

By: Representative Roberson

To: Education

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1433

1 AN ACT TO ESTABLISH THE "FLEXIBLE AND RIGHTFUL EDUCATION  
2 ENROLLMENT (FREE) ACT" FOR THE PURPOSE OF EXPANDING ACCESS TO  
3 HIGHER PERFORMING SCHOOLS AND ACCREDITED NONPUBLIC SCHOOLS FOR  
4 STUDENTS ENROLLED IN CERTAIN SCHOOLS AND DISTRICTS RATED AS "D" OR  
5 "F" BY THE STATE DEPARTMENT OF EDUCATION; TO PRESCRIBE TERMS AND  
6 DEFINITIONS; TO PRESCRIBE THE QUALIFICATIONS OF ELIGIBILITY; TO  
7 PROVIDE THAT A PARENT OR LEGAL GUARDIAN WHOSE CHILD HAS BEEN  
8 ENROLLED IN A "D" OR "F" RATED SCHOOL OR DISTRICT WITHIN THE LAST  
9 FIVE YEARS, BEGINNING WITH THE 2020 ACADEMIC YEAR, MAY MAKE  
10 APPLICATION TO ENROLL HIS OR HER CHILD IN A HIGHER PERFORMING  
11 PUBLIC SCHOOL, SCHOOL DISTRICT OR ACCREDITED NONPUBLIC SCHOOL; TO  
12 PROVIDE THAT FUNDING FOR TRANSFERRED STUDENTS SHALL BE EQUIVALENT  
13 TO THE FULL BASE PER-PUPIL STATE FUNDING AS DETERMINED UNDER  
14 MISSISSIPPI STUDENT FUNDING FORMULA; TO PROVIDE THE PURPOSES FOR  
15 WHICH "FREE" FUNDS MAY BE USED; TO PROVIDE THAT IF A PARENT OR  
16 LEGAL GUARDIAN CHOOSES TO ENROLL HIS OR HER CHILD IN AN ACCREDITED  
17 NONPUBLIC SCHOOL, "FREE" FUNDS SHALL BE PAID AS A REIMBURSEMENT  
18 FOR CERTAIN EDUCATIONAL RELATED EXPENSES; TO PROVIDE THAT  
19 REIMBURSEMENT PAYMENT SHALL BE MADE ON A MONTHLY BASIS UPON  
20 APPROVAL OF SUBMITTED EXPENSES; TO PROVIDE THAT THE SIBLINGS OF  
21 ELIGIBLE STUDENTS WHO QUALIFY TO RECEIVE "FREE" SCHOLARSHIP  
22 ACCOUNT FUNDS MAY ALSO RECEIVE "FREE" SCHOLARSHIP ACCOUNT FUNDS  
23 UPON THE SUBMISSION OF AN APPLICATION BY THE PARENT OR LEGAL  
24 GUARDIAN; TO PROVIDE THAT A TRANSFEREE DISTRICT OR NONPUBLIC  
25 SCHOOL MAY, BUT IS NOT REQUIRED TO, PROVIDE TRANSPORTATION FOR  
26 TRANSFERRING STUDENTS; TO REQUIRE APPLICATIONS TO BE SUBMITTED TO  
27 THE TRANSFEREE SCHOOL, DISTRICT OR NONPUBLIC SCHOOL DURING AN  
28 ANNUAL ENROLLMENT PERIOD ESTABLISHED BY THE STATE DEPARTMENT OF  
29 EDUCATION; TO PROVIDE THAT A TRANSFEREE SCHOOL DISTRICT OR  
30 NONPUBLIC SCHOOL MAY ACCEPT STUDENTS BASED ON CAPACITY TO ENROLL  
31 THE CHILD FOR ATTENDANCE; TO REQUIRE TRANSFEREE DISTRICTS AND  
32 NONPUBLIC SCHOOLS TO ESTABLISH PUBLICLY ACCESSIBLE TRANSPARENT  
33 CAPACITY POLICIES; TO REQUIRE THAT THE STATE DEPARTMENT OF  
34 EDUCATION SHALL DEVELOP RULES, ANNUALLY REVIEW AND REPORT ON



