

By: Senator(s) Tollison

To: Education

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2623

1 AN ACT TO AMEND SECTIONS 37-181-1 THROUGH 37-181-19, CODIFY
2 SECTION 37-181-20 AND BRING FORWARD SECTION 37-181-21, MISSISSIPPI
3 CODE OF 1972, WHICH IS THE "EQUAL OPPORTUNITY FOR MISSISSIPPI
4 STUDENTS WITH SPECIAL NEEDS ACT" PROVIDING EDUCATION SCHOLARSHIP
5 ACCOUNT (ESA) FUNDS FOR ELIGIBLE STUDENTS, TO REVISE CERTAIN
6 DEFINITIONS, TO ESTABLISH THE OFFICE OF EDUCATIONAL CHOICE WITHIN
7 THE STATE DEPARTMENT OF EDUCATION TO ADMINISTER THE ESA PROGRAM,
8 TO CLARIFY PARENTAL OBLIGATIONS TO QUALIFY ELIGIBLE STUDENTS FOR
9 THE PROGRAM, TO CLARIFY THE AUTHORIZED USE OF EDUCATION
10 SCHOLARSHIP FUNDS, TO PRESCRIBE CERTAIN NORM-REFERENCED TESTS FOR
11 PARTICIPATING STUDENTS, TO REVISE THE LIMITATIONS ON ELIGIBLE
12 STUDENT PARTICIPATION IN THE PROGRAM, TO CLARIFY ESA FUNDING
13 AMOUNTS FOR PARTICIPATING STUDENTS, TO CLARIFY PROCEDURES FOR
14 STUDENT APPLICATIONS FOR THE PROGRAM, TO REVISE LIMITS ON
15 ADMINISTRATIVE COSTS, TO CLARIFY REPORTING REQUIREMENTS BY
16 PARTICIPATING SERVICE PROVIDERS, AND TO PROVIDE THAT PROGRAM RULES
17 ARE SUBJECT TO THE REQUIREMENTS OF THE MISSISSIPPI ADMINISTRATIVE
18 PROCEDURES ACT; TO AMEND SECTION 37-3-1, MISSISSIPPI CODE OF 1972,
19 TO ESTABLISH THE OFFICE OF EDUCATIONAL CHOICE WITHIN THE STATE
20 DEPARTMENT OF EDUCATION TO ADMINISTER THE ESA PROGRAM; TO AMEND
21 SECTION 37-13-91, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
22 PROVISIONS OF THE COMPULSORY SCHOOL ATTENDANCE LAW; TO AMEND
23 SECTIONS 37-151-5, 37-151-7 AND 37-151-101 AND TO CODIFY SECTION
24 37-151-86, MISSISSIPPI CODE OF 1972, TO INCLUDE EDUCATION
25 SCHOLARSHIP ACCOUNT (ESA) PROGRAMS AS "ADD-ON PROGRAMS" FUNDED
26 UNDER THE MISSISSIPPI ADEQUATE EDUCATION PROGRAM AND TO PROVIDE
27 FOR THE DISTRIBUTION FROM THE MAEP FUND TO THE SPECIAL ESA FUND;
28 AND FOR RELATED PURPOSES.

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

30 **SECTION 1.** Section 37-181-1, Mississippi Code of 1972, is
31 amended as follows:



32 37-181-1. This chapter shall be known and may be cited as
33 "The Equal Opportunity for Mississippi Students * * * Act."

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

36 37-181-3. The terms used in this chapter shall have the
37 meanings ascribed herein, unless the context clearly indicates
38 otherwise:

39 (a) "Program" means a * * * program to implement the
40 Education Scholarship Account (ESA) program created in this
41 chapter.

42 (b) "Eligible student" means any student who is a
43 resident of the state and meets at least one (1) of the following:

44 (i) Was enrolled in and attended a Mississippi
45 public school during the prior academic year;

46 (ii) Is eligible to enroll in Kindergarten or
47 First Grade at a Mississippi primary public school;

48 (iii) Has had an active Individual Education
49 Program (IEP) within the past five (5) years;

50 (iv) Is a child of a parent who is a member of the
51 Armed Forces of the United States and who is on active duty or was
52 killed in the line of duty;

53 (v) Is in the foster care system and who is
54 residing with a prospective permanent placement or who has
55 achieved permanency through adoption or permanent guardianship; or



56 (vi) Is the sibling of a current recipient of ESA
57 program funds.

58 (c) "Parent" means a resident of this state who is a
59 parent, legal guardian, custodian or other person with the
60 authority to act on behalf of the eligible student.

61 (d) " * * * Office" means the State Department of
62 Education acting through the Office of Educational Choice.

63 (e) "Home school district" means the public school
64 district in which the student resides.

65 (f) "Eligible school" means a nonpublic school that has
66 enrolled a participating student. An eligible school must be
67 accredited by * * * or possess a provisional letter of
68 accreditation from a state, or regional accrediting agency * * *
69 from a list developed by the office to include, but not be limited
70 to, AdvanceED/Southern Association of Colleges and Schools,
71 Mississippi Association of Independent Schools, Association of
72 Christian Schools International, Southern Association of
73 Independent Schools, National Catholic Educational Association,
74 Middle States Association of Colleges and Schools, Tennessee
75 Department of Education, and Mississippi Department of
76 Education. * * *

77 (g) "Tutor" means * * * tutoring services provided by a
78 tutor or tutoring facility that is accredited or certified by a
79 state, regional, or national accrediting or certifying
80 organization; or tutoring services provided by a person who is or



81 has been a teacher licensed in any state, or who has taught at a
82 postsecondary institution, or who is a subject-matter expert, or
83 who is approved by the office.

84 (h) "Postsecondary institution" means a community
85 college, college, or university accredited by a state, regional or
86 national accrediting organization.

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

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

92 37-181-5. (1) An eligible student shall qualify to
93 participate in the Education Scholarship Account (ESA) program if
94 the parent signs an agreement promising:

95 (a) To provide an organized, appropriate educational
96 program with measurable annual goals to their participating
97 student and, to the extent reasonably deemed appropriate by the
98 parent, to provide an education for the qualified student in at
99 least the subjects of reading, grammar, mathematics, social
100 studies and science;

101 * * *

102 (* * *b) Not to enroll their participating student
103 full time in a public school * * * while participating in the ESA
104 program;



105 (* * *c) Not to file for their participating student a
106 certificate of enrollment indicating participation in a home
107 instruction program under Section 37-13-91, Mississippi Code of
108 1972; and

109 (* * *d) Not to participate in the Mississippi
110 Dyslexia Therapy Scholarship for Students with Dyslexia Program or
111 the Mississippi Speech-Language Therapy Scholarship for Students
112 with Speech-Language Impairments Program while participating in
113 the ESA program.

114 (2) Students with special needs who participate in the
115 program are parental placements under 20 USC 1412(a)(10)(A) of the
116 Individuals with Disabilities Education Act (IDEA). The Office of
117 Educational Choice in the State Department of Education shall
118 provide all parents of students with special needs with clear and
119 understandable documentation explaining their rights under the
120 program.

121 (3) Signing an agreement pursuant to subsection (1) of this
122 section serves as the participating student's certificate of
123 enrollment under Section 37-13-91, provided that the parents are
124 using ESA funds on one or more of the educational expenses
125 authorized in subsection (3) of this section to provide their
126 participating student an education consistent with subsection
127 (1)(a) of this section.

128 (* * *4) Parents shall use the funds deposited in a
129 participating student's ESA for any of the following qualifying



130 expenses to educate the student using any of the below methods or
131 combination of methods that meet the requirement in subsection
132 (1)(a) of this section:

133 (a) A parent of any student participating in the
134 program may use the ESA funds for:

135 (* * *i) Tuition and/or fees at an eligible
136 school;

137 (* * *ii) Textbooks;

138 (* * *iii) Payment to a tutor;

139 (* * *iv) Payment for purchase of curriculum,
140 including any supplemental materials required by the curriculum;

141 (* * *v) No more than One Thousand Dollars
142 (\$1,000.00) annually for fees for transportation to and from an
143 educational service provider paid to a fee-for-service
144 transportation provider;

145 (* * *vi) Tuition and/or fees for online learning
146 programs or courses;

147 (* * *vii) Fees for nationally standardized
148 norm-referenced achievement tests, including alternate
149 assessments; and fees for Advanced Placement examinations or
150 similar courses and any examinations related to college or
151 university admission;

152 (viii) Costs directly associated with obtaining a
153 nationally recognized industry certification;



154 (* * *ix) Contracted services provided by a
155 public school, including individual classes and extracurricular
156 programs;

157 (* * *x) Tuition and fees at a postsecondary
158 institution;

159 (* * *xi) Textbooks related to coursework at a
160 postsecondary institution;

161 (* * *xii) Educational services or therapies from
162 a licensed or certified practitioner or provider, including
163 licensed or certified paraprofessionals or educational aides;

164 (* * *xiii) No more than * * * One Hundred
165 Dollars (\$100.00) in annual consumable school supplies necessary
166 for educational services and therapies, daily classroom
167 activities, and tutoring;

168 * * *

169 (* * *b) A parent of a participating student with
170 special needs who has qualified for the program under Section
171 37-181-3(b)(iii) may also use ESA funds for:

172 Computer hardware and software and other technological
173 devices if an eligible school, licensed or certified tutor,
174 licensed or certified educational service practitioner or
175 provider, or licensed medical professional verifies in writing
176 that these items are essential for the student to meet annual,
177 measurable goals. Once a student is no longer eligible for the
178 program, computer hardware and software and other technological



179 devices purchased with ESA funds may be donated to a library or a
180 nonprofit organization with expertise and training in working with
181 parents to educate children with disabilities or a nonprofit
182 organization with expertise and training in working with disabled
183 adults.

