MISSISSIPPI LEGISLATURE

REGULAR SESSION 2024

To: Education; Appropriations A

By: Representative Roberson

HOUSE BILL NO. 1449

AN ACT TO CREATE THE "MISSISSIPPI STUDENT FREEDOM ACT" FOR THE PURPOSE OF ESTABLISHING MAGNOLIA SCHOLARSHIP ACCOUNTS (MSA) FOR PARENTS OF ELIGIBLE STUDENTS ON A PHASED-IN BASIS; TO PRESCRIBE THE CRITERIA FOR DETERMINING ELIGIBILITY FOR PARTICIPATION IN THE PROGRAM AND RECEIPT OF PROGRAM FUNDS; TO PROVIDE FOR THE FUNDING OF EACH STUDENT'S MSA; TO STIPULATE THE OBLIGATIONS OF PARENTS OR LEGAL GUARDIANS, STUDENTS, SCHOOLS AND SERVICE PROVIDERS TO BECOME AND REMAIN ELIGIBLE FOR PARTICIPATION; TO PRESCRIBE THE DUTIES OF THE STATE OF MISSISSIPPI DEPARTMENT OF TREASURY REGARDING THE ADMINISTRATION OF THE FUNDS; TO REQUIRE PEER TO PREPARE A BIANNUAL REPORT ON THE SUFFICIENCY OF FUNDING FOR ESAS AND STUDENT PERFORMANCE AND ASSESSMENT EVALUATION BEGINNING IN 2026 AND EVERY TWO YEARS THEREAFTER; TO PROVIDE FOR THE ADMINISTRATIVE, FINANCIAL AND ACADEMIC ACCOUNTABILITY STANDARDS TO BE ADHERED TO BY PARTICIPATING STUDENTS AND PARENTS; AND FOR RELATED PURPOSES.

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

SECTION 1. This act shall be known and may be cited as "The Mississippi Student Freedom Act."

SECTION 2. As used in this act the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Account" or "MSA" means the Magnolia Scholarship Account established by this act, which is an account comprised of
funds deposited on behalf of a participating student to pay for eligible educational expenses;

(b) "Account funds" means the funds deposited into an account on behalf of a participating student;

(c) "Department" means the State of Mississippi Treasury Department;

(d) "Eligible expenses" means:

   (i) Tuition and fees at a nonpublic school;

   (ii) Payment for purchase of textbooks, curriculum or other instructional materials;

   (iii) Payment for educational services, including, but not limited to, tutoring or therapy;

   (iv) Fees related to cocurricular and extracurricular activities;

   (v) Courses or contracted educational services provided by a public school;

   (vi) Fees for educational assessments;

   (vii) Fees for transportation provided by a fee-for-service transportation provider for the child to travel to and from a school;

   (viii) Computer hardware, Internet access, or other technological devices or services that are primarily used to meet a participant's educational needs; and

   (ix) Any other education expenses and services as approved by the department;
(e) "Eligible student" means a resident of the State of Mississippi who is eligible to enroll in a public elementary or secondary school;

(f) "Parent" means:

(i) A biological or adoptive parent;

(ii) Legal guardian or custodian;

(iii) Persons standing in loco parentis to a student; or

(iv) Another person with legal authority to act on behalf of an eligible student;

(g) "Participating school" means any school that receives payments from program accounts as directed by a parent to provide goods and services that are covered as eligible expenses;

(h) "Participating service provider" means a person or an entity, including a participating public, nonpublic, or private school, that receives payments from program accounts to provide goods and services that are covered as eligible expenses;

(i) "Participating student" means a student for whom an account has been established under this act; and

(j) "Program" means the Magnolia Scholarship Account Program.

SECTION 3. (1) There is created the Magnolia Scholarship Account Program, to be administered by the department in accordance with the provisions of this act.
(2) As part of the application process, a parent of a program applicant shall agree to verify program compliance. A parent of a participating student shall use the funds deposited in a participating student's account for eligible expenses to educate the student. If a parent is found to knowingly misuse grant funds, then neither the parent nor another parent of the student living in the same household may apply for an account in the future for any student, provided that the parent may appeal the finding to the department.

(3) The department shall adopt only those rules, policies, or procedures that are necessary for the administration of this program as prescribed in this act. Any rules, policies, or procedures adopted by the department related to the program shall avoid excessive bureaucracy and overly prescriptive mandates.

(4) Nothing in this act shall be construed to apply to a child who is being educated in a legitimate home instruction program and is not participating in the Magnolia Scholarship Account Program.