SPECIFIED INFORMATION SUBMITTED BY PUBLIC SCHOOLS, DISTRICTS AND ACCREDITED NONPUBLIC SCHOOLS; TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO AUDIT REIMBURSEMENTS FOR NONPUBLIC SCHOOL EXPENSES TO ENSURE COMPLIANCE AND PUBLISH FINDINGS AND RECOMMENDATIONS FOR LEGISLATIVE OR REGULATORY ADJUSTMENTS; TO ESTABLISH THE FLEXIBLE AND RIGHTFUL EDUCATION ENROLLMENT (FREE) SCHOLARSHIP FUND AND TO PROVIDE FOR ITS MANNER OF FUNDING; TO AMEND SECTIONS 37-15-29 AND 37-15-31, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS, TO AUTHORIZE TRANSFERS WITHOUT SCHOOL BOARD CONSENT IN CERTAIN CIRCUMSTANCES; TO CREATE THE "MISSISSIPPI FOSTER CHILD EDUCATION SCHOLARSHIP ACCOUNT PROGRAM ACT" FOR THE PURPOSE OF ESTABLISHING EDUCATION SCHOLARSHIP ACCOUNTS (FESAS) FOR FOSTER PARENTS, GUARDIANS OR RESPONSIBLE AGENCY OFFICIALS OF THE DEPARTMENT OF CHILD PROTECTION SERVICES FOR FOSTER CHILDREN; 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 FESA; TO STIPULATE THE OBLIGATIONS OF FOSTER PARENTS, LEGAL GUARDIANS, RESPONSIBLE CPS OFFICIALS, STUDENTS AND SCHOOLS TO BECOME AND REMAIN ELIGIBLE FOR PARTICIPATION; TO PRESCRIBE THE DUTIES OF THE DEPARTMENT OF EDUCATION REGARDING THE ADMINISTRATION OF THE FUNDS; TO REQUIRE PEER TO PREPARE A BIENNIAL REPORT ON THE SUFFICIENCY OF FUNDING FOR FESAS AND STUDENT PERFORMANCE AND ASSESSMENT EVALUATION BEGINNING IN 2027 AND EVERY TWO YEARS THEREAFTER; TO PROVIDE FOR THE ADMINISTRATIVE, FINANCIAL AND ACADEMIC ACCOUNTABILITY STANDARDS TO BE ADHERED TO BY PARTICIPATING SCHOOLS; 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 "Flexible and Rightful Education Enrollment (FREE) Act."

**SECTION 2.** (1) The Legislature finds that students enrolled in schools and districts rated as "D" or "F" by the State Department of Education often face significant challenges that impede their ability to achieve academic success.

(2) Expanding access to higher-performing schools and accredited nonpublic schools will substantially increase educational opportunities for students to thrive.

(3) To ensure equitable access, base per-pupil state funding must follow the student to the school of their choice, including



74 through reimbursement to parents for tuition and eligible  
75 educational expenses at nonpublic schools.

76 **SECTION 3.** For purposes of this act, the following terms  
77 shall have the meanings ascribed in this section, unless context  
78 of use clearly requires otherwise:

79 (a) "Accredited nonpublic school" means a private  
80 school located within the State of Mississippi that meets the  
81 accreditation standards of:

82 (i) The State Department of Education;  
83 (ii) The Mississippi Association of Independent  
84 Schools; or

85 (iii) Any other state, regional or national  
86 accrediting association.

87 (b) "Base per-pupil funding" means the amount  
88 determined under Section 37-151-205, Mississippi Code of 1972,  
89 adjusted for categorical needs.

