business days of receiving reimbursement, the Department of Child Protection Services shall disburse funds to the foster parent or legal guardian, or to responsible agency official for deposit into the appropriate expense or operating fund of the department.

(3) (a) Educational service providers may directly invoice the Department of Child Protection Services for services rendered, subject to verification and approval.

(b) The Department of Child Protection Services shall ensure all payments are consistent with qualified expense guidelines.

(4) No funds for a FESA may be expended from the total funding formula funds provided in this act, nor shall any school district be required to provide funding for a FESA.

**SECTION 11.** (1) Department of Child Protection Services shall notify foster parents, legal guardians and responsible agency officials of the availability of FESA funds upon a child entering the department's custody.

(2) Students participating in the FESA program remain eligible until:

(a) They return to public school;

(b) They complete the school year in which the student reaches the age of twenty-one (21) if he or she is eligible for



506 special education for individuals with disabilities under the  
507 federal Individuals with Disabilities Education Act (20 USCS  
508 Section 1401(3)); or

509 (c) Their eligibility is revoked due to misuse of funds  
510 or noncompliance with program rules.

511 **SECTION 12.** (1) Subject to appropriation from the General  
512 Fund, each student's FESA shall be funded annually at the base  
513 student amount as determined under Section 37-151-203 of the  
514 Mississippi Student Funding Formula. For each subsequent year,  
515 the funded amount shall increase or decrease by the same  
516 proportion as the student base amount under Section 37-151-203 is  
517 increased or decreased.

518 (2) No funds for a FESA may be expended from the Mississippi  
519 Student Funding Formula, nor shall any school district be required  
520 to provide funding for a FESA.

521 **SECTION 13.** (1) The Department of Child Protection Services  
522 in conjunction with the State Department of Education shall  
523 develop policies and procedures for the administration of the FESA  
524 program to ensure the appropriate use and expenditure of FESA  
525 funds, including the accurate and timely submission of  
526 reimbursement requests, and required maintenance of detailed  
527 records for each eligible student.

528 (2) The State Department of Education shall:

529 (a) Conduct annual audits of the Department of Child  
530 Protection Services-managed FESAs to ensure compliance;



531           (b) Establish a process for random audits of individual  
532 FESA accounts and service providers;

533           (c) Provide the Department of Child Protection Services  
534 with technical assistance and training on program administration.

535           (3) To ensure fraud prevention, the State Department of  
536 Education shall:

537           (a) Adopt a process for removing educational service  
538 providers that defraud parents and for referring cases of fraud to  
539 law enforcement;

540           (b) Establish or contract for the establishment of an  
541 online anonymous fraud reporting service; and

542           (c) Establish or contract for the establishment of an  
543 anonymous telephone hotline for fraud reporting.

544           **SECTION 14.** (1) Department of Child Protection Services  
545 shall submit an annual report to the Legislature and the State  
546 Department of Education detailing:

547           (a) The number of students participating in the FESA  
548 program;

549           (b) Total funds disbursed and remaining balances;

550           (c) A summary of the program's impact on foster  
551 children's educational outcomes.

552           (2) The State Department of Education shall provide an  
553 annual audit report to the Legislature, including findings and  
554 recommendations for program improvement.



**SECTION 15.**

(1) The Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) shall prepare a biennial report, beginning in 2027 and every two (2) years thereafter, assessing efficacy of Foster Child Education Scholarship Accounts, to include the sufficiency of funding, and recommending any suggested changes in state law or policy necessary to improve the FESA program.

(2) The report shall assess:

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

(b) The level of parental or guardian satisfaction with the FESA program;

(c) Participating students' performance, both pre-assessment and post-assessment, on the eligible school's current assessment used to demonstrate academic progress, a nationally standardized norm-referenced achievement test, or a current state board-approved screener, as required in Section 16(f) of this act;

(d) Participating students' performance on Advanced Placement examinations or similar courses and any examinations related to college or university admission; provided that eligible schools must report participating students' performance on Advanced Placement examinations and any examinations related to college or university admission;



579           (e) The four-year high school graduation rates and  
580 college acceptance rates of participating students; provided that  
581 eligible schools must report participating students' high school  
582 graduation rates and, if known, college acceptance rates;

583           (f) The percentage of funds used for each qualifying  
584 expense identified in Section 8(c) of this act; and

585           (g) The fiscal impact to the state and home school  
586 districts of the FESA program, which must consider both the impact  
587 on revenue and the impact on expenses. Furthermore, the fiscal  
588 savings associated with students departing public schools must be  
589 explicitly quantified, even if the public school losing the  
590 student(s) does not reduce its spending accordingly.

591       (3) The report shall:

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

594           (b) Protect the identity of participating students and  
595 schools by, among other things, keeping anonymous all  
596 disaggregated data.

597       (4) PEER shall provide the Legislature with a final copy of  
598 the report of the FESA program before December 31 each year the  
599 report is due. At the same time, the study shall also be placed  
600 in a prominent location on the PEER website.

601       (5) PEER must make its data and methodology available for  
602 public review while complying with the requirements of the Family  
603 Educational Rights and Privacy Act (20 USCS Section 1232(g)).





**SECTION 16.**

To ensure that students are treated fairly and kept safe, all eligible schools shall:

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

(b) Prior to a participating student's application for enrollment, provide foster parents or legal guardians with details of the school's programs, record of student achievement, experience qualifications, capacities to serve participating student within the scope of their educational needs;

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

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

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

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

(g) Notify a foster parent, legal guardian or responsible agency official applying for the FESA program that the foster parent, legal guardian or responsible agency official waives the right of the participating student to an individual



629 entitlement to a free and appropriate public education (FAPE) from  
630 their home school district, including special education and  
631 related services, for as long as the student is participating in  
632 the FESA program; and

633 (h) Conduct criminal background checks on employees  
634 and:

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

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

639 **SECTION 17.** (1) An eligible nonpublic school is autonomous  
640 and not an agent of the state or federal government and therefore:

641 (a) The State Department of Education or any other  
642 government agency shall not regulate the educational program of a  
643 nonpublic school or educational service provider that accepts  
644 funds from the foster parent, legal guardian or responsible agency  
645 official of a participating student beyond the requirements of the  
646 FESA program as promulgated in this chapter;

647 (b) The creation of the Foster Child Education  
648 Scholarship Account program does not expand the regulatory  
649 authority of the state, its officers, or any school district to  
650 impose any additional regulation of nonpublic schools or  
651 educational service providers beyond those necessary to enforce  
652 the requirements of the FESA program; and



653           (c) Eligible schools and educational service providers  
654 shall be given the maximum freedom to provide for the educational  
655 needs of their students without governmental control. No eligible  
656 school or educational service provider shall be required to alter  
657 its creed, practices, admission policies or curriculum in order to  
658 accept participating students.

659           (2) Eligible schools, or the foster parent, legal guardian  
660 or responsible agency official who submitted the FESA application,  
661 must submit student performance data to the State Department of  
662 Education at the end of the school year, including the individual  
663 results of the pre-assessment and post-assessment required in  
664 Section 16(f) of this act. The department shall develop a  
665 uniformed reporting format for eligible schools to use when  
666 submitting assessment results.

667           (3) In any legal proceeding challenging the application of  
668 this chapter to an eligible school or educational service  
669 provider, the state bears the burden of establishing that the law  
670 is necessary and does not impose any undue burden on the eligible  
671 school or educational service provider.

672           **SECTION 18.** This act shall take effect and be in force from  
673 and after July 1, 2025.

