

By: Representative Bourdeaux

To: Universities and
CollegesHOUSE BILL NO. 1316
(As Passed the House)

1 AN ACT RELATING TO THE MISSISSIPPI PREPAID AFFORDABLE COLLEGE
2 TUITION (MPACT) PROGRAM; TO AMEND SECTION 37-155-5, MISSISSIPPI
3 CODE OF 1972, TO REVISE CERTAIN DEFINITIONS RELATING TO THE
4 PROGRAM; TO AMEND SECTION 37-155-7, MISSISSIPPI CODE OF 1972, TO
5 CLARIFY THE NUMBER OF MEMBERS ON THE BOARD OF DIRECTORS OF THE
6 MPACT PROGRAM TRUST FUND; TO AMEND SECTION 37-155-11, MISSISSIPPI
7 CODE OF 1972, TO INCREASE THE MAXIMUM NUMBER OF YEARS FOR WHICH
8 TUITION AND FEES MAY BE PAID UNDER THE MPACT SENIOR COLLEGE PLAN
9 AND JUNIOR-SENIOR COLLEGE PLAN; TO AMEND SECTION 37-155-17,
10 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE PAYOR OF A PREPAID
11 TUITION CONTRACT IS ENTITLED TO THE TAX BENEFITS ASSOCIATED WITH
12 THE CONTRACT; TO AMEND SECTION 37-155-21, MISSISSIPPI CODE OF
13 1972, TO DELETE THE REQUIREMENT THAT THE BOARD'S ANNUAL STATEMENT
14 TO PURCHASERS BE FURNISHED BEFORE DECEMBER 1; AND FOR RELATED
15 PURPOSES.

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

17 SECTION 1. Section 37-155-5, Mississippi Code of 1972, is
18 amended as follows:

19 37-155-5. The following terms have the meanings ascribed to
20 them in this section, unless the context clearly indicates
21 otherwise:

22 (a) **Prepaid Tuition Contract.** A contract entered into
23 between the Mississippi Prepaid Affordable College Tuition Program
24 Board and a purchaser pursuant to this chapter.

25 (b) **Trust Fund.** There is created a special fund in the
26 State of Mississippi Treasury Department to be designated as the
27 "Mississippi Prepaid Affordable College Tuition Trust Fund"
28 (hereinafter referred to as the trust fund or fund) and to be
29 administered by the State of Mississippi Treasury Department. The
30 fund shall consist of state appropriations, monies acquired from
31 other governmental or private sources, and money remitted in
32 accordance with prepaid tuition contracts. In the event that

33 dividends, interest and gains exceed the amount necessary for
34 program administration and disbursements, the board may designate
35 a percentage of the fund to serve as a contingency fund.

36 (c) **Purchaser.** A person, corporation, trust,
37 charitable organization or other such entity that makes or is
38 obligated to make advance payments in accordance with a prepaid
39 tuition contract entered into pursuant to this chapter.

40 (d) **Beneficiary.** (i) The beneficiary of a prepaid
41 tuition contract must be * * * eighteen (18) years of age or
42 younger at the time the purchaser enters into the contract and
43 must be: (A) a resident of this state at the time the purchaser
44 enters into the contract; or (B) a nonresident if the purchaser is
45 a resident of this state at the time that the contract is entered
46 into.

47 (ii) The board may require a reasonable period of
48 residence in this state for a beneficiary or the purchaser.

49 (iii) A beneficiary is considered a resident for
50 purposes of tuition regardless of the beneficiary's residence on
51 the date of enrollment.

52 (e) **Institution of Higher Education.** Any public
53 institution of higher learning or public community or junior
54 college located in Mississippi.

55 (f) **Tuition.** The quarter, semester or term charges and
56 all required fees imposed by an institution of higher education as
57 a condition of enrollment by all students.

58 (g) **Board.** The Board of Directors of the Mississippi
59 Prepaid Affordable College Tuition Program Trust Fund as provided
60 in Section 37-155-7.

61 (h) **Legislature.** The Legislature of Mississippi.

62 SECTION 2. Section 37-155-7, Mississippi Code of 1972, is
63 amended as follows:

64 37-155-7. **Board of Directors.** (1) The board of directors
65 shall consist of thirteen (13) members as follows:

66 (a) Nine (9) voting members as follows: the State
67 Treasurer; the Commissioner of Higher Education; the Executive
68 Director of the Community and Junior College Board; Department of
69 Finance and Administration Executive Director; and one (1) member

70 from each congressional district to be appointed by the Governor
71 with the advice and consent of the Senate. One (1) member shall
72 be appointed for an initial term of one (1) year; one (1) member
73 shall be appointed for an initial term of two (2) years; one (1)
74 member for an initial term of three (3) years; one (1) member for
75 an initial term of four (4) years; and one (1) member for an
76 initial term of five (5) years. On the expiration of any of the
77 terms of office, the Governor shall appoint successors by and with
78 the advice and consent of the Senate for terms of five (5) years
79 in each case.