90 (c) "Eligible student" means a resident of Mississippi  
91 who:

92 (i) Is or has been enrolled in a public school for  
93 a minimum of a year;

94 (ii) Resides in a home school district that has  
95 received a "D" or "F" rating under the Mississippi State  
96 Accountability System within the past five (5) years, or attends a  
97 school that has received a "D" or "F" rating and evidencing the  
98 lowest fifty percent (50%) of student enrolled therein lacking



proficiency as determined by the Third Grade Reading Assessment  
and any prescreening assessment related thereto;

(iii) Resides in an area where there is no  
high-performing public school within thirty (30) miles of the  
student's home with capacity to accept a transferring student; and

(iv) Resides in an area where there is an  
accredited nonpublic school within thirty (30) miles of the  
student's home.

(d) "FREE program" means the Flexible and Rightful  
Education Enrollment (FREE) program created in this act.

(e) "Transferee school or district" means the school or  
school district to which an eligible student seeks to transfer.

(f) "Transferor school or district" means the school or  
school district in which the eligible student was previously  
enrolled.

(g) "High-performing public school" means a school that  
has an "A" or "B" rating as defined by the State Board of  
Education under the school accountability model.

**SECTION 4.** (1) Any parent or legal guardian of an eligible  
student who has been enrolled in a school or school district rated  
"D" or "F", as defined in Section 3(c) within the last five (5)  
years may apply for enrollment in:

(a) Any public school or district other than their  
assigned residential school zone or school district with available  
capacity to accommodate the student's enrollment therein; or



(b) Any accredited nonpublic school within the State of Mississippi. However, in order to avail themselves of the opportunity to enroll in an accredited nonpublic school under this paragraph, the student's parent or legal guardian must have exhausted all applications for transfer to a high-performing public school within the radius of thirty (30) miles of the student's home, for which enrollment has been sought and subsequently denied due to the public school's lack of capacity to accommodate the student's transfer.

(2) (a) For students transferring to public schools, funding equivalent to the full base per-pupil state funding, as determined under Section 37-151-205, shall follow the student to the transferee school or district, however, the local contribution of each school district based on the minimum local tax effort shall be retained as revenue of the home school district of the transferring student.

(b) For students attending accredited nonpublic schools, parents shall be reimbursed for tuition, fees and other educational expenses, up to the amount of the state's full base per-pupil funding for the child.

(3) If an eligible student qualifies under the provisions of this act to receive "FREE" scholarship account funds, all of his or her siblings who reside within the same household may also receive "FREE" scholarship account funds upon the submission of an application by the parent or legal guardian, regardless of the



149 school and the accountability rating of the school they currently  
150 attend. For purposes of this subsection, the term sibling  
151 includes any biological child, stepchild, adopted child or foster  
152 child, in temporary or permanent placement, who resides in the  
153 same household of the parent or legal guardian of a child who has  
154 qualified for eligibility under the provisions of this section,  
155 provided that such sibling applies for enrollment in the same  
156 school, school district or nonpublic school as his or her  
157 previously qualifying eligible sibling.

158 (4) (a) Applications shall be submitted to the transferee  
159 school, district or nonpublic school during an annual enrollment  
160 period, which shall be established by the State Department of  
161 Education.

162 (b) The transferee school, district or nonpublic school  
163 may accept students if capacity is available, prioritizing  
164 eligible students from "D" or "F" rated schools or districts, as  
165 defined in Section 3(c).

166 (5) (a) Transferee districts shall establish transparent  
167 capacity policies, which must be publicly accessible.

168 (b) Approval shall not be based on race, religion or  
169 socioeconomic status.

170 (6) (a) Parents must submit documentation of tuition and  
171 eligible educational expenses to the State Department of Education  
172 for reimbursement.



(b) Reimbursements shall be made monthly upon approval of submitted expenses.

(7) (a) The transferee district or nonpublic school may, but is not required to, provide transportation for transferring students.

(b) Parents of students attending nonpublic schools may apply for additional reimbursement for documented transportation expenses, subject to limits set by the department.

(8) Students who are determined to be eligible for "FREE" scholarship account funds under this act, an ESA under the Equal Opportunity for Students with Special Needs Act, a Mississippi Dyslexia Therapy Scholarship for Students with Dyslexia Program or a Mississippi Speech-Language Therapy Scholarship for Students with Speech-Language Impairments Program, shall only be eligible to participate in one (1) program, and not be entitled to receive benefits from multiple programs, but only the program that conveys the greatest financial and acute educational benefit to the eligible student.