184 (* * *5) Neither a participating student, nor anyone on the
185 student's behalf, may receive cash or cash-equivalent items, such
186 as gift cards or store credit, from any refunds or rebates from
187 any provider of services or products in this program. Any refunds
188 or rebates shall be credited directly to the participating
189 student's ESA. The funds in an ESA may only be used for
190 education-related purposes. Eligible schools, postsecondary
191 institutions and educational service providers that serve
192 participating students shall provide parents with a receipt for
193 all qualifying expenses.

194 (* * *6) Payment for educational services through an ESA
195 shall not preclude parents from paying for educational services
196 using non-ESA funds.

197 (* * *7) ESA funds may not be used to attend an eligible
198 school that maintains its primary location in a state other than
199 Mississippi unless that school is approved for the Educable Child
200 Program; or unless the parent verifies in writing that their child
201 cannot reasonably obtain appropriate * * * services in Mississippi
202 at a location within thirty (30) miles of their legal residence.



203 (* * *8) For purposes of continuity of educational
204 attainment, students who enroll in the program shall remain * * *
205 participating students * * * until returning to * * * public
206 school, * * * completing high school, * * * or reaching the age of
207 twenty-one (21), * * * whichever occurs first.

208 (9) Any funds remaining unused in a participating student's
209 Education Scholarship Account may rollover to be used the next
210 year.

211 (* * *10) Any funds remaining in a student's Education
212 Scholarship Account upon completion of high school shall be
213 returned to the state's * * * Special ESA Fund pursuant to
214 subsection (4) (2) (a) of this section.

215 * * *

216 (* * *11) A participating student shall be allowed to
217 return to his home school district at any time after enrolling in
218 the program * * *. Upon a participating student's return to his
219 home school district, that student's Education Scholarship Account
220 shall be closed and any remaining funds shall be * * * transferred
221 to the student's home school district.

222 (* * *12) * * * In Grades 3 through 8 parents shall ensure
223 their participating student is administered a national
224 norm-referenced achievement test that measures learning in
225 mathematics and language arts. In Grade 11 parents shall ensure
226 their participating student takes a test used for undergraduate
227 college admissions.



228 (a) The results of these tests shall be reported to
229 parents.

230 (b) Students with special needs meeting the definition
231 of "eligible student" as prescribed under Section 37-181-3(b) (iii)
232 may be exempt from this requirement.

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

235 37-181-7. (1) * * * Beginning with the 2018-2019 school
236 year, the ESA program created in this chapter shall be limited to
237 the equivalent of one-half of one percent (.5%) of the estimated
238 statewide total public school enrollment in the preceding school
239 year, with new enrollment limited to an additional one percent
240 (1%) of the statewide public school enrollment each year
241 thereafter.

242 (2) * * * (a) * * * There is created a Special ESA Fund in
243 the State Treasury to pay for the Education Scholarship Accounts
244 established in this chapter. Payments made to this fund shall be
245 an "add-on program cost" as defined in Sections 37-151-5(e) and
246 37-151-7(1) (e) and shall be included in the Mississippi Adequate
247 Education Program (MAEP) annual appropriation outside of the
248 program calculations. Payments made to this fund shall be made on
249 a quarterly basis and in the same manner as Mississippi Adequate
250 Education Program (MAEP) payments are made to school districts
251 under Sections 37-151-101 and 37-151-103. Each October 1, the
252 office shall calculate the cost of new Education Scholarship



253 Accounts for the following fiscal year by multiplying fifty
254 percent (50%) of accounts allowed by annual enrollment limits as
255 defined in Section 37-181-7(1) by the amount for students
256 prescribed in Section 37-181-7(3) (a) and fifty percent (50%) by
257 the amount for special needs students prescribed in Section
258 37-181-7(3) (b) and adding the amounts together. This amount shall
259 be added to the amount of current awards and included as the
260 add-on program cost for the Special ESA Fund in the annual
261 Mississippi Adequate Education Program (MAEP) budget request by
262 the State Department of Education. The State Department of
263 Education shall also report to the Legislature the number of
264 eligible applicants and funding amounts as prescribed in Section
265 37-181-7(3) on January 15 each year and again on March 15 and may
266 revise its budget request to the Legislature for the Special ESA
267 Fund based upon the revised number of eligible applicants. Any
268 funds not associated with an active Education Scholarship Account
269 shall lapse into the State General Fund at the end of the fiscal
270 year.

271 (b) * * * From and after July 1, 2018, there shall be
272 an Office of Educational Choice (office) within the State
273 Department of Education to administer the Education Scholarship
274 Account (ESA) program created in Section 37-181-1 et seq. The
275 Office of Educational Choice shall administer and implement the
276 requirements of the ESA program as prescribed in said sections and
277 shall be authorized to expend and distribute ESA program payments



278 to parents of participating students in amounts appropriated by
279 the Legislature and specified for use for the ESA program.

280 * * *

281 (3) * * * Each student's ESA shall be funded at one of the
282 following amounts for the 2018-2019 school year and shall increase
283 or decrease each subsequent year by the same proportion as the
284 base student cost under Section 37-151-7(1)(b):

285 (a) For students with special needs meeting the
286 definition of "eligible student" as prescribed under Section
287 37-181-3(b)(iii) and (iv), the amount shall be Six Thousand Five
288 Hundred Dollars (\$6,500.00);

289 (b) For all other participating students, the amount
290 shall be ninety-five percent (95%) of the base student cost.

291 (4) The office shall process applications between July 1 and
292 June 30. On January 15 and again on March 15, or the nearest
293 business day, the office shall accept and issue an award letter to
294 eligible applicants for the following school year whose
295 applications were received not later than thirty (30) days prior.
296 For the 2018-2019 school year only, the office may extend
297 application and notification deadlines.

298 (5) The office shall require parents to confirm or deny
299 their student's participation in the program not later than
300 fifteen (15) business days upon receipt of notification.

301 (6) If the office receives more applications than are
302 available positions by thirty (30) days before January 15 or March



303 15 notification deadlines, as provided for in subsection (1) of
304 this section, the office shall conduct an annual random selection
305 process that gives first preference to students eligible under
306 Section 37-181-3(b) (iii) and second preference to students within
307 a household with a household income not greater than two hundred
308 fifty percent (250%) of the federal poverty level.

309 (7) The office shall notify parents who have submitted
310 applications after enrollment limits have been reached as
311 prescribed under subsection (1) of this section that such
312 application will be placed on a waiting list until the office
313 begins enrolling new students for the following year.

314 (8) When scholarship accounts have not been awarded or are
315 denied or unclaimed, the office shall continue to enroll eligible
316 applicants from a waiting list (a) in the order applications were
317 received with a process that gives first preference to students
318 eligible under Section 37-181-3(b) (iii) and second preference to
319 students within a household with a household income not greater
320 than two hundred fifty percent (250%) of the federal poverty
321 level, or (b) in the order generated by the annual random
322 selection process in a year in which it occurs.

323 (9) The office shall require parents of participating
324 students to confirm or deny their student's participation when no
325 scholarship funds are spent in two (2) consecutive quarters.



326 (10) Participating students are automatically approved for
327 participation for the following year and are not subject to the
328 random selection process.

329 (11) The State Department of Child Protection Services shall
330 upon request by the office certify eligibility of ESA program
331 applicants not later than two (2) weeks after the request is made.

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

334 37-181-9. (1) The * * * Office of Educational Choice in the
335 State Department of Education shall create a standard form that
336 parents of students submit to establish their student's
337 eligibility for an Education Scholarship Account. The * * *
338 office shall ensure that the application is readily available to
339 interested families through various sources * * *.

340 (2) The * * * office shall provide parents of participating
341 students with a written explanation of the allowable uses of
342 Education Scholarship Accounts, the responsibilities of parents
343 and the duties of the * * * office. This information shall also
344 be made available on the * * * office's website.

345 (3) The * * * office shall annually notify all students with
346 an IEP of the existence of the program and shall ensure that
347 lower-income families are made aware of their potential
348 eligibility.

349 (4) For three (3) years of the program's operation,
350 the * * * office may deduct an amount up to a limit of six percent



351 (6%) from appropriations used to fund Education Scholarship
352 Accounts to cover the costs of overseeing the funds and
353 administering the program. In subsequent years, the office may
354 deduct an amount up to a limit of four percent (4%) from
355 appropriations used to fund Education Scholarship Accounts for
356 administrative costs.

357 * * *

358 (* * *5) The home school district shall provide the parent
359 of a participating student with a complete copy of the student's
360 school records, while complying with the Family Educational Rights
361 and Privacy Act of 1974 (20 USCS Section 1232(g)). The record
362 shall be provided no later than thirty (30) days after a parent
363 signs an agreement to participate in the program.

364 * * *

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

367 37-181-11. (1) To ensure that funds are spent
368 appropriately, the State * * * Department of Education shall adopt
369 rules and policies necessary for the administration of the
370 program, including the auditing of Education Scholarship Accounts,
371 and shall conduct or contract for random audits throughout the
372 year.