80 (b) Two (2) nonvoting, advisory members of the board
81 shall be appointed by each of the following officers: the
82 Lieutenant Governor and the Speaker of the House of
83 Representatives. Successors to the appointed members shall serve
84 for the length of the term for each appointing official and shall
85 be eligible for reappointment, and shall serve until a successor
86 is appointed. Any person appointed to fill a vacancy on the board
87 shall be appointed in a like manner and shall serve for only the
88 unexpired term.

89 (2) Each member appointed shall possess knowledge, skill
90 and experience in business or financial matters commensurate with
91 the duties and responsibilities of the trust fund.

92 (3) Members of the board of directors shall serve without
93 compensation, but shall be reimbursed for each day's official
94 duties of the board at the same per diem as established by Section
95 25-36-69 and actual travel and lodging expenses as established by
96 Section 25-3-41.

97 (4) The board of directors shall annually elect one (1)
98 member to serve as chairman of the board and one (1) member to
99 serve as vice-chairman. The vice-chairman shall act as chairman
100 in the absence of or upon the disability of the chairman or in the
101 event of a vacancy of the office of chairman.

102 SECTION 3. Section 37-155-11, Mississippi Code of 1972, is

103 amended as follows:

104 37-155-11. **Types of Plans.** The board shall make prepaid
105 tuition contracts available for the: (1) junior college plan; (2)
106 senior college plan; and (3) junior-senior college plan.

107 (a) **Junior College Plan.** Through the junior college
108 plan, a prepaid tuition contract shall provide tuition and
109 required fees for the beneficiary to attend a public community or
110 junior college for a specified number of undergraduate credit
111 hours not to exceed the typical full-time hourly course load as
112 defined by the institution for tuition payment purposes or up to a
113 maximum of two (2) years required for a certificate or an
114 associate degree awarded by a public community or junior college.

115 (b) **Senior College Plan.** Through the senior college
116 plan, a prepaid tuition contract shall provide prepaid tuition and
117 required fees for the beneficiary to attend a public senior
118 college or university for a specified number of undergraduate
119 credit hours not to exceed the typical full-time hourly course
120 load as defined by the institution for tuition payment purposes or
121 up to a maximum of five (5) years required for a baccalaureate
122 degree awarded by a public senior college or university.

123 (c) **Junior-Senior College Plan.** Through the
124 junior-senior college plan, a prepaid tuition contract shall
125 provide prepaid tuition and required fees for the beneficiary to
126 attend:

127 (i) A public community or junior college for a
128 specified number of undergraduate credit hours not to exceed the
129 typical full-time hourly course load as defined by the institution
130 for tuition payment purposes or up to a maximum of two (2) years
131 required for a person to receive a certificate or associate degree
132 awarded by a public community or junior college; and

133 (ii) A public senior college or university for a
134 specified number of credit hours not to exceed the typical
135 full-time hourly course load as defined by the institution for

136 tuition payment purposes or up to a maximum of five (5) years
137 required for the person to receive a baccalaureate degree awarded
138 by a public senior college or university.

139 SECTION 4. Section 37-155-17, Mississippi Code of 1972, is
140 amended as follows:

141 37-155-17. Any interest, dividends or gains accruing on the
142 payments made pursuant to a prepaid tuition contract under the
143 terms of this chapter shall be excluded from the gross income of
144 any such payor or beneficiary for purposes of the Mississippi
145 Income Tax Law. The payor may deduct from taxable income the
146 amount of any payments * * * made under a prepaid tuition contract
147 in the tax year.

148 SECTION 5. Section 37-155-21, Mississippi Code of 1972, is
149 amended as follows:

150 37-155-21. **Statement Regarding Status of Prepaid Tuition**
151 **Contract.**

152 (1) * * * The board shall furnish without charge to each
153 purchaser an annual statement of:

154 (a) The amount paid by the purchaser under the prepaid
155 tuition contract;

156 (b) The number of years originally covered by the
157 contract;

158 (c) The number of years remaining under the contract;
159 and

160 (d) Any other information the board determines by rule
161 is necessary or appropriate.

162 (2) The board shall furnish a statement complying with
163 subsection (1) to a purchaser or beneficiary on written request.
164 The board may charge a reasonable fee for each statement furnished
165 under this subsection.

166 SECTION 6. This act shall take effect and be in force from
167 and after July 1, 1999.