**SECTION 5.** (1) The State Department of Education (SDE) shall develop rules for:

(a) Inter-district and nonpublic school transfer application timelines and procedures;

(b) Public reporting of open seats in public schools and districts; and

(c) An appeals process for denied transfers.



(2) (a) The State Department of Education shall annually review and report on the following information submitted by public schools, districts and accredited nonpublic schools:

(i) The number of students making application for transfer under this program, aggregated by the number accepted for transfer and the number denied transfer;

(ii) Reasons for denial of applications;

(iii) Academic performance and demographic data of transferring students; and

(iv) Financial impacts on transferor and transferee school districts and nonpublic schools.

(b) Accredited nonpublic schools participating in the this program must:

(i) Meet all applicable accreditation and reporting requirements as defined by the State Department of Education; and

(ii) Comply with all applicable state and federal nondiscrimination laws.

(3) The department shall audit reimbursements for nonpublic school expenses to ensure compliance and publish findings and recommendations for legislative or regulatory adjustments.

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



**SECTION 6.**

(1) There is hereby established the Flexible and Rightful Education Enrollment (FREE) Scholarship Fund in the State Treasury, which shall be administered by the State Department of Education, under the authority granted under Section 1 through 5 of this act, for the purpose of funding reimbursements to the parents or legal guardians of eligible students, as defined in Section 3 of this act, who attend accredited nonpublic schools, as prescribed under subsection (2)(b) and (7)(b) of Section 4 of this act, up to the amount of the state's full base per-pupil funding for the child in attendance.

(2) Funds administered under the provisions of subsection (1) shall be reimbursed to the parents or legal guardians of eligible students who attend accredited nonpublic schools shall be allocated on a first-come, first-served basis. However, priority shall be given to eligible students as defined in Section 3 of this act, who reside in households that have an income of not more than one hundred thirty-eight percent (138%) of federal poverty level.

(3) The fund shall be initially capitalized with an appropriation of Five Million Dollars (\$5,000,000.00) from the State General Fund for fiscal year 2026, or other source, as determined by the Legislature. Annually thereafter, the Legislature shall appropriate funds for the program based upon the State Department of Education's estimation of students attending accredited nonpublic schools who are currently receiving "FREE"



scholarship account funds and the projected number of eligible students who opt to attend an accredited nonpublic school.

**SECTION 7.** Section 37-15-29, Mississippi Code of 1972, is amended as follows:

37-15-29. (1) Except as provided in subsections (2), (3), (4) and (5) of this section, no minor child may enroll in or attend any school except in the school district of his residence, unless such child be lawfully transferred from the school district of his residence to a school in another school district in accord with the statutes of this state now in effect or which may be hereafter enacted.

(2) Those children whose parent(s) or legal guardian(s) are instructional personnel or certificated employees of a school district may at such employee's discretion enroll and attend the school or schools of their parent's or legal guardian's employment regardless of the residence of the child.

(3) No child shall be required to be transported in excess of thirty (30) miles on a school bus from his or her home to school, or in excess of thirty (30) miles from school to his or her home, if there is another school in an adjacent school district located on a shorter school bus transportation route by the nearest traveled road. Those children residing in such geographical situations may, at the discretion of their parent(s) or legal guardian(s), enroll and attend the nearer school, regardless of the residence of the child. In the event the parent



or legal guardian of such child and the school board are unable to agree on the school bus mileage required to transport the child from his or her home to school, an appeal shall lie to the State Board of Education, or its designee, whose decision shall be final. The school districts involved in the appeal shall provide the Mississippi Department of Education with any school bus route information requested, including riding the buses as necessary, in order to measure the bus routes in question, as needed by the State Board of Education in considering the appeal.