373 (2) (a) The * * * Office of Educational Choice in the State
374 Department of Education shall * * * use a system for payment of
375 benefits * * * that includes, but is not limited to, allowing



376 educational service providers to invoice the * * * office for
377 qualified expenses consistent with Section 37-181-5(2), or
378 allowing parents to seek preapproval or reimbursement for
379 qualified expenses consistent with Section 37-181-5(2). The
380 system for payment of benefits must be parent-friendly, automated
381 and reduce administrative costs. The office shall enter into a
382 competitively bid contract with a third-party vendor to administer
383 the payment system. Thirty (30) business days before entering
384 into a competitively bid contract for the system or expending any
385 funds to develop its own system, the office shall provide a
386 cost-benefit analysis to the Governor and the Chairmen of the
387 House and Senate Education Committees demonstrating how the system
388 will be parent friendly, automated and reduce administrative
389 costs.

390 (b) The * * * office may make payments to educational
391 service providers or reimbursement to parents via check or warrant
392 or electronic funds transfer or any other means of payment deemed
393 to be commercially viable or cost-effective.

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

398 (d) The office shall not adopt a system that limits
399 parents to being reimbursed for out-of-pocket expenses.



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

403 (4) The * * * office shall establish or contract for the
404 establishment of an online anonymous fraud reporting service.

405 (5) The * * * office shall establish or contract for the
406 establishment of an anonymous telephone hotline for fraud
407 reporting.

408 (6) The office shall implement a system for parents of
409 participating students to rate, review, and share information
410 about educational service providers, ideally as part of the same
411 system that facilitates payments in order to create a one-stop
412 shop for parents.

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

415 37-181-13. (1) The Joint Legislative Committee on
416 Performance Evaluation and Expenditure Review (PEER) shall prepare
417 a * * * report every three (3) years, * * * assessing the
418 sufficiency of funding for Education Scholarship Accounts and
419 recommending any suggested changes in state law or policy
420 necessary to improve the program.

421 (2) The report shall assess:

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



424 (b) The level of parental satisfaction with the
425 program;

426 * * *

427 (* * *c) The high school graduation rates and college
428 acceptance rates of participating students;

429 (* * *d) The percentage of funds used for each
430 qualifying expense identified in Section 37-181-5(2);

431 (* * *e) The fiscal impact to the state and home
432 school districts of the program, which must consider both the
433 impact on revenue and the impact on expenses. Furthermore, the
434 fiscal savings associated with students departing public schools
435 must be explicitly quantified, even if the public school losing
436 the student(s) does not reduce its spending accordingly * * *; and

437 (f) The academic outcomes of participating students as
438 reported by schools pursuant to Section 37-181-17(1)(d) with
439 consideration for students' length of time in the program and the
440 types of tests administered.

441 (3) The report shall:

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

444 (b) Protect the identity of participating students and
445 schools by, among other things, keeping anonymous all
446 disaggregated data.

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



448 (5) PEER shall provide the Legislature with a final copy of
449 the evaluation of the program before December 31, * * * 2021 and
450 every three (3) years thereafter. At the same time, the study
451 shall also be placed in a prominent location on the PEER website.

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

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

457 37-181-15. To ensure that students are treated fairly and
458 kept safe, all eligible schools shall:

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

461 (b) Prior to a participating student's application for
462 enrollment, provide parents with details of the school's programs,
463 qualifications, experience, and capacities to serve students with
464 special needs if they have such capacity;

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

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

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

470 * * *

471 (* * *f) Conduct criminal background checks on
472 employees. The eligible school then shall:



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

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

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

479 37-181-17. (1) An eligible nonpublic school is autonomous
480 and not an agent of the state or federal government and therefore:

481 (a) The * * * Office of Educational Choice in the State
482 Department of Education shall not in any way regulate the
483 educational program of a nonpublic school, postsecondary
484 institution or educational service provider that accepts funds
485 from the parent of a participating student;

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

492 (c) Eligible schools, postsecondary institutions and
493 educational service providers shall be given the maximum freedom
494 to provide for the educational needs of their students without
495 governmental control. No eligible school, postsecondary
496 institution or educational service provider shall be required to



497 alter its creed, practices, admission policies or curriculum in
498 order to accept participating students * * *; and

499 (d) Eligible schools, postsecondary institutions and
500 educational service providers shall not be required to report data
501 to the office or any other entity in order to prevent an undue
502 administrative burden, except in cases where eligible schools that
503 administer tests as prescribed in Section 37-181-5(12) and have
504 thirty (30) or more participating students enrolled full time
505 shall make available to the Joint Legislative Committee on
506 Performance Evaluation and Expenditure Review (PEER) upon request
507 the aggregate test scores of all participating students tested
508 pursuant to Section 37-181-5(12).

509 (2) In any legal proceeding challenging the application of
510 this chapter to an eligible school, postsecondary institution or
511 educational service provider the state bears the burden of
512 establishing that the law is necessary and does not impose any
513 undue burden on the eligible school, postsecondary institution or
514 educational service provider.

515 **SECTION 10.** Section 37-181-19, Mississippi Code of 1972, is
516 amended as follows:

517 37-181-19. The Office of Educational Choice in the State
518 Department of Education may receive and expend contributions from
519 any public or private source to fund ESAs for participating
520 students.



521 **SECTION 11.** The following shall be codified as Section
522 37-181-20, Mississippi Code of 1972:

523 37-181-20. The provisions of this article requiring the
524 Office of Educational Choice in the State Department of Education
525 to promulgate rules and regulations and to develop procedures,
526 forms and any other policies for the administration of the
527 provisions contained herein are subject to the Mississippi
528 Administrative Procedures Act.

529 **SECTION 12.** Section 37-181-21, Mississippi Code of 1972, is
530 brought forward as follows:

531 37-181-21. If any provision of this law or its application
532 is held invalid, the invalidity does not affect other provisions
533 or applications of this law which can be given effect without the
534 invalid provision or application and to this end the provisions of
535 this law are severable.

536 **SECTION 13.** Section 37-3-1, Mississippi Code of 1972, is
537 amended as follows:

538 37-3-1. (1) Until July 1, 1983, there shall be a State
539 Department of Education, which shall consist of a State
540 Superintendent of Public Education, an Assistant State
541 Superintendent of Public Education, a Director of the Division of
542 Finance and Administration, a Director of the Division of
543 Instruction, a Director of the Division of School Building and
544 Transportation Services, a Director of Vocational Education, a
545 Director of the Division of Vocational Rehabilitation, a Director



546 of the Division of Junior Colleges, and such supervisors,
547 assistants or employees as may be necessary for the proper
548 functioning of the above-named divisions.

549 (2) From and after July 1, 1983, and until July 1, 1984,
550 there shall be a State Department of Education, which shall
551 consist of a State Superintendent of Public Education, a director
552 of the division of finance and administration, a director of the
553 division of instruction, a director of the division of school
554 building and transportation services, a director of the division
555 of vocational and technical education, who shall be an associate
556 state superintendent of public education, the director of the
557 division of vocational rehabilitation, a director of the division
558 of junior colleges and such supervisors, assistants or employees
559 as may be necessary for the proper functioning of the above-named
560 divisions.

561 (3) From and after July 1, 1984, there shall be a State
562 Department of Education which shall be under the direction and
563 supervision of the State Superintendent of Public Education. The
564 State Department of Education shall be organized into functional
565 divisions as established by the State Board of Education,
566 including any divisions established by law and prescribing the
567 duties of the directors of such divisions.

568 (4) From and after July 1, 2018, there shall be an Office of
569 Educational Choice established by the State Board of Education in
570 the State Department of Education as an independent division to



571 administer the Education Scholarship Account (ESA) program created
572 in Section 37-181-1 et seq. The Office of Educational Choice
573 shall administer and implement the requirements of the ESA program
574 as prescribed in said sections and shall be authorized to expend
575 and distribute ESA program payments to eligible students in
576 amounts appropriated by the Legislature and specified for use for
577 the ESA program.

578 **SECTION 14.** Section 37-13-91, Mississippi Code of 1972, is
579 amended as follows:

580 37-13-91. (1) This section shall be referred to as the
581 "Mississippi Compulsory School Attendance Law."

582 (2) The following terms as used in this section are defined
583 as follows:

584 (a) "Parent" means the father or mother to whom a child
585 has been born, or the father or mother by whom a child has been
586 legally adopted.

587 (b) "Guardian" means a guardian of the person of a
588 child, other than a parent, who is legally appointed by a court of
589 competent jurisdiction.

590 (c) "Custodian" means any person having the present
591 care or custody of a child, other than a parent or guardian of the
592 child.

593 (d) "School day" means not less than five and one-half
594 (5-1/2) and not more than eight (8) hours of actual teaching in



595 which both teachers and pupils are in regular attendance for
596 scheduled schoolwork.

597 (e) "School" means any public school, including a
598 charter school, in this state or any nonpublic school in this
599 state which is in session each school year for at least one
600 hundred eighty (180) school days, except that the "nonpublic"
601 school term shall be the number of days that each school shall
602 require for promotion from grade to grade.

603 (f) "Compulsory-school-age child" means a child who has
604 attained or will attain the age of six (6) years on or before
605 September 1 of the calendar year and who has not attained the age
606 of seventeen (17) years on or before September 1 of the calendar
607 year; and shall include any child who has attained or will attain
608 the age of five (5) years on or before September 1 and has
609 enrolled in a full-day public school kindergarten program.