SECTION 4. (1) The State of Mississippi Treasury Department shall administer the Magnolia Scholarship Account Program under this act and shall promulgate rules:

(a) For the implementation of the program; and

(b) For the effective and efficient administration of the program, including without limitation:
(i) A process for determining the eligibility of students and service providers, including the awarding of accounts to eligible students and approval of potential participating service providers, avoiding unnecessary barriers or disincentives to participation by students or providers;

(ii) The oversight of the Magnolia Scholarship Account Program;

(iii) A process for conducting account and program audits, including establishing the authority for the department or its designee to conduct or contract for the auditing of accounts. As part of the auditing process, the department may remove a parent or participant from the program and close an account for failure to comply with the terms of participation required by this act, provided, that the department implemented a process and procedures to ensure that a fair process exists to determine the removal of a parent or participant from the program;

(iv) A process for appealing any administrative decision the department makes pursuant to this act, including determinations of allowable expenses, removal from the program or enrollment eligibility; and

(v) Any other necessary aspects for the operation of the program.

(2) In order to administer the program, the department shall:
(a) Administer, or designate a third party to administer, and implement a commercially viable, cost-effective, and parent-friendly system for payment of goods or services from scholarship accounts to participating service providers by electronic or online funds transfer. However, payment methods for MSA parents shall not be limited to the online platform. The department shall also provide, at a minimum:

   (i) A method for participating service providers to invoice the department as directed by a parent for eligible expenses consistent with this act; and

   (ii) A method for parents to seek reimbursement for eligible expenses consistent with this act;

   (b) Require parents to provide appropriate documentation, as determined by the department, that the costs incurred by the parent are in accordance with the provisions of this act, before disbursing funds to reimburse a parent;

   (c) Deposit into each participating student's account, on a quarterly basis, an amount not to exceed twenty-five percent (25%) of the state per-pupil funding average. However, the department may deposit an amount greater than twenty-five percent (25%) for the first quarterly deposit of each school year to offset the costs of textbooks, curriculum or other eligible expenses that may be required at the beginning of the school year;

   (d) Provide parents of participating students with a written explanation of the allowable expenses, the
responsibilities of parents and the duties of the department. This information shall also be made available on the department's website; and

(e) Implement an annual communication plan to inform parents how to access the options and opportunities outlined in this program.

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

(4) The department is authorized to:

(a) Conduct eligibility determinations for program participation;

(b) Refer a case involving misuse of account funds for investigation to:

(i) The Office of the State Auditor; or

(ii) The Attorney General;

(c) Contract with a vendor or other supplier for the administration of the program or parts of the program;

(d) Establish or create, or contract for the establishment or creation of an online anonymous fraud reporting service, including, without limitation, a telephone hotline; and

(e) Provide a mechanism for the refunding of payments from service providers back to the account from which they were paid.
(5) Any contracts entered into between the department and a vendor under the provisions of this act shall comply with all applicable state procurement laws and regulations, as outlined in Chapter 7, Title 31, Mississippi Code of 1972.

SECTION 5. (1) By December 1 of each year, the department shall report to the Governor and Education Committees of the Senate and House of Representatives:

(a) The total funds appropriated for the program in the current fiscal year and the prior fiscal year;

(b) The number of applicants for the program in the current fiscal year and the prior fiscal year;

(c) The number of accounts awarded in the current fiscal year and the prior fiscal year and how account funds were used by participants in the prior fiscal year; and

(d) Other matters concerning the program that is considered relevant by the department.

(2) (a) By December 31, 2026, and every two (2) years thereafter, the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) shall submit to the Legislature a biannual report, assessing the efficacy of the Magnolia Scholarship Accounts, to include the sufficiency of funding, and recommending any suggested changes in state law or policy necessary to improve the program.

(b) The report shall assess:
(i) The level of participating students' satisfaction with the program;
(ii) The level of parental satisfaction with the program;
(iii) Participating students' academic progress on a nationally standardized norm-referenced achievement test;
(iv) The percentage of funds used for each eligible expense identified in this act; and
(v) The fiscal impact to the state and home school districts of the program, which must consider both the impact on revenue and the impact on expenses. Furthermore, the fiscal savings associated with students departing public schools must be explicitly quantified.

(c) The report shall:
(i) Apply appropriate analytical and behavioral science methodologies to ensure public confidence in the study; and
(ii) Protect the identity of participating students and schools by, among other things, keeping anonymous all disaggregated data.

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

SECTION 6. (1) The Magnolia Scholarship Account Program shall begin enrolling participating students no later than the beginning of the 2025-2026 school year.
(2) A student is eligible for an account if the student:
   (a) Has a parent who is a resident of Mississippi;
   (b) Is eligible to enroll in a public elementary or secondary school in this state; and
   (c) Meets the following criteria:
       (i) For the 2025–2026 school year, any child who:
           1. Is eligible to enroll in kindergarten or who was enrolled in public school or the Education Scholarship Account Program in the previous school year; and
           2. Meets the eligibility criteria to participate in Medicaid or the Children's Health Insurance Program (CHIP);
       (ii) For the 2026–2027 school year, any child who:
           1. Is eligible to enroll in kindergarten; or
           2. Was enrolled in public school or the Education Scholarship Account Program in the previous school year; and
       (iii) For the 2027–2028 school year and every year thereafter, any child who is eligible to enroll in public school.