(4) (a) Those children \* \* \* enrolled in schools or districts having received an accountability rating of "D" or "F" within the last five (5) years, beginning with the 2020 academic school year, by the State Department of Education, upon written application of their parent or legal guardian are entitled to transfer to another public school or district within or outside of their original residency or place of domicile with available capacity to accept the student into the district or a specific school, or released by the home school district of residence to attend an accredited nonpublic school. Parental application submitted under the authority of this subsection shall not require the mutual consent of the two (2) public school boards serving as the transferor and transferee schools or districts. If the public school district is unable to accommodate a request for enrollment of transfer due to a lack of capacity to accept the student into the district or a specific school campus, the school board shall



297 deny the request and spread the same upon its minutes no later  
298 than the next regular meeting.

299 (b) The siblings of eligible students lawfully  
300 transferred under the provisions of paragraph (a), may also, at  
301 the discretion of their parent(s) or legal guardian(s), enroll and  
302 attend school in the transferee school district or be released by  
303 the home school district of residence to attend an accredited  
304 nonpublic school.

305 (5) (a) Those children whose parent(s) or legal guardian(s)  
306 are active members of the United States Armed Forces may, at the  
307 discretion of their parent(s) or legal guardian(s), enroll and  
308 attend the school district and school campus of their parent's or  
309 legal guardian's choosing, regardless of the residence of the  
310 child.

311 (b) Those children whose parent(s) or legal guardian(s)  
312 are civilian military personnel and reside on a military base  
313 may, at the discretion of their parent(s) or legal guardian(s),  
314 enroll and attend the school district and school campus of their  
315 parent's or legal guardian's choosing, regardless of the residence  
316 of the child.

317 (c) For purposes of paragraphs (a) and (b) of this  
318 subsection (5):

319 (i) A school district is not required to provide  
320 transportation to a student who enrolls in or transfers to another



school district or school campus within the district of chosen attendance;

(ii) A student eligible for enrollment or transfer shall be allowed only one (1) school transfer per academic year;

(iii) Once admitted, and unless expelled, the parent(s) or legal guardian(s) of students transferring under the authority of this subsection shall not be required to reapply for admission for continued enrollment in the school district or school campus of last attendance for any subsequent years of attendance therein; and

(iv) If the school district is unable to accommodate a request for enrollment for transfer due to a lack of capacity to accept the student in to the district or a specific school campus, the school board shall deny the request and spread the same upon its minutes.

**SECTION 8.** Section 37-15-31, Mississippi Code of 1972, is amended as follows:

37-15-31. (1) (a) Except as provided in subsections (2) through (5) of this section, upon the petition in writing of a parent or guardian resident of the school district of an individual student filed or lodged with the president or secretary of the school board of a school district in which the pupil has been enrolled or is qualified to be enrolled as a student under Section 37-15-9, or upon the aforesaid petition or the initiative of the school board of a school district as to the transfer of a



grade or grades, individual students living in one school district or a grade or grades of a school within the districts may be legally transferred to another school district, by the mutual consent of the school boards of all school districts concerned, which consent must be given in writing and spread upon the minutes of such boards.

(b) The school board of the transferring school district to which such petition may be addressed shall act thereon not later than its next regular meeting subsequent to the filing or lodging of the petition, and a failure to act within that time shall constitute a rejection of such request. The school board of the other school district involved (the transferee board) shall act on such request for transfer as soon as possible after the transferor board shall have approved or rejected such transfer and no later than the next regular meeting of the transferee board, and a failure of such transferee board to act within such time shall constitute a rejection of such request. If such a transfer is approved by the transferee board, then such decision shall be final. If such a transfer should be refused by the school board of either school district, then such decision shall be final.

(c) Any legal guardianship formed for the purpose of establishing residency for school district attendance purposes shall not be recognized by the affected school board.

(2) (a) Upon the petition in writing of any parent or guardian who is a resident of Mississippi and is an instructional



371 or licensed employee of a school district, but not a resident of  
372 such district, the school board of the employer school district  
373 shall consent to the transfer of such employee's dependent  
374 school-age children to its district and shall spread the same upon  
375 the minutes of the board. Upon the petition in writing of any  
376 parent or guardian who is not a resident of Mississippi and who is  
377 an instructional or licensed employee of a school district in  
378 Mississippi, the school board of the employer school district  
379 shall consent to the transfer of such employee's dependent  
380 school-age children to its district and shall spread the same upon  
381 the minutes of the board.