610 (g) "School attendance officer" means a person employed
611 by the State Department of Education pursuant to Section 37-13-89.

612 (h) "Appropriate school official" means the
613 superintendent of the school district, or his designee, or, in the
614 case of a nonpublic school, the principal or the headmaster.

615 (i) "Nonpublic school" means an institution for the
616 teaching of children, consisting of a physical plant, whether
617 owned or leased, including a home, instructional staff members and
618 students, and which is in session each school year. This



619 definition shall include, but not be limited to, private, church,
620 parochial and home instruction programs.

621 (3) A parent, guardian or custodian of a
622 compulsory-school-age child in this state shall cause the child to
623 enroll in and attend a public school or legitimate nonpublic
624 school for the period of time that the child is of compulsory
625 school age, except under the following circumstances:

626 (a) When a compulsory-school-age child is physically,
627 mentally or emotionally incapable of attending school as
628 determined by the appropriate school official based upon
629 sufficient medical documentation.

630 (b) When a compulsory-school-age child is enrolled in
631 and pursuing a course of special education, remedial education or
632 education for handicapped or physically or mentally disadvantaged
633 children.

634 (c) When a compulsory-school-age child is being
635 educated in a legitimate home instruction program.

636 (d) When a compulsory-school-age child is participating
637 in the Education Scholarship Account (ESA) program.

638 The parent, guardian or custodian of a compulsory-school-age
639 child described in this subsection, or the parent, guardian or
640 custodian of a compulsory-school-age child attending any charter
641 school or nonpublic school, or the appropriate school official for
642 any or all children attending a charter school or nonpublic school
643 shall complete a "certificate of enrollment" in order to



644 facilitate the administration of this section. The parent,
645 guardian or custodian of a student participating in the Education
646 Scholarship Account (ESA) program and using ESA funds under
647 Section 37-181-5 et seq., Mississippi Code of 1972, or the
648 appropriate school official for any or all students participating
649 in the ESA program shall complete a "certificate of enrollment" in
650 order to facilitate the administration of this section.

651 The form of the certificate of enrollment shall be prepared
652 by the Office of Compulsory School Attendance Enforcement of the
653 State Department of Education and shall be designed to obtain the
654 following information only:

655 (i) The name, address, telephone number and date
656 of birth of the compulsory-school-age child;

657 (ii) The name, address and telephone number of the
658 parent, guardian or custodian of the compulsory-school-age child;

659 (iii) A simple description of the type of
660 education the compulsory-school-age child is receiving and, if the
661 child is enrolled in a nonpublic school, the name and address of
662 the school; and

663 (iv) The signature of the parent, guardian or
664 custodian of the compulsory-school-age child or, for any or all
665 compulsory-school-age child or children attending a charter school
666 or nonpublic school, the signature of the appropriate school
667 official and the date signed.



668 The certificate of enrollment shall be returned to the school
669 attendance officer where the child resides on or before September
670 15 of each year. Any parent, guardian or custodian found by the
671 school attendance officer to be in noncompliance with this section
672 shall comply, after written notice of the noncompliance by the
673 school attendance officer, with this subsection within ten (10)
674 days after the notice or be in violation of this section.
675 However, in the event the child has been enrolled in a public
676 school within fifteen (15) calendar days after the first day of
677 the school year as required in subsection (6), the parent or
678 custodian may, at a later date, enroll the child in a legitimate
679 nonpublic school or legitimate home instruction program or
680 Education Scholarship Account (ESA) program and send the
681 certificate of enrollment to the school attendance officer and be
682 in compliance with this subsection.

683 For the purposes of this subsection, a legitimate nonpublic
684 school or legitimate home instruction or Education Scholarship
685 Account (ESA) program shall be those not operated or instituted
686 for the purpose of avoiding or circumventing the Compulsory School
687 Attendance Law.

688 (4) An "unlawful absence" is an absence for an entire school
689 day or during part of a school day by a compulsory-school-age
690 child, which absence is not due to a valid excuse for temporary
691 nonattendance. For purposes of reporting absenteeism under
692 subsection (6) of this section, if a compulsory-school-age child



693 has an absence that is more than thirty-seven percent (37%) of the
694 instructional day, as fixed by the school board for the school at
695 which the compulsory-school-age child is enrolled, the child must
696 be considered absent the entire school day. Days missed from
697 school due to disciplinary suspension shall not be considered an
698 "excused" absence under this section. This subsection shall not
699 apply to children enrolled in a nonpublic school.

700 Each of the following shall constitute a valid excuse for
701 temporary nonattendance of a compulsory-school-age child enrolled
702 in a noncharter public school, provided satisfactory evidence of
703 the excuse is provided to the superintendent of the school
704 district, or his designee:

705 (a) An absence is excused when the absence results from
706 the compulsory-school-age child's attendance at an authorized
707 school activity with the prior approval of the superintendent of
708 the school district, or his designee. These activities may
709 include field trips, athletic contests, student conventions,
710 musical festivals and any similar activity.

711 (b) An absence is excused when the absence results from
712 illness or injury which prevents the compulsory-school-age child
713 from being physically able to attend school.

714 (c) An absence is excused when isolation of a
715 compulsory-school-age child is ordered by the county health
716 officer, by the State Board of Health or appropriate school
717 official.



718 (d) An absence is excused when it results from the
719 death or serious illness of a member of the immediate family of a
720 compulsory-school-age child. The immediate family members of a
721 compulsory-school-age child shall include children, spouse,
722 grandparents, parents, brothers and sisters, including
723 stepbrothers and stepsisters.

724 (e) An absence is excused when it results from a
725 medical or dental appointment of a compulsory-school-age child.

726 (f) An absence is excused when it results from the
727 attendance of a compulsory-school-age child at the proceedings of
728 a court or an administrative tribunal if the child is a party to
729 the action or under subpoena as a witness.

730 (g) An absence may be excused if the religion to which
731 the compulsory-school-age child or the child's parents adheres,
732 requires or suggests the observance of a religious event. The
733 approval of the absence is within the discretion of the
734 superintendent of the school district, or his designee, but
735 approval should be granted unless the religion's observance is of
736 such duration as to interfere with the education of the child.

737 (h) An absence may be excused when it is demonstrated
738 to the satisfaction of the superintendent of the school district,
739 or his designee, that the purpose of the absence is to take
740 advantage of a valid educational opportunity such as travel,
741 including vacations or other family travel. Approval of the
742 absence must be gained from the superintendent of the school



743 district, or his designee, before the absence, but the approval
744 shall not be unreasonably withheld.

745 (i) An absence may be excused when it is demonstrated
746 to the satisfaction of the superintendent of the school district,
747 or his designee, that conditions are sufficient to warrant the
748 compulsory-school-age child's nonattendance. However, no absences
749 shall be excused by the school district superintendent, or his
750 designee, when any student suspensions or expulsions circumvent
751 the intent and spirit of the Compulsory School Attendance Law.

752 (j) An absence is excused when it results from the
753 attendance of a compulsory-school-age child participating in
754 official organized events sponsored by the 4-H or Future Farmers
755 of America (FFA). The excuse for the 4-H or FFA event must be
756 provided in writing to the appropriate school superintendent by
757 the Extension Agent or High School Agricultural Instructor/FFA
758 Advisor.

759 (k) An absence is excused when it results from the
760 compulsory-school-age child officially being employed to serve as
761 a page at the State Capitol for the Mississippi House of
762 Representatives or Senate.

763 (5) Any parent, guardian or custodian of a
764 compulsory-school-age child subject to this section who refuses or
765 willfully fails to perform any of the duties imposed upon him or
766 her under this section or who intentionally falsifies any
767 information required to be contained in a certificate of



768 enrollment, shall be guilty of contributing to the neglect of a
769 child and, upon conviction, shall be punished in accordance with
770 Section 97-5-39.

771 Upon prosecution of a parent, guardian or custodian of a
772 compulsory-school-age child for violation of this section, the
773 presentation of evidence by the prosecutor that shows that the
774 child has not been enrolled in school within eighteen (18)
775 calendar days after the first day of the school year of the public
776 school which the child is eligible to attend, or that the child
777 has accumulated twelve (12) unlawful absences during the school
778 year at the public school in which the child has been enrolled,
779 shall establish a prima facie case that the child's parent,
780 guardian or custodian is responsible for the absences and has
781 refused or willfully failed to perform the duties imposed upon him
782 or her under this section. However, no proceedings under this
783 section shall be brought against a parent, guardian or custodian
784 of a compulsory-school-age child unless the school attendance
785 officer has contacted promptly the home of the child and has
786 provided written notice to the parent, guardian or custodian of
787 the requirement for the child's enrollment or attendance.

788 (6) If a compulsory-school-age child has not been enrolled
789 in a school within fifteen (15) calendar days after the first day
790 of the school year of the school which the child is eligible to
791 attend or the child has accumulated five (5) unlawful absences
792 during the school year of the public school in which the child is



793 enrolled, the school district superintendent, or his designee,
794 shall report, within two (2) school days or within five (5)
795 calendar days, whichever is less, the absences to the school
796 attendance officer. The State Department of Education shall
797 prescribe a uniform method for schools to utilize in reporting the
798 unlawful absences to the school attendance officer. The
799 superintendent, or his designee, also shall report any student
800 suspensions or student expulsions to the school attendance officer
801 when they occur.