(3) A homeschool student, as defined by applicable state and federal law, may be eligible for an account beginning in the 2027–2028 school year. Students who are designated as homeschool students shall only be eligible for an amount up to One Thousand Dollars ($1,000.00). Nothing in this section shall require homeschool students to participate in the MSA program.
(4) (a) Program participation shall be limited for the first four (4) years of the program as follows:

(i) For the 2025-2026 school year, a maximum of one and one-half percent (1.5%) of the number equal to the 2022-2023 total public school student enrollment;

(ii) For the 2026-2027 school year, a maximum of three percent (3%) of the number equal to the 2022-2023 total public school student enrollment;

(iii) For the 2027-2028 school year, a maximum of four and one-half percent (4.5%) of the number equal to the 2022-2023 total public school student enrollment;

(iv) For the 2028-2029 school year, a maximum of six percent (6%) of the number equal to the 2022-2023 total public school student enrollment; and

(v) For the 2029-2030 school year and beyond, there shall be no maximum participation limit.

(b) The number of accounts approved under this section shall not exceed the amount of funds made available for the Magnolia Scholarship Account Program.

(5) For purposes of continuity of educational attainment, students who enroll in the MSA program shall remain eligible until the participating student returns to a public school, completes high school, completes the school year in which the student reaches the age of twenty-one (21), whichever occurs first.
(6) In any year in which funds are insufficient to fund all applications for new accounts, first priority shall be given in the order as follows:

(a) Students eligible under (2)(c)(i) of this section;
(b) Students with a parent in the military on active duty or killed in the line of duty;
(c) Students actively enrolled in the state's Education Scholarship Accounts program, established under Chapter 181, Title 37, Mississippi Code of 1972;
(d) Students who are in or have been adopted out of the foster care system;
(e) Students eligible under (2)(c)(ii) of this section; and
(f) Students with a sibling who is already a participating student.

(7) A participating student may also participate in and receive funds from only one (1) of the following:

(a) The "Equal Opportunity for Students with Special Needs Act," established under Chapter 181, Title 37, Mississippi Code of 1972;
(b) The "Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program," established under Chapter 173, Title 37, Mississippi Code of 1972; or
(c) The "Mississippi Speech-Language Therapy Scholarship for Students with Speech-Language Impairments Program"
(Nate Rogers Scholarship), established under Chapter 175, Title 37, Mississippi Code of 1972.

**SECTION 7.** (1) Subject to appropriation from the General Fund, each participating student's Magnolia Scholarship Account shall be funded at an amount equal to one hundred percent (100%) of the average amount of the state share of per-student expenditure as determined by using the base student cost for the previous school year.

(2) No school district shall be required to provide funding for a Magnolia Scholarship Account.

(3) The department shall submit to the State Department of Education, the names and home districts of participating students. The State Department of Education shall develop a method to ensure public school districts do not receive the state share of funding for participating students in the same year or years those students are participating in the MSA program.

(4) An account shall remain in force, and any unused funds shall roll over from quarter-to-quarter and from year-to-year until:

(a) The participating student withdraws from the program;

(b) The participating student graduates from high school; or

(c) The end of the school year in which the participating student reaches twenty-one (21) years of age.
(5) Any funds remaining in a student's Magnolia Scholarship Account upon completion of high school shall be returned to the state's General Fund.

(6) An eligible student shall be allowed to return to his home school district at any time after enrolling in the MSA program, in compliance with regulations adopted by the department providing for the least disruptive process for doing so. Upon the participating student's return to his or her home school district, the student's Magnolia Scholarship Account shall be closed, and any remaining funds shall be distributed to the student's home school district at the end of the school year.

SECTION 8. The department shall ensure that parents of scholarship students with disabilities receive notice that participation in the scholarship program is a parental placement under the Individuals with Disabilities Education Act (IDEA), along with an explanation of the rights that parentally placed students possess under IDEA and any applicable state laws and regulations.

SECTION 9. (1) To participate in the Magnolia Scholarship Account Program, any nonpublic school, as described in Section 37-13-91, must meet the following requirements:

(a) Submit notice to the department that they wish to participate in the Magnolia Scholarship Account Program;
(b) Provide parents of participating students with a receipt for all eligible educational expenses for the participating student;

(c) Agree not to refund, rebate or share Magnolia Scholarship Account funds with parents or students in any manner, except that funds may be remitted or refunded to a Magnolia Scholarship Account in accordance with the provisions of this act and any rules promulgated by the department;

(d) Certify that it will not discriminate on any basis prohibited by 42 USCS Section 1981;

(e) Agree to submit any employee who will have contact with participating students to a criminal background check; and

(f) Agree not to charge a participating student more for tuition and fees than a nonparticipating student.