382 (b) The school board of any school district, in its  
383 discretion, may adopt a uniform policy to allow the enrollment and  
384 attendance of the dependent children of noninstructional and  
385 nonlicensed employees, who are residents of Mississippi but are  
386 not residents of their district. Such policy shall be based upon  
387 the employment needs of the district, implemented according to job  
388 classification groups and renewed each school year.

389 (c) The employer transferee school district shall  
390 notify in writing the school district from which the pupil or  
391 pupils are transferring, and the school board of the transferor  
392 school district shall spread the same upon its minutes.

393 (d) Any such agreement by school boards for the legal  
394 transfer of a student shall include a provision providing for the  
395 transportation of the student. In the absence of such a provision



the responsibility for transporting the student to the transferee school district shall be that of the parent or guardian.

(e) Any school district which accepts a student under the provisions of this subsection shall not assess any tuition fees upon such transferring student in accordance with the provisions of Section 37-19-27.

(3) Upon the petition in writing of any parent or legal guardian of a school-age child who is a resident of an adjacent school district residing in the geographical situation described in Section 37-15-29(3), the school board of the school district operating the school located in closer proximity to the residence of the child shall consent to the transfer of the child to its district, and shall spread the same upon the minutes of the board. Any such agreement by school boards for the legal transfer of a student under this subsection shall include a provision for the transportation of the student by either the transferor or the transferee school district. In the event that either the school board of the transferee or the transferor school district shall object to the transfer, it shall have the right to appeal to the State Board of Education whose decision shall be final. However, if the school boards agreeing on the legal transfer of any student shall fail to agree on which district shall provide transportation, the responsibility for transporting the student to the transferee school district shall be that of the parent or guardian.



421           (4) Upon the \* \* \* application in writing of any parent or  
422 legal guardian of a school-age child who was \* \* \* enrolled in  
423 schools or districts having received an accountability rating of  
424 "D" or "F" within the last five (5) years, beginning with the 2020  
425 academic school year, by the State Department of Education, as  
426 described in Section 37-15-29(4), the school board of the  
427 transferee school district shall \* \* \* receive to the transfer of  
428 such child \* \* \* provided the district has available capacity to  
429 accommodate the request for enrollment of transfer. If the public  
430 school district is unable to accommodate the transfer due to a  
431 lack of capacity, the school board shall deny the request, and  
432 shall spread the same upon the minutes of the board no later than  
433 the next regular meeting.

434           (5) (a) If the board of trustees of a municipal separate  
435 school district with added territory does not have a member who is  
436 a resident of the added territory outside the corporate limits,  
437 upon the petition in writing of any parent or legal guardian of a  
438 school-age child who is a resident of the added territory outside  
439 the corporate limits, the board of trustees of the municipal  
440 separate school district and the school board of the school  
441 district adjacent to the added territory shall consent to the  
442 transfer of the child from the municipal separate school district  
443 to the adjacent school district. The agreement must be spread  
444 upon the minutes of the board of trustees of the municipal  
445 separate school district and the school board of the adjacent



446 school district. The agreement must provide for the  
447 transportation of the student. In the absence of such a  
448 provision, the parent or legal guardian shall be responsible for  
449 transporting the student to the adjacent school district. Any  
450 school district that accepts a student under this subsection may  
451 not assess any tuition fees against the transferring student.