802 (7) When a school attendance officer has made all attempts
803 to secure enrollment and/or attendance of a compulsory-school-age
804 child and is unable to effect the enrollment and/or attendance,
805 the attendance officer shall file a petition with the youth court
806 under Section 43-21-451 or shall file a petition in a court of
807 competent jurisdiction as it pertains to parent or child.
808 Sheriffs, deputy sheriffs and municipal law enforcement officers
809 shall be fully authorized to investigate all cases of
810 nonattendance and unlawful absences by compulsory-school-age
811 children, and shall be authorized to file a petition with the
812 youth court under Section 43-21-451 or file a petition or
813 information in the court of competent jurisdiction as it pertains
814 to parent or child for violation of this section. The youth court
815 shall expedite a hearing to make an appropriate adjudication and a
816 disposition to ensure compliance with the Compulsory School
817 Attendance Law, and may order the child to enroll or re-enroll in



818 school. The superintendent of the school district to which the
819 child is ordered may assign, in his discretion, the child to the
820 alternative school program of the school established pursuant to
821 Section 37-13-92.

822 (8) The State Board of Education shall adopt rules and
823 regulations for the purpose of reprimanding any school
824 superintendents who fail to timely report unexcused absences under
825 the provisions of this section.

826 (9) Notwithstanding any provision or implication herein to
827 the contrary, it is not the intention of this section to impair
828 the primary right and the obligation of the parent or parents, or
829 person or persons in loco parentis to a child, to choose the
830 proper education and training for such child, and nothing in this
831 section shall ever be construed to grant, by implication or
832 otherwise, to the State of Mississippi, any of its officers,
833 agencies or subdivisions any right or authority to control,
834 manage, supervise or make any suggestion as to the control,
835 management or supervision of any private or parochial school or
836 institution for the education or training of children, of any kind
837 whatsoever that is not a public school according to the laws of
838 this state; and this section shall never be construed so as to
839 grant, by implication or otherwise, any right or authority to any
840 state agency or other entity to control, manage, supervise,
841 provide for or affect the operation, management, program,



842 curriculum, admissions policy or discipline of any such school or
843 home instruction program.

844 **SECTION 15.** Section 37-151-5, Mississippi Code of 1972, is
845 amended as follows:

846 37-151-5. As used in Sections 37-151-5 and 37-151-7:

847 (a) "Adequate program" or "adequate education program"
848 or "Mississippi Adequate Education Program (MAEP)" shall mean the
849 program to establish adequate current operation funding levels
850 necessary for the programs of such school district to meet at
851 least a successful Level III rating of the accreditation system as
852 established by the State Board of Education using current
853 statistically relevant state assessment data.

854 (b) "Educational programs or elements of programs not
855 included in the adequate education program calculations, but which
856 may be included in appropriations and transfers to school
857 districts" shall mean:

858 (i) "Capital outlay" shall mean those funds used
859 for the constructing, improving, equipping, renovating or major
860 repairing of school buildings or other school facilities, or the
861 cost of acquisition of land whereon to construct or establish such
862 school facilities.

863 (ii) "Pilot programs" shall mean programs of a
864 pilot or experimental nature usually designed for special purposes
865 and for a specified period of time other than those included in
866 the adequate education program.



867 (iii) "Adult education" shall mean public
868 education dealing primarily with students above eighteen (18)
869 years of age not enrolled as full-time public school students and
870 not classified as students of technical schools, colleges or
871 universities of the state.

872 (iv) "Food service programs" shall mean those
873 programs dealing directly with the nutritional welfare of the
874 student, such as the school lunch and school breakfast programs.

875 (c) "Base student" shall mean that student
876 classification that represents the most economically educated
877 pupil in a school system meeting the definition of successful, as
878 determined by the State Board of Education.

879 (d) "Base student cost" shall mean the funding level
880 necessary for providing an adequate education program for one (1)
881 base student, subject to any minimum amounts prescribed in Section
882 37-151-7(1).

883 (e) "Add-on program costs" shall mean those items which
884 are included in the adequate education program appropriations and
885 are outside of the program calculations:

886 (i) "Transportation" shall mean transportation to
887 and from public schools for the students of Mississippi's public
888 schools provided for under law and funded from state funds.

889 (ii) "Vocational or technical education program"
890 shall mean a secondary vocational or technical program approved by



891 the State Department of Education and provided for from state
892 funds.

893 (iii) "Special education program" shall mean a
894 program for exceptional children as defined and authorized by
895 Sections 37-23-1 through 37-23-9, and approved by the State
896 Department of Education and provided from state funds.

897 (iv) "Gifted education program" shall mean those
898 programs for the instruction of intellectually or academically
899 gifted children as defined and provided for in Section 37-23-175
900 et seq.

901 (v) "Alternative school program" shall mean those
902 programs for certain compulsory-school-age students as defined and
903 provided for in Sections 37-13-92 and 37-19-22.

904 (vi) "Extended school year programs" shall mean
905 those programs authorized by law which extend beyond the normal
906 school year.

907 (vii) "University-based programs" shall mean those
908 university-based programs for handicapped children as defined and
909 provided for in Section 37-23-131 et seq.

910 (viii) "Bus driver training" programs shall mean
911 those driver training programs as provided for in Section 37-41-1.

912 (ix) "Education Scholarship Account (ESA) programs
913 shall mean those ESA programs for eligible students as provided
914 for in Sections 37-181-1 through 37-181-21.



915 (f) "Teacher" shall include any employee of a local
916 school who is required by law to obtain a teacher's license from
917 the State Board of Education and who is assigned to an
918 instructional area of work as defined by the State Department of
919 Education.

920 (g) "Principal" shall mean the head of an attendance
921 center or division thereof.

922 (h) "Superintendent" shall mean the head of a school
923 district.

924 (i) "School district" shall mean any type of school
925 district in the State of Mississippi, and shall include
926 agricultural high schools.

927 (j) "Minimum school term" shall mean a term of at least
928 one hundred eighty (180) days of school in which both teachers and
929 pupils are in regular attendance for scheduled classroom
930 instruction for not less than sixty-three percent (63%) of the
931 instructional day, as fixed by the local school board for each
932 school in the school district. It is the intent of the
933 Legislature that any tax levies generated to produce additional
934 local funds required by any school district to operate school
935 terms in excess of one hundred seventy-five (175) days shall not
936 be construed to constitute a new program for the purposes of
937 exemption from the limitation on tax revenues as allowed under
938 Sections 27-39-321 and 37-57-107 for new programs mandated by the
939 Legislature.



940 (k) The term "transportation density" shall mean the
941 number of transported children in average daily attendance per
942 square mile of area served in a school district, as determined by
943 the State Department of Education.

944 (l) The term "transported children" shall mean children
945 being transported to school who live within legal limits for
946 transportation and who are otherwise qualified for being
947 transported to school at public expense as fixed by Mississippi
948 state law.

949 (m) The term "year of teaching experience" shall mean
950 nine (9) months of actual teaching in the public or private
951 elementary and secondary schools and shall also include nine (9)
952 months of actual teaching at postsecondary institutions accredited
953 by the Southern Association of Colleges and Schools (SACS) or
954 equivalent regional accrediting body for degree-granting
955 postsecondary institutions. In no case shall more than one (1)
956 year of teaching experience be given for all services in one (1)
957 calendar or school year. In determining a teacher's experience,
958 no deduction shall be made because of the temporary absence of the
959 teacher because of illness or other good cause, and the teacher
960 shall be given credit therefor. Beginning with the 2003-2004
961 school year, the State Board of Education shall fix a number of
962 days, not to exceed forty-five (45) consecutive school days,
963 during which a teacher may not be under contract of employment
964 during any school year and still be considered to have been in



965 full-time employment for a regular scholastic term. If a teacher
966 exceeds the number of days established by the State Board of
967 Education that a teacher may not be under contract but may still
968 be employed, that teacher shall not be credited with a year of
969 teaching experience. In determining the experience of school
970 librarians, each complete year of continuous, full-time employment
971 as a professional librarian in a public library in this or some
972 other state shall be considered a year of teaching experience. If
973 a full-time school administrator returns to actual teaching in the
974 public schools, the term "year of teaching experience" shall
975 include the period of time he or she served as a school
976 administrator. In determining the salaries of teachers who have
977 experience in any branch of the military, the term "year of
978 teaching experience" shall include each complete year of actual
979 classroom instruction while serving in the military. In
980 determining the experience of speech-language pathologists and
981 audiologists, each complete year of continuous full-time post
982 master's degree employment in an educational setting in this or
983 some other state shall be considered a year of teaching
984 experience. Provided, however, that school districts are
985 authorized, in their discretion, to negotiate the salary levels
986 applicable to certificated employees employed after July 1, 2009,
987 who are receiving retirement benefits from the retirement system
988 of another state, and the annual experience increment provided in



989 Section 37-19-7 shall not be applicable to any such retired
990 certificated employee.

991 (n) * * * The term "average daily attendance" shall be
992 the figure which results when the total aggregate full-day
993 attendance during the period or months counted is divided by the
994 number of days during the period or months counted upon which both
995 teachers and pupils are in regular attendance for scheduled
996 classroom instruction, * * * less the average daily attendance for
997 self-contained special education classes. For purposes of
998 determining and reporting attendance, a pupil must be present for
999 at least sixty-three percent (63%) of the instructional day, as
1000 fixed by the local school board for each school in the school
1001 district, in order to be considered in full-day attendance. Prior
1002 to full implementation of the adequate education program the
1003 department shall deduct the average daily attendance for the
1004 alternative school program provided for in Section 37-19-22.

