

By: Senator(s) Younger

To: Education

SENATE BILL NO. 2599

1 AN ACT TO AMEND SECTION 37-181-5, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT A PARENT, GUARDIAN, ELIGIBLE SCHOOL, OR
3 EDUCATIONAL SERVICE PROVIDER MAY REQUEST REIMBURSEMENT FOR
4 QUALIFYING EXPENSES AFTER A STUDENT RETURNS TO A PUBLIC SCHOOL IN
5 THE STUDENT'S HOME SCHOOL DISTRICT; TO PROVIDE THAT ANY FUNDS
6 REMAINING AFTER REIMBURSEMENT REQUESTS HAVE BEEN PROCESSED SHALL
7 BE DISTRIBUTED TO THE STUDENT'S HOME SCHOOL DISTRICT; TO
8 DISTRIBUTE FUNDS FROM A CLOSED EDUCATION SCHOLARSHIP ACCOUNT (ESA)
9 TO THE STATE GENERAL FUND IF THE STATE DEPARTMENT OF EDUCATION
10 DOES NOT RECEIVE A REIMBURSEMENT REQUEST BY JUNE 30; TO AMEND
11 SECTION 37-181-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT EACH
12 STUDENT'S ESA SHALL BE FUNDED AT AN AMOUNT EQUIVALENT TO THE
13 STUDENT BASE AMOUNT UNDER THE TOTAL FUNDING FORMULA; TO AMEND
14 SECTION 37-181-9, MISSISSIPPI CODE OF 1972, TO REQUIRE THE STATE
15 DEPARTMENT OF EDUCATION TO IMPLEMENT AN APPLICATION OR
16 AUTHORIZATION PROCESS TO DETERMINE THE ELIGIBILITY OF NONPUBLIC
17 SCHOOLS TO PARTICIPATE IN THE ESA PROGRAM; TO AMEND SECTION
18 37-181-15, MISSISSIPPI CODE OF 1972, TO REQUIRE ALL ELIGIBLE
19 SCHOOLS TO ADVISE PARENTS OF STUDENTS WHO QUALIFY FOR OTHER
20 SCHOLARSHIP PROGRAMS TO APPLY FOR THOSE PROGRAMS INSTEAD OF THE
21 ESA PROGRAM; TO REQUIRE PARTICIPATING STUDENTS TO TAKE THE SAME
22 ASSESSMENT AT THE BEGINNING AND THE END OF THE SCHOOL YEAR; TO
23 LIMIT THE TYPES OF ASSESSMENTS STUDENTS ARE REQUIRED TO TAKE; TO
24 PROVIDE A MEASURE OF FLEXIBILITY IF THE STANDARD ASSESSMENT TYPES
25 ARE INAPPROPRIATE DUE TO THE SEVERITY OF THE STUDENT'S DISABILITY;
26 TO AMEND SECTION 37-181-17, MISSISSIPPI CODE OF 1972, TO REQUIRE
27 ELIGIBLE SCHOOLS, OR THE PARENT OR GUARDIAN WHO SUBMITTED THE ESA
28 APPLICATION, TO SUBMIT INFORMATION ABOUT SPECIAL EDUCATION
29 SERVICES TO THE STATE DEPARTMENT OF EDUCATION; AND FOR RELATED
30 PURPOSES.

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



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

34 37-181-5. (1) An eligible student shall qualify to
35 participate in the ESA program if the parent or guardian signs an
36 agreement promising:

37 (a) To provide an organized, appropriate educational
38 program with measurable annual goals to their participating
39 student and to provide an education for the participating student
40 in at least the subjects of reading, grammar, mathematics, social
41 studies and science;

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

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

53 (d) Not to file for their participating student a
54 certificate of enrollment indicating participation in a home
55 instruction program under Section 37-13-91, Mississippi Code of
56 1972; and



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

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

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

(b) Textbooks related to academic coursework;

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

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

(e) Fees for nationally standardized norm-referenced achievement tests, including alternate assessments; and fees for Advanced Placement examinations or similar courses and any 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) To qualify to participate in the program, the parent or guardian of an eligible student shall also certify to the department that they have been accepted into an eligible school qualified to provide services for the participating student's disability or special education needs, or provide services



addressing a participating student's IEP, as required under this chapter.

(4) 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.

(5) (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.



129 (6) Payment for educational services through an ESA shall
130 not preclude parents or guardians from paying for educational
131 services using non-ESA funds.

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

140 (8) Any funds remaining in a student's Education Scholarship
141 Account upon completion of high school shall be returned to the
142 state's General Fund.

