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To: Universities and  
Colleges;  
Appropriations

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2298

1 AN ACT TO CREATE THE MISSISSIPPI AFFORDABLE COLLEGE SAVINGS  
2 (MACS) PROGRAM; TO RECONSTITUTE THE MISSISSIPPI PREPAID AFFORDABLE  
3 COLLEGE TUITION (MPACT) PROGRAM BOARD OF DIRECTORS AS THE "BOARD  
4 OF DIRECTORS OF THE COLLEGE SAVINGS PLANS OF MISSISSIPPI" AND TO  
5 AUTHORIZE THAT BOARD TO MANAGE BOTH THE MPACT AND MACS PROGRAMS;  
6 TO ESTABLISH A COLLEGE SAVINGS PLAN FOR QUALIFIED HIGHER  
7 EDUCATIONAL EXPENSES; TO PROVIDE FOR AND DEFINE SAVINGS TRUST  
8 AGREEMENTS; TO AMEND SECTIONS 37-155-5 AND 37-155-7, MISSISSIPPI  
9 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

11 SECTION 1. **Title.** This act shall be known and may be cited  
12 as the "Mississippi Affordable College Savings Program,"  
13 hereinafter referred to as the MACS Program.

14 SECTION 2. **Declaration of Policy.** The Legislature hereby  
15 finds and declares as follows:

16 (a) Education costs at institutions of higher education  
17 are difficult for many to afford and difficult to predict. As a  
18 result, the ability of individuals and families to plan for future  
19 educational expenses has been adversely affected.

20 (b) It is in the best interest of the citizens of this  
21 state to foster higher education in order to provide well-educated  
22 citizens.

23 (c) It is in the best interest of the citizens of this  
24 state to encourage state residents to enroll in institutions of  
25 higher education.

26 (d) Providing a mechanism to help assure the higher  
27 education of the citizens of this state is necessary and desirable  
28 for the public health, safety and welfare.

29 (e) The purposes of this act are to:

30 (i) Provide wide and affordable access to the  
31 public institutions of higher education for the residents of this  
32 state.

33 (ii) Encourage attendance at institutions of  
34 higher education and help individuals plan for educational  
35 expenses.

36 (iii) Provide a program of savings trust  
37 agreements to apply distributions toward qualified higher  
38 education expenses at eligible educational institutions, as  
39 defined in Section 529 of the Internal Revenue Code, as amended,  
40 or other applicable federal law.

41 (iv) Provide for the creation of a trust fund, as  
42 an agency and instrumentality of the State of Mississippi, to  
43 assist qualified students in financing costs of attending  
44 institutions of higher education.

45 (v) Encourage timely financial planning for higher  
46 education by the creation of savings trust accounts.

47 (vi) To provide a choice of programs to persons  
48 who determine that the overall educational needs of their families  
49 are best suited to a prepaid tuition contract under the MPACT  
50 Program, a savings trust agreement under this act, or both.

51 (vii) To provide a savings program for those who  
52 wish to save to meet postsecondary educational needs beyond the  
53 traditional baccalaureate curriculum.

54 SECTION 3. Definitions. The following terms have the  
55 meanings ascribed to them in this section, unless the context  
56 clearly indicates otherwise:

57 (a) **MACS Trust Fund.** The special fund in the State of  
58 Mississippi Treasury Department designated as the "Mississippi  
59 Affordable College Savings Trust Fund" (hereinafter referred to as  
60 the "MACS trust fund") and administered by the State of  
61 Mississippi Treasury Department.

62 (b) **Account Owner.** Any resident or nonresident person,

63 corporation, trust, charitable organization or other such entity  
64 who contributes to or invests money in a savings trust account  
65 under the MACS Program established pursuant to this act on behalf  
66 of a beneficiary and who is listed as the owner of the savings  
67 trust account.

68 (c) **Beneficiary.** Any resident or nonresident  
69 beneficiary of a savings trust agreement who meets the  
70 requirements of Section 529 of the Internal Revenue Code of 1986,  
71 as amended, or other applicable federal law, as well as any  
72 regulations established by the board.

73 (d) **Institution of Higher Education.** Any eligible  
74 education institution as defined in Section 529 of the Internal  
75 Revenue Code of 1986, as amended, or any other applicable federal  
76 law.

77 (e) **Tuition.** The quarter, semester or term charges and  
78 all required fees imposed by an institution of higher education as  
79 a condition of enrollment by all students.

80 (f) **Board.** The Board of Directors of the College  
81 Savings Plans of Mississippi Trust Funds as provided in Section  
82 37-155-7 and this act.

83 (g) **Legislature.** The Legislature of the State of  
84 Mississippi.

85 (h) **Payor.** Any person, corporation, trust, charitable  
86 organization or other such entity who contributes money or makes a  
87 payment to either a savings trust account established pursuant to  
88 this act or a prepaid tuition account established under Section  
89 37-155-1 et seq. on behalf of a beneficiary.

90 (i) **Savings Trust Account.** An account established by  
91 an account owner pursuant to this act on behalf of a beneficiary  
92 in order to apply distributions from the account toward qualified  
93 higher education expenses at eligible educational institutions, as  
94 defined in Section 529 of the Internal Revenue Code of 1986, as  
95 amended, or other applicable federal law.

96           (j) **Savings Trust Agreement.** The agreement entered  
97 into between the board and the account owner establishing a  
98 savings trust account.

99           (k) **Qualified Higher Education Expense.** Any higher  
100 education expense as defined in Section 529 of the Internal  
101 Revenue Code of 1986, as amended, or other applicable federal law.