1005 * * *

1006 (o) The term "local supplement" shall mean the amount
1007 paid to an individual teacher over and above the adequate
1008 education program salary schedule for regular teaching duties.

1009 (p) The term "aggregate amount of support from ad
1010 valorem taxation" shall mean the amounts produced by the
1011 district's total tax levies for operations.

1012 (q) The term "adequate education program funds" shall
1013 mean all funds, both state and local, constituting the



1014 requirements for meeting the cost of the adequate program as
1015 provided for in Section 37-151-7.

1016 (r) "Department" shall mean the State Department of
1017 Education.

1018 (s) "Commission" shall mean the Mississippi Commission
1019 on School Accreditation created under Section 37-17-3.

1020 (t) The term "successful school district" shall mean a
1021 Level III school district as designated by the State Board of
1022 Education using current statistically relevant state assessment
1023 data.

1024 (u) "Dual enrollment-dual credit programs" shall mean
1025 programs for potential or recent high school student dropouts to
1026 dually enroll in their home high school and a local community
1027 college in a dual credit program consisting of high school
1028 completion coursework and a credential, certificate or degree
1029 program at the community college, as provided in Section
1030 37-15-38(19).

1031 (v) "Charter school" means a public school that is
1032 established and operating under the terms of a charter contract
1033 between the school's governing board and the Mississippi Charter
1034 School Authorizer Board.

1035 **SECTION 16.** Section 37-151-7, Mississippi Code of 1972, is
1036 amended as follows:



1037 37-151-7. The annual allocation to each school district for
1038 the operation of the adequate education program shall be
1039 determined as follows:

1040 (1) **Computation of the basic amount to be included for**
1041 **current operation in the adequate education program.** The
1042 following procedure shall be followed in determining the annual
1043 allocation to each school district:

1044 (a) **Determination of average daily attendance.**
1045 Effective with fiscal year 2011, the State Department of Education
1046 shall determine the percentage change from the prior year of each
1047 year of each school district's average of months two (2) and three
1048 (3) average daily attendance (ADA) for the three (3) immediately
1049 preceding school years of the year for which funds are being
1050 appropriated. For any school district that experiences a positive
1051 growth in the average of months two (2) and three (3) ADA each
1052 year of the three (3) years, the average percentage growth over
1053 the three-year period shall be multiplied times the school
1054 district's average of months two (2) and three (3) ADA for the
1055 year immediately preceding the year for which MAEP funds are being
1056 appropriated. The resulting amount shall be added to the school
1057 district's average of months two (2) and three (3) ADA for the
1058 year immediately preceding the year for which MAEP funds are being
1059 appropriated to arrive at the ADA to be used in determining a
1060 school district's MAEP allocation. Otherwise, months two (2) and
1061 three (3) ADA for the year immediately preceding the year for



1062 which MAEP funds are being appropriated will be used in
1063 determining a school district's MAEP allocation. In any fiscal
1064 year prior to 2010 in which the MAEP formula is not fully funded,
1065 for those districts that do not demonstrate a three-year positive
1066 growth in months two (2) and three (3) ADA, months one (1) through
1067 nine (9) ADA of the second preceding year for which funds are
1068 being appropriated or months two (2) and three (3) ADA of the
1069 preceding year for which funds are being appropriated, whichever
1070 is greater, shall be used to calculate the district's MAEP
1071 allocation. The district's average daily attendance shall be
1072 computed and currently maintained in accordance with regulations
1073 promulgated by the State Board of Education. The district's
1074 average daily attendance shall include any student enrolled in a
1075 Dual Enrollment-Dual Credit Program as defined and provided in
1076 Section 37-15-38(19). The State Department of Education shall
1077 make payments for Dual Enrollment-Dual Credit Programs to the home
1078 school in which the student is enrolled, in accordance with
1079 regulations promulgated by the State Board of Education. The
1080 community college providing services to students in a Dual
1081 Enrollment-Dual Credit Program shall require payment from the home
1082 school district for services provided to such students at a rate
1083 of one hundred percent (100%) of ADA. All MAEP/state funding
1084 shall cease upon completion of high school graduation
1085 requirements.



1086 (b) **Determination of base student cost.** Effective with
1087 fiscal year 2011 and every fourth fiscal year thereafter, the
1088 State Board of Education, on or before August 1, with adjusted
1089 estimate no later than January 2, shall submit to the Legislative
1090 Budget Office and the Governor a proposed base student cost
1091 adequate to provide the following cost components of educating a
1092 pupil in a successful school district: (i) instructional cost;
1093 (ii) administrative cost; (iii) operation and maintenance of
1094 plant; and (iv) ancillary support cost. For purposes of these
1095 calculations, the Department of Education shall utilize financial
1096 data from the second preceding year of the year for which funds
1097 are being appropriated.

1098 For the instructional cost component, the Department of
1099 Education shall select districts that have been identified as
1100 instructionally successful and have a ratio of a number of
1101 teachers per one thousand (1,000) students that is between one (1)
1102 standard deviation above the mean and two (2) standard deviations
1103 below the mean of the statewide average of teachers per one
1104 thousand (1,000) students. The instructional cost component shall
1105 be calculated by dividing the latest available months one (1)
1106 through nine (9) ADA into the instructional expenditures of these
1107 selected districts. For the purpose of this calculation, the
1108 Department of Education shall use the following funds, functions
1109 and objects:

1110 Fund 1120 Functions 1110-1199 Objects 100-999, Functions



1111 1210, 1220, 2150-2159 Objects 210 and 215;
1112 Fund 1130 All Functions, Object Code 210 and 215;
1113 Fund 2001 Functions 1110-1199 Objects 100-999;
1114 Fund 2070 Functions 1110-1199 Objects 100-999;
1115 Fund 2420 Functions 1110-1199 Objects 100-999;
1116 Fund 2711 All Functions, Object Code 210 and 215.

1117 Prior to the calculation of the instructional cost component,
1118 there shall be subtracted from the above expenditures any revenue
1119 received for Chickasaw Cession payments, Master Teacher
1120 Certification payments and the district's portion of state revenue
1121 received from the MAEP at-risk allocation.

1122 For the administrative cost component, the Department of
1123 Education shall select districts that have been identified as
1124 instructionally successful and have a ratio of an administrative
1125 staff to nonadministrative staff between one (1) standard
1126 deviation above the mean and two (2) standard deviations below the
1127 mean of the statewide average administrative staff to
1128 nonadministrative staff. The administrative cost component shall
1129 be calculated by dividing the latest available months one (1)
1130 through nine (9) ADA of the selected districts into the
1131 administrative expenditures of these selected districts. For the
1132 purpose of this calculation, the Department of Education shall use
1133 the following funds, functions and objects:

1134 Fund 1120 Functions 2300-2599, Functions 2800-2899,
1135 Objects 100-999;



1136 Fund 2711 Functions 2300-2599, Functions 2800-2899,
1137 Objects 100-999.

1138 For the plant and maintenance cost component, the Department
1139 of Education shall select districts that have been identified as
1140 instructionally successful and have a ratio of plant and
1141 maintenance expenditures per one hundred thousand (100,000) square
1142 feet of building space and a ratio of maintenance workers per one
1143 hundred thousand (100,000) square feet of building space that are
1144 both between one (1) standard deviation above the mean and two (2)
1145 standard deviations below the mean of the statewide average. The
1146 plant and maintenance cost component shall be calculated by
1147 dividing the latest available months one (1) through nine (9) ADA
1148 of the selected districts into the plant and maintenance
1149 expenditures of these selected districts. For the purpose of this
1150 calculation, the Department of Education shall use the following
1151 funds, functions and objects:

1152 Fund 1120 Functions 2600-2699, Objects 100-699
1153 and Objects 800-999;

1154 Fund 2711 Functions 2600-2699, Objects 100-699
1155 and Objects 800-999;

1156 Fund 2430 Functions 2600-2699, Objects 100-699
1157 and Objects 800-999.

1158 For the ancillary support cost component, the Department of
1159 Education shall select districts that have been identified as
1160 instructionally successful and have a ratio of a number of



1161 librarians, media specialists, guidance counselors and
1162 psychologists per one thousand (1,000) students that is between
1163 one (1) standard deviation above the mean and two (2) standard
1164 deviations below the mean of the statewide average of librarians,
1165 media specialists, guidance counselors and psychologists per one
1166 thousand (1,000) students. The ancillary cost component shall be
1167 calculated by dividing the latest available months one (1) through
1168 nine (9) ADA into the ancillary expenditures instructional
1169 expenditures of these selected districts. For the purpose of this
1170 calculation, the Department of Education shall use the following
1171 funds, functions and objects:

1172 Fund 1120 Functions 2110-2129, Objects 100-999;
1173 Fund 1120 Functions 2140-2149, Objects 100-999;
1174 Fund 1120 Functions 2220-2229, Objects 100-999;
1175 Fund 2001 Functions 2100-2129, Objects 100-999;
1176 Fund 2001 Functions 2140-2149, Objects 100-999;
1177 Fund 2001 Functions 2220-2229, Objects 100-999.