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

151 (10) An eligible student shall be allowed to return to his
152 home school district at any time after enrolling in the ESA
153 program, in compliance with regulations adopted by the department



154 providing for the least disruptive process for doing so. Upon the
155 participating student's return to his or her home school district,
156 the student's Education Scholarship Account shall be closed and
157 any remaining funds shall be distributed to the student's home
158 school district at the end of the awarded ESA school year. In
159 accordance with subsection (2) and subsection (5) of this section,
160 the parent, guardian, eligible school, or educational service
161 provider may request reimbursement by submitting receipts for
162 qualifying expenses up to thirty (30) calendar days after the
163 student returns to a public school in his or her home school
164 district. If the student returns to the public school on or after
165 May 1 of the school year, the parent, guardian, eligible school,
166 or educational service provider may submit reimbursement requests
167 until June 30. Any funds remaining after reimbursement requests
168 have been processed shall be distributed to the student's home
169 school district within fifteen (15) calendar days of the end of
170 the applicable expense request deadline. If no requests are
171 received by the department on or before June 30, any funds
172 remaining in the student's Education Scholarship Account shall be
173 returned to the State General Fund.

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

176 37-181-7. (1) New enrollment in the ESA program created in
177 this chapter shall be limited to five hundred (500) additional
178 students each year. Subject to appropriation from the State



General Fund, each student's ESA shall be funded at * * * an amount equivalent to the student base amount under the total funding formula provided in Sections 37-151-200 through 37-151-215.

(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;

(b) After participation reaches fifty percent (50%) of the annual enrollment limits in subsection (1) of this section, the department shall set annual application deadlines for the remaining number of available ESAs and begin to maintain a waiting list of eligible students. The waitlist shall only include eligible students who have certified to the department that they have been accepted into an eligible school qualified to provide services for the participating student's disability or special education needs, or provide services addressing a participating student's IEP. The waitlist will be maintained in the chronological order in which applications are received. The department shall award ESA program applications in chronological order according to the waitlist; and

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



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

(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.

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

37-181-9. (1) The department shall create a standard form that parents or guardians of students submit to establish their student's eligibility for an Education Scholarship Account. The department shall ensure that the application is readily available to interested families through various sources, including the department's website and the copy of procedural safeguards annually given to parents or guardians. To be considered, an application must include certification that the student has been accepted into an eligible school qualified to provide services for the student's disability or special education needs, or provide services addressing a participating student's IEP.

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

(3) The department shall annually notify all students with an IEP of the existence of the ESA program and shall ensure that



lower-income families are made aware of their potential eligibility.

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

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

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

(6) The home school district shall provide the parent or guardian of a participating student with a complete copy of the student's school records, while complying with the Family Educational Rights and Privacy Act of 1974 (20 USCS Section 1232(g)). The record shall be provided no later than thirty (30)



days after a parent signs an agreement to participate in the ESA program.

(7) The department shall implement an application or authorization process to determine the eligibility of nonpublic schools to participate in the ESA program, ensuring nonpublic schools meet the standards set out by law.

SECTION 4. Section 37-181-15, Mississippi Code of 1972, is amended as follows:

37-181-15. (1) 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 * * *:

(i) 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; and

(ii) Advise parents of students who qualify for the Nate Rogers scholarships, Dyslexia Therapy scholarships, and any other scholarship programs that come into existence to apply for those programs instead of the ESA program;

(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 the same assessment, as a post-assessment, at the end of the school year. The eligible school shall have the option to select * * * a nationally standardized norm-referenced achievement test * * * or a current state board-approved screener. If neither of these assessment types are appropriate due to the severity of the student's disability, the school should provide a performance-based assessment appropriate for assessing the student's abilities (such as a behavior checklist or communications assessment), along with a statement that a standardized achievement test or board-approved screener is not appropriate for the student;

(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.

(2) Failure to comply with these requirements shall deem the eligible school ineligible to participate in the ESA program the following year.

SECTION 5. Section 37-181-17, Mississippi Code of 1972, is amended as follows:

37-181-17. (1) An eligible nonpublic school authorized by the department as required by Section 37-181-9(7) is autonomous and not an agent of the state or federal government and therefore:

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



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

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

(2) Eligible schools, or the parent or guardian who submitted the ESA application, must submit special education services and student performance data to the State Department of Education at the end of the school year, including specific special education services provided to students with disabilities enrolled in the ESA program and the individual results of the pre-assessment and post-assessment required in Section 37-181-15(1)(f). The department shall develop a uniformed reporting format for eligible schools to use when submitting assessment results.

(3) In any legal proceeding challenging the application of this chapter to an eligible school, postsecondary institution or



352 educational service provider the state bears the burden of
353 establishing that the law is necessary and does not impose any
354 undue burden on the eligible school, postsecondary institution or
355 educational service provider.

356 **SECTION 6.** This act shall take effect and be in force from
357 and after July 1, 2025.