(2) (a) The provisions of this act do not limit the independence or autonomy of a participating school or participating service provider or make the actions of any such provider the actions of the state government.

(b) Participating schools and participating service providers shall be given maximum freedom to provide for the educational needs of Magnolia Scholarship Account students without governmental control.

(c) A participating school or participating service provider is not required to alter its creed, practices, admission
policy, hiring policy or curriculum in order to accept participating students.

(d) The provisions of this act do not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of participating schools or participating service providers beyond those necessary to enforce the requirements of the program.

(3) A public school district or public charter school located in the State of Mississippi that previously enrolled a student who is now a participating student under this act shall provide the participating school or participating service provider that has enrolled the student who was previously enrolled in the public school district or public charter school a copy of the participating student's cumulative record consistent with the provisions of the Family Educational Rights and Privacy Act of 1974, as it existed on January 1, 2024.

(4) (a) No later than January 1, 2025, the department shall adopt rules providing for program eligibility for participating service providers that are not participating schools, including without limitation an application process that is executed, at a minimum, annually for the purpose of determining service provider eligibility.

(b) The department shall maintain a list of service providers determined to be eligible to participate in the program and make the list available on the department's website.
(c) The department may bar a service provider from accepting payments from accounts and restrict the service provider's ability to serve additional participating students if the department determines that the participating service provider has:

(i) Failed to maintain continuing eligibility criteria established by the department;

(ii) Intentionally or substantially misrepresented information or failed to refund any overpayments in a timely manner, as defined by the department; or

(iii) Routinely failed to provide participating students with promised educational goods or services, as defined by the department.

(5) (a) The department shall create procedures to ensure that a fair process exists to determine whether a participating service provider may be barred from receiving payments from accounts under the provisions of this section.

(b) If the department bars a participating service provider from receiving payments from accounts under this section, it shall notify parents of participating students of its decision within three (3) days of its decision by indicating the revocation of payments to the service provider on the department's website and through attempted individual communications.
(c) A participating service provider may appeal the department's decision to revoke its ability to receive payments from accounts to the Hinds County Circuit Court.

(6) Any participating school or participating service provider, as defined in this act, may be subject to review and an audit of funds received related to this act as directed by the department.

SECTION 10.  (1) Each participating student shall be required to take a nationally recognized norm-referenced test or a statewide assessment annually, which measures, at a minimum, literacy and math.

(2) (a) The responsibility to take the assessment shall lie solely with the participating student and his or her parent and not the participating school or participating service provider.

(b) At its sole discretion, a participating school or participating service provider may offer to facilitate the taking of this assessment by the participating student.

(c) Account funds may be used to offset expenditures associated with this assessment requirement.

(d) The parent of the participating student shall submit the results of all such assessment to the department in a timely manner, as defined by the department. Submission of such assessment results in a timely manner shall be required for continued participation of the participating student in the program.
(3) (a) Notwithstanding any other provision of this act, a participating student who has an Individual Service Plan, Instructional Services Plan, an Individualized Education Plan or an Individual Family Service Plan, and who is certified by a participating school or participating service provider to need an exemption from standardized testing due to the existence of a significant cognitive disability, is not required to take the assessment required under this section.

(b) If a student is not required to take the assessment required under this section, a participating school or participating service provider shall provide to the parent of the participating student the certification described in paragraph (a) of this subsection and may provide for the student to take an alternate assessment approved by the State Board of Education or prepare a portfolio that provides information on the student's progress to the student's parent or guardian.

(c) The parent of the participating student shall submit the certification described in this subsection to the department in a timely manner, as defined by the department. Submission of such certification in a timely manner shall be required for continued participation of the participating student in the program.

SECTION 11. (1) In any legal proceeding challenging the application of the program to a service provider, the state bears
the burden of establishing that the law is necessary and does not impose any undue burden on the service provider.

(2) No liability shall arise on the part of the department or the state or of any public school or school district based on the award of or use of an account.

(3) If any part of the program is challenged in a state court as violating either the Mississippi Constitution or the United States Constitution, parents shall be permitted to intervene as of right in such lawsuit for the purposes of defending the program's constitutionality. However, for the purposes of judicial administration, a court may require that all parents file a joint brief, so long as they are not required to join any brief filed on behalf of any named state defendant.

SECTION 12. If any provision of this act, or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this act, which can be given effect without the invalid provision or application, and to this end the provisions of this program are declared to be severable.

SECTION 13. This act shall take effect and be in force from and after July 1, 2024.