1178 The total base cost for each year shall be the sum of the
1179 instructional cost component, administrative cost component, plant
1180 and maintenance cost component and ancillary support cost
1181 component, and any estimated adjustments for additional state
1182 requirements as determined by the State Board of Education.
1183 Provided, however, that the base student cost in fiscal year 1998
1184 shall be Two Thousand Six Hundred Sixty-four Dollars (\$2,664.00).



1185 For each of the fiscal years between the recalculation of the
1186 base student cost under the provisions of this paragraph (b), the
1187 base student cost shall be increased by an amount equal to forty
1188 percent (40%) of the base student cost for the previous fiscal
1189 year, multiplied by the latest annual rate of inflation for the
1190 State of Mississippi as determined by the State Economist, plus
1191 any adjustments for additional state requirements such as, but not
1192 limited to, teacher pay raises and health insurance premium
1193 increases.

1194 (c) **Determination of the basic adequate education**
1195 **program cost.** The basic amount for current operation to be
1196 included in the Mississippi Adequate Education Program for each
1197 school district shall be computed as follows:

1198 Multiply the average daily attendance of the district by the
1199 base student cost as established by the Legislature, which yields
1200 the total base program cost for each school district.

1201 (d) **Adjustment to the base student cost for at-risk**
1202 **pupils.** The amount to be included for at-risk pupil programs for
1203 each school district shall be computed as follows: Multiply the
1204 base student cost for the appropriate fiscal year as determined
1205 under paragraph (b) by five percent (5%), and multiply that
1206 product by the number of pupils participating in the federal free
1207 school lunch program in such school district, which yields the
1208 total adjustment for at-risk pupil programs for such school
1209 district.



1210 (e) **Add-on program cost.** The amount to be allocated to
1211 school districts and to the Special ESA Fund in addition to the
1212 adequate education program cost for add-on programs for each
1213 school district and the Special ESA Fund shall be computed as
1214 follows:

1215 (i) Transportation cost shall be the amount
1216 allocated to such school district for the operational support of
1217 the district transportation system from state funds.

1218 (ii) Vocational or technical education program
1219 cost shall be the amount allocated to such school district from
1220 state funds for the operational support of such programs.

1221 (iii) Special education program cost shall be the
1222 amount allocated to such school district from state funds for the
1223 operational support of such programs.

1224 (iv) Gifted education program cost shall be the
1225 amount allocated to such school district from state funds for the
1226 operational support of such programs.

1227 (v) Alternative school program cost shall be the
1228 amount allocated to such school district from state funds for the
1229 operational support of such programs.

1230 (vi) Extended school year programs shall be the
1231 amount allocated to school districts for those programs authorized
1232 by law which extend beyond the normal school year.

1233 (vii) University-based programs shall be the
1234 amount allocated to school districts for those university-based



1235 programs for handicapped children as defined and provided for in
1236 Section 37-23-131 et seq., Mississippi Code of 1972.

1237 (viii) Bus driver training programs shall be the
1238 amount provided for those driver training programs as provided for
1239 in Section 37-41-1, Mississippi Code of 1972.

1240 (ix) The Education Scholarship Account (ESA)
1241 program shall be the amount provided for those education
1242 scholarship accounts for eligible students provided for in
1243 Sections 37-181-1 through 37-181-21, Mississippi Code of 72.

1244 The sum of the items listed above (i) transportation, (ii)
1245 vocational or technical education, (iii) special education, (iv)
1246 gifted education, (v) alternative school, (vi) extended school
1247 year, (vii) university-based, * * * (viii) bus driver training,
1248 and (ix) Education Scholarship Account (ESA) program, shall yield
1249 the add-on cost for each school district and the Special ESA Fund.

1250 (f) **Total projected adequate education program cost.**

1251 The total Mississippi Adequate Education Program cost shall be the
1252 sum of the total basic adequate education program cost (paragraph
1253 (c)), and the adjustment to the base student cost for at-risk
1254 pupils (paragraph (d)) for each school district. In any year in
1255 which the MAEP is not fully funded, the Legislature shall direct
1256 the Department of Education in the K-12 appropriation bill as to
1257 how to allocate MAEP funds to school districts for that year.

1258 (g) The State Auditor shall annually verify the State
1259 Board of Education's estimated calculations for the Mississippi



1260 Adequate Education Program that are submitted each year to the
1261 Legislative Budget Office on August 1 and the final calculation
1262 that is submitted on January 2.

1263 (2) **Computation of the required local revenue in support of**
1264 **the adequate education program.** The amount that each district
1265 shall provide toward the cost of the adequate education program
1266 shall be calculated as follows:

1267 (a) The State Department of Education shall certify to
1268 each school district that twenty-eight (28) mills, less the
1269 estimated amount of the yield of the School Ad Valorem Tax
1270 Reduction Fund grants as determined by the State Department of
1271 Education, is the millage rate required to provide the district
1272 required local effort for that year, or twenty-seven percent (27%)
1273 of the basic adequate education program cost for such school
1274 district as determined under paragraph (c), whichever is a lesser
1275 amount. In the case of an agricultural high school, the millage
1276 requirement shall be set at a level which generates an equitable
1277 amount per pupil to be determined by the State Board of Education.
1278 The local contribution amount for school districts in which there
1279 is located one or more charter schools will be calculated using
1280 the following methodology: using the adequate education program
1281 twenty-eight (28) mill value, or the twenty-seven percent (27%)
1282 cap amount (whichever is less) for each school district in which a
1283 charter school is located, an average per pupil amount will be
1284 calculated. This average per pupil amount will be multiplied



1285 times the number of students attending the charter school in that
1286 school district. The sum becomes the charter school's local
1287 contribution to the adequate education program.

1288 (b) The State Department of Education shall determine
1289 the following from the annual assessment information submitted to
1290 the department by the tax assessors of the various counties: (i)
1291 the total assessed valuation of nonexempt property for school
1292 purposes in each school district; (ii) assessed value of exempt
1293 property owned by homeowners aged sixty-five (65) or older or
1294 disabled as defined in Section 27-33-67(2), Mississippi Code of
1295 1972; (iii) the school district's tax loss from exemptions
1296 provided to applicants under the age of sixty-five (65) and not
1297 disabled as defined in Section 27-33-67(1), Mississippi Code of
1298 1972; and (iv) the school district's homestead reimbursement
1299 revenues.

1300 (c) The amount of the total adequate education program
1301 funding which shall be contributed by each school district shall
1302 be the sum of the ad valorem receipts generated by the millage
1303 required under this subsection plus the following local revenue
1304 sources for the appropriate fiscal year which are or may be
1305 available for current expenditure by the school district:

1306 One hundred percent (100%) of Grand Gulf income as prescribed
1307 in Section 27-35-309.

1308 One hundred percent (100%) of any fees in lieu of taxes as
1309 prescribed in Section 27-31-104.



1310 (3) **Computation of the required state effort in support of**
1311 **the adequate education program.**

1312 (a) The required state effort in support of the
1313 adequate education program shall be determined by subtracting the
1314 sum of the required local tax effort as set forth in subsection
1315 (2) (a) of this section and the other local revenue sources as set
1316 forth in subsection (2) (c) of this section in an amount not to
1317 exceed twenty-seven percent (27%) of the total projected adequate
1318 education program cost as set forth in subsection (1) (f) of this
1319 section from the total projected adequate education program cost
1320 as set forth in subsection (1) (f) of this section.

1321 (b) Provided, however, that in fiscal year 2015, any
1322 increase in the said state contribution to any district calculated
1323 under this section shall be not less than six percent (6%) in
1324 excess of the amount received by said district from state funds
1325 for fiscal year 2002; in fiscal year 2016, any increase in the
1326 said state contribution to any district calculated under this
1327 section shall be not less than four percent (4%) in excess of the
1328 amount received by said district from state funds for fiscal year
1329 2002; in fiscal year 2017, any increase in the said state
1330 contribution to any district calculated under this section shall
1331 be not less than two percent (2%) in excess of the amount received
1332 by said district from state funds for fiscal year 2002; and in
1333 fiscal year 2018 and thereafter, any increase in the said state
1334 contribution to any district calculated under this section shall



1335 be zero percent (0%). For purposes of this paragraph (b), state
1336 funds shall include minimum program funds less the add-on
1337 programs, State Uniform Millage Assistance Grant Funds, Education
1338 Enhancement Funds appropriated for Uniform Millage Assistance
1339 Grants and state textbook allocations, and State General Funds
1340 allocated for textbooks.

1341 (c) If the school board of any school district shall
1342 determine that it is not economically feasible or practicable to
1343 operate any school within the district for the full one hundred
1344 eighty (180) days required for a school term of a scholastic year
1345 as required in Section 37-13-63, Mississippi Code of 1972, due to
1346 an enemy attack, a man-made, technological or natural disaster in
1347 which the Governor has declared a disaster emergency under the
1348 laws of this state or the President of the United States has
1349 declared an emergency or major disaster to exist in this state,
1350 said school board may notify the State Department of Education of
1351 such disaster and submit a plan for altering the school term. If
1352 the State Board of Education finds such disaster to be the cause
1353 of the school not operating for the contemplated school term and
1354 that such school was in a school district covered by the
1355 Governor's or President's disaster declaration, it may permit said
1356 school board to operate the schools in its district for less than
1357 one hundred eighty (180) days and, in such case, the State
1358 Department of Education shall not reduce the state contributions
1359 to the adequate education program allotment for such district,



1360 because of the failure to operate said schools for one hundred
1361 eighty (180) days.