452 (b) Before September 1 of each year, the board of  
453 trustees of the municipal separate school district shall certify  
454 to the State Department of Education the number of students in the  
455 added territory of the municipal separate school district who are  
456 transferred to the adjacent school district under this subsection.  
457 The municipal separate school district also shall certify the  
458 total number of students in the school district residing in the  
459 added territory plus the number of those students who are  
460 transferred to the adjacent school district. Based upon these  
461 figures, the department shall calculate the percentage of the  
462 total number of students in the added territory who are  
463 transferred to the adjacent school district and shall certify this  
464 percentage to the levying authority for the municipal separate  
465 school district. The levying authority shall remit to the school  
466 board of the adjacent school district, from the proceeds of the ad  
467 valorem taxes collected for the support of the municipal separate  
468 school district from the added territory of the municipal separate  
469 school district, an amount equal to the percentage of the total



number of students in the added territory who are transferred to the adjacent school district.

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

**SECTION 10.** As used in Sections 9 through 19 of this act the following terms shall have the meanings ascribed herein, unless context of use clearly requires otherwise:

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

(d) "Eligible school" means a state-accredited special purpose school, a state-accredited nonpublic school, or a nonpublic school located in the state that has enrolled a participating student and is providing educational instruction and services to the participating student. An eligible school does not include a home instruction program under Section 37-13-91, Mississippi Code of 1972.



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

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

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

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

**SECTION 11.** (1) An eligible student shall qualify to participate in the FESA program if the foster parent, legal guardian or responsible agency official signs an agreement promising:

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



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

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

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

(2) Parents, legal guardians or responsible agency officials shall use the funds deposited in a participating student's FESA for any of the qualified expenses defined in Section 10(c) of this act, which shall be incurred within the awarded FESA school year, to educate the student.

(3) Neither a participating student, nor anyone on the student's behalf, may receive cash or cash-equivalent items, such as gift cards or store credit, from any refunds or rebates from any provider of services or products in the FESA program. Any refunds or rebates shall be credited directly to the participating



student's FESA. The funds in an FESA may only be used for education-related purposes.

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

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

(5) Payment for educational services through a FESA shall not preclude foster parents, legal guardians or responsible agency officials from paying for educational services using non-FESA funds.



591           (6) For purposes of continuity of educational attainment,  
592 students who enroll in the FESA program shall remain eligible to  
593 receive monthly FESA payments until the participating student  
594 returns to a public school, completes high school, or completes  
595 the school year in which the student reaches the age of twenty-one  
596 (21) if he or she is eligible for special education for  
597 individuals with disabilities under the federal Individuals with  
598 Disabilities Education Act (20 USCS Section 1401(3)), whichever  
599 occurs first as applicable.

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

604           (8) An eligible student shall be allowed to return to his  
605 home school district after enrolling in the FESA program, in  
606 compliance with regulations adopted by the Department of Child  
607 Protection Services which provide for the least disruptive process  
608 for doing so. Upon the participating student's return to his or  
609 her home school district, the student's Foster Education  
610 Scholarship Account shall be placed on temporary hold and monthly  
611 payment to the FESA shall be withheld for such time as until  
612 verification is provided that the student has resumed enrollment  
613 in an eligible school or completed high school. Any remaining  
614 funds in the student's FESA shall remain inviolate during the  
615 temporary holding period. However, upon completion of high



school, any funds remaining in the FESA shall be deposited in accordance with subsection (7).

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

**SECTION 12.** (1) The Department of Child Protection Services shall manage and oversee FESA funds on behalf of each eligible child. The Department of Child Protection Services shall provide foster parents, legal guardians or responsible agency officials with guidance on eligible uses of funds and required documentation.

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

(b) The Department of Child Protection Services shall verify the expenses and submit reimbursement requests to the State Department of Education, which shall reimburse the Department of Child Protection Services for qualified expenses within twenty-one (21) business days of receipt of documentation.



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

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

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

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

654 **SECTION 13.** (1) Department of Child Protection Services  
655 shall notify foster parents, legal guardians and responsible  
656 agency officials of the availability of FESA funds upon a child  
657 entering the department's custody.

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

660 (a) They return to public school;

661 (b) They complete the school year in which the student  
662 reaches the age of twenty-one (21) if he or she is eligible for  
663 special education for individuals with disabilities under the



664 federal Individuals with Disabilities Education Act (20 USCS  
665 Section 1401(3)); or

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

668 **SECTION 14.** (1) Subject to appropriation from the General  
669 Fund, each student's FESA shall be funded annually at the base  
670 student amount as determined under Section 37-151-203 of the  
671 Mississippi Student Funding Formula. For each subsequent year,  
672 the funded amount shall increase or decrease by the same  
673 proportion as the student base amount under Section 37-151-203 is  
674 increased or decreased.

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

678 **SECTION 15.** (1) The Department of Child Protection Services  
679 in conjunction with the State Department of Education shall  
680 develop policies and procedures for the administration of the FESA  
681 program to ensure the appropriate use and expenditure of FESA  
682 funds, including the accurate and timely submission of  
683 reimbursement requests, and required maintenance of detailed  
684 records for each eligible student.

685 (2) The State Department of Education shall:

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



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

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

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

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

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

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

(4) The Department of Child Protection Services may enter into a contractual agreement with a third-party vendor to administer the FESA program and ensure compliance with state regulations.

**SECTION 16.** (1) Department of Child Protection Services shall submit an annual report to the Legislature and the State Department of Education detailing:

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

(b) Total funds disbursed and remaining balances;

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



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

**SECTION 17.** (1) The Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) shall prepare a biennial report, beginning in 2027 and every two (2) years thereafter, assessing efficacy of Foster Child Education Scholarship Accounts, to include the sufficiency of funding, and recommending any suggested changes in state law or policy necessary to improve the FESA program.

(2) The report shall assess:

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

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

(c) Participating students' performance, both pre-assessment and post-assessment, on the eligible school's current assessment used to demonstrate academic progress, a nationally standardized norm-referenced achievement test, or a current state board-approved screener, as required in Section 18(f) of this act;

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



738 Placement examinations and any examinations related to college or  
739 university admission;

740 (e) The four-year high school graduation rates and  
741 college acceptance rates of participating students; provided that  
742 eligible schools must report participating students' high school  
743 graduation rates and, if known, college acceptance rates;

744 (f) The percentage of funds used for each qualifying  
745 expense identified in Section 10(c) of this act; and

746 (g) The fiscal impact to the state and home school  
747 districts of the FESA program, which must consider both the impact  
748 on revenue and the impact on expenses. Furthermore, the fiscal  
749 savings associated with students departing public schools must be  
750 explicitly quantified, even if the public school losing the  
751 student(s) does not reduce its spending accordingly.

752 (3) The report shall:

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

755 (b) Protect the identity of participating students and  
756 schools by, among other things, keeping anonymous all  
757 disaggregated data.

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



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

**SECTION 18.** To ensure that students are treated fairly and kept safe, all eligible schools shall:

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

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

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

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

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

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



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

(h) Conduct criminal background checks on employees and:

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

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

**SECTION 19.** (1) An eligible nonpublic school is autonomous and not an agent of the state or federal government and therefore:

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

(b) The creation of the Foster Child Education Scholarship Account program does not expand the regulatory authority of the state, its officers, or any school district to



811 impose any additional regulation of nonpublic schools or  
812 educational service providers beyond those necessary to enforce  
813 the requirements of the FESA program; and

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

820 (2) Eligible schools, or the foster parent, legal guardian  
821 or responsible agency official who submitted the FESA application,  
822 must submit student performance data to the State Department of  
823 Education at the end of the school year, including the individual  
824 results of the pre-assessment and post-assessment required in  
825 Section 18(f) of this act. The department shall develop a  
826 uniformed reporting format for eligible schools to use when  
827 submitting assessment results.

828 (3) In any legal proceeding challenging the application of  
829 this chapter to an eligible school or educational service provider  
830 the state bears the burden of establishing that the law is  
831 necessary and does not impose any undue burden on the eligible  
832 school or educational service provider.

833 **SECTION 20.** If any provision of this act or its application  
834 is found to be invalid, the remaining provisions shall remain in  
835 force.



836           **SECTION 21.** This act shall take effect and be in force from  
837 and after July 1, 2025.