1362 (4) The Interim School District Capital Expenditure Fund is
1363 hereby established in the State Treasury which shall be used to
1364 distribute any funds specifically appropriated by the Legislature
1365 to such fund to school districts entitled to increased allocations
1366 of state funds under the adequate education program funding
1367 formula prescribed in Sections 37-151-3 through 37-151-7,
1368 Mississippi Code of 1972, until such time as the said adequate
1369 education program is fully funded by the Legislature. The
1370 following percentages of the total state cost of increased
1371 allocations of funds under the adequate education program funding
1372 formula shall be appropriated by the Legislature into the Interim
1373 School District Capital Expenditure Fund to be distributed to all
1374 school districts under the formula: Nine and two-tenths percent
1375 (9.2%) shall be appropriated in fiscal year 1998, twenty percent
1376 (20%) shall be appropriated in fiscal year 1999, forty percent
1377 (40%) shall be appropriated in fiscal year 2000, sixty percent
1378 (60%) shall be appropriated in fiscal year 2001, eighty percent
1379 (80%) shall be appropriated in fiscal year 2002, and one hundred
1380 percent (100%) shall be appropriated in fiscal year 2003 into the
1381 State Adequate Education Program Fund. Until July 1, 2002, such
1382 money shall be used by school districts for the following
1383 purposes:



1384 (a) Purchasing, erecting, repairing, equipping,
1385 remodeling and enlarging school buildings and related facilities,
1386 including gymnasiums, auditoriums, lunchrooms, vocational training
1387 buildings, libraries, school barns and garages for transportation
1388 vehicles, school athletic fields and necessary facilities
1389 connected therewith, and purchasing land therefor. Any such
1390 capital improvement project by a school district shall be approved
1391 by the State Board of Education, and based on an approved
1392 long-range plan. The State Board of Education shall promulgate
1393 minimum requirements for the approval of school district capital
1394 expenditure plans.

1395 (b) Providing necessary water, light, heating,
1396 air-conditioning, and sewerage facilities for school buildings,
1397 and purchasing land therefor.

1398 (c) Paying debt service on existing capital improvement
1399 debt of the district or refinancing outstanding debt of a district
1400 if such refinancing will result in an interest cost savings to the
1401 district.

1402 (d) From and after October 1, 1997, through June 30,
1403 1998, pursuant to a school district capital expenditure plan
1404 approved by the State Department of Education, a school district
1405 may pledge such funds until July 1, 2002, plus funds provided for
1406 in paragraph (e) of this subsection (4) that are not otherwise
1407 permanently pledged under such paragraph (e) to pay all or a
1408 portion of the debt service on debt issued by the school district



1409 under Sections 37-59-1 through 37-59-45, 37-59-101 through
1410 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
1411 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
1412 issued by boards of supervisors for agricultural high schools
1413 pursuant to Section 37-27-65, Mississippi Code of 1972, or
1414 lease-purchase contracts entered into pursuant to Section 31-7-13,
1415 Mississippi Code of 1972, or to retire or refinance outstanding
1416 debt of a district, if such pledge is accomplished pursuant to a
1417 written contract or resolution approved and spread upon the
1418 minutes of an official meeting of the district's school board or
1419 board of supervisors. It is the intent of this provision to allow
1420 school districts to irrevocably pledge their Interim School
1421 District Capital Expenditure Fund allotments as a constant stream
1422 of revenue to secure a debt issued under the foregoing code
1423 sections. To allow school districts to make such an irrevocable
1424 pledge, the state shall take all action necessary to ensure that
1425 the amount of a district's Interim School District Capital
1426 Expenditure Fund allotments shall not be reduced below the amount
1427 certified by the department or the district's total allotment
1428 under the Interim Capital Expenditure Fund if fully funded, so
1429 long as such debt remains outstanding.

1430 (e) [Repealed]

1431 (f) [Repealed]

1432 (g) The State Board of Education may authorize the
1433 school district to expend not more than twenty percent (20%) of



1434 its annual allotment of such funds or Twenty Thousand Dollars
1435 (\$20,000.00), whichever is greater, for technology needs of the
1436 school district, including computers, software,
1437 telecommunications, cable television, interactive video, film,
1438 low-power television, satellite communications, microwave
1439 communications, technology-based equipment installation and
1440 maintenance, and the training of staff in the use of such
1441 technology-based instruction. Any such technology expenditure
1442 shall be reflected in the local district technology plan approved
1443 by the State Board of Education under Section 37-151-17,
1444 Mississippi Code of 1972.

1445 (h) To the extent a school district has not utilized
1446 twenty percent (20%) of its annual allotment for technology
1447 purposes under paragraph (g), a school district may expend not
1448 more than twenty percent (20%) of its annual allotment or Twenty
1449 Thousand Dollars (\$20,000.00), whichever is greater, for
1450 instructional purposes. The State Board of Education may
1451 authorize a school district to expend more than said twenty
1452 percent (20%) of its annual allotment for instructional purposes
1453 if it determines that such expenditures are needed for
1454 accreditation purposes.

1455 (i) The State Department of Education or the State
1456 Board of Education may require that any project commenced under
1457 this section with an estimated project cost of not less than Five
1458 Million Dollars (\$5,000,000.00) shall be done only pursuant to



1459 program management of the process with respect to design and
1460 construction. Any individuals, partnerships, companies or other
1461 entities acting as a program manager on behalf of a local school
1462 district and performing program management services for projects
1463 covered under this subsection shall be approved by the State
1464 Department of Education.

1465 Any interest accruing on any unexpended balance in the
1466 Interim School District Capital Expenditure Fund shall be invested
1467 by the State Treasurer and placed to the credit of each school
1468 district participating in such fund in its proportionate share.

1469 The provisions of this subsection (4) shall be cumulative and
1470 supplemental to any existing funding programs or other authority
1471 conferred upon school districts or school boards.

1472 (5) The State Department of Education shall make payments to
1473 charter schools for each student in average daily attendance at
1474 the charter school equal to the state share of the adequate
1475 education program payments for each student in average daily
1476 attendance at the school district in which the public charter
1477 school is located. In calculating the local contribution for
1478 purposes of determining the state share of the adequate education
1479 program payments, the department shall deduct the pro rata local
1480 contribution of the school district in which the student resides
1481 as determined in subsection (2) (a) of this section.

1482 **SECTION 17.** Section 37-151-101, Mississippi Code of 1972, is
1483 amended as follows:



1484 37-151-101. It shall be the duty of the State Department of
1485 Education to file with the State Treasurer and the State Fiscal
1486 Officer such data and information as may be required to enable the
1487 said State Treasurer and State Fiscal Officer to distribute the
1488 common school funds and adequate education program funds by
1489 electronic funds transfer to the several school districts and
1490 charter schools, and adequate education program funds by
1491 electronic funds transfer to the Special ESA Fund at the time
1492 required and provided under the provisions of this chapter. Such
1493 data and information so filed shall show in detail the amount of
1494 funds to which each school district and charter school is entitled
1495 from such common school fund and adequate education program fund.
1496 Such data and information so filed may be revised from time to
1497 time as necessitated by law. At the time provided by law, the
1498 State Treasurer and the State Fiscal Officer shall distribute to
1499 the several school districts and charter schools the amounts to
1500 which they are entitled from the common school fund and shall
1501 distribute to the several school districts, charter schools, and
1502 the Special ESA Fund the amounts to which they are entitled from
1503 the adequate education program fund as provided by this chapter.
1504 Such distribution shall be made by electronic funds transfer to
1505 the depositories of the several school districts * * *, charter
1506 schools, and Special ESA Fund designated in writing to the State
1507 Treasurer based upon the data and information supplied by the
1508 State Department of Education for such distribution. In such



1509 instances, the State Treasurer shall submit a request for an
1510 electronic funds transfer to the State Fiscal Officer, which shall
1511 set forth the purpose, amount and payees, and shall be in such
1512 form as may be approved by the State Fiscal Officer so as to
1513 provide the necessary information as would be required for a
1514 requisition and issuance of a warrant. A copy of the record of
1515 said electronic funds transfers shall be transmitted by the school
1516 district and charter school depositories to the Treasurer, who
1517 shall file duplicates, and a duplicate of electronic funds
1518 transfer to the Special ESA Fund with the State Fiscal Officer.
1519 The Treasurer and State Fiscal Officer shall jointly promulgate
1520 regulations for the utilization of electronic funds transfers to
1521 school districts * * *, charter schools, and the Special ESA Fund.

1522 **SECTION 18.** The following shall be codified as Section
1523 37-151-86, Mississippi Code of 1972:

1524 37-151-86. **Allowance of state funds for education**
1525 **scholarship accounts program.** In addition to other funds provided
1526 for in this chapter, there shall be added a distribution from the
1527 Adequate Education Program Fund to the Special ESA Fund which
1528 shall be paid in the following manner: Two (2) business days
1529 prior to the last working day of July, there shall be paid to the
1530 Special ESA Fund, by electronic funds transfer, one-half (1/2) of
1531 the funds to which the Special ESA Fund is entitled from funds
1532 appropriated for the Adequate Education Program Fund; the



1533 remaining one-half (1/2) of appropriated payments shall be on
1534 December 15 or the next business day after that date.

1535 **SECTION 19.** This act shall take effect and be in force from
1536 and after July 1, 2018.