102           (l) **Qualified Withdrawal.** A withdrawal by an account  
103 owner or beneficiary for qualified higher education expenses or as  
104 otherwise permitted under Section 529 of the Internal Revenue Code  
105 of 1986, as amended, without a penalty required thereunder.

106           SECTION 4. Board of Directors.

107           (a) The board of directors of the MACS Program shall  
108 consist of the existing Board of Directors of the Mississippi  
109 Prepaid Affordable College Tuition Program, as defined under  
110 Section 37-155-1 et seq.

111           (b) The MPACT Board shall be renamed the College  
112 Savings Plans of Mississippi Board of Directors, and shall have  
113 responsibility over both the MPACT Program and the MACS Program.

114           SECTION 5. Powers of the Board of Directors.

115           In addition to the powers granted by any other provision of  
116 this act, the board of directors shall have the powers necessary  
117 or convenient to carry out the purposes and provisions of this  
118 act, the purposes and objectives of the trust fund, and the powers  
119 delegated by any other law of the state or any executive order  
120 thereof, including, but not limited to, the following express  
121 powers:

122           (a) To adopt and amend bylaws;

123           (b) To adopt such rules and regulations as are  
124 necessary to implement the provisions of this act, subject to  
125 applicable federal laws and regulations, including rules regarding  
126 transfers of funds between accounts established under prepaid  
127 tuition contracts and savings trust agreements;

128           (c) To execute contracts and other necessary

129 instruments;

130           (d) To impose reasonable requirements for residency for  
131 beneficiaries or account owners at the time of purchase of the  
132 savings trust agreement;

133           (e) To impose reasonable limits on the number of  
134 contract participants in the trust fund at any given period of  
135 time;

136           (f) To contract for necessary goods and services, to  
137 employ necessary personnel, and to engage the services of  
138 consultants and other qualified persons and entities for  
139 administrative and technical assistance in carrying out the  
140 responsibilities of the trust funds under terms and conditions  
141 that the board deems reasonable, to include contract terms for  
142 periods of up to ten (10) years, which contract may be terminated,  
143 extended or renewed with such entities for a term determined by  
144 the board, but in no event shall such contract exceed a term of  
145 ten (10) years at any one (1) time.

146           (g) To solicit and accept gifts, including bequests or  
147 other testamentary gifts made by will, trust or other disposition,  
148 grants, loans and other aids from any personal source or to  
149 participate in any other way in any federal, state or local  
150 governmental programs in carrying out the purposes of this act;

151           (h) To define the terms and conditions under which  
152 payments may be withdrawn or refunded from the trust fund and  
153 impose reasonable charges for such withdrawal or refund;

154           (i) To impose reasonable time limits on the use of  
155 savings trust account distributions provided by the program;

156           (j) To regulate the receipt of contributions or  
157 payments to the trust fund;

158           (k) To adopt an official seal and rules;

159           (l) To sue and be sued;

160           (m) To establish agreements or other transactions with  
161 federal, state and local agencies, including state universities

162 and community colleges;

163           (n) To appear in its own behalf before boards,  
164 commissions or other governmental agencies;

165           (o) To segregate contributions and payments to the fund  
166 into various accounts and funds;

167           (p) To require and collect administrative fees and  
168 charges in connection with any transaction and to impose  
169 reasonable penalties for withdrawal of funds for nonqualified  
170 higher educational expenses or for entering into a savings trust  
171 agreement on a fraudulent basis;

172           (q) To procure insurance against any loss in connection  
173 with the property, assets and activities of the fund or the board;

174           (r) To require that account owners of savings trust  
175 agreements or purchasers of MPACT contracts pursuant to Section  
176 37-155-1 et seq. verify, under oath, any requests for contract  
177 conversions, substitutions, transfers, cancellations, refund  
178 requests or contract changes of any nature;

179           (s) To solicit proposals and to contract for the  
180 marketing of the MACS Program, provided that (i) any materials  
181 produced by a marketing contractor for the purpose of marketing  
182 the program must be approved by the board prior to being made  
183 available to the public; and (ii) neither the state nor the board  
184 shall be liable for misrepresentation of the program by a  
185 marketing contractor;

186           (t) To delegate responsibility for administration of  
187 the comprehensive investment plan to a contractor or consultant  
188 (or contractors or consultants) the board determines to be  
189 qualified;

190           (u) To make all necessary and appropriate arrangements  
191 with colleges and universities or other entities in order to  
192 fulfill its obligations under savings trust agreements;

193           (v) To establish other policies, procedures and  
194 criteria necessary to implement and administer the provisions of

195 this act;

196 (w) To exercise any other powers set forth in Sections  
197 37-155-7 and 37-155-9; and

198 (x) To authorize the State of Mississippi Treasury  
199 Department and/or the State Treasurer to carry out any or all of  
200 the powers and duties enumerated above for efficient and effective  
201 administration of the program and trust fund.

202 **SECTION 6. Description of Savings Trust Agreements.**

203 (1) The board shall make savings trust agreements available  
204 to the public, under which account owners or other payors may make  
205 contributions on behalf of qualified beneficiaries. Such  
206 contributions and investment earnings thereof may be used for any  
207 qualified higher educational expenses of a designated beneficiary.

208 There is no guarantee by the state that such contributions,  
209 together with the investment return on such contributions, if any,  
210 will be adequate to pay for qualified education expenses in full.

211 (2) Each savings trust agreement made pursuant to this act  
212 shall include the following terms and provisions:

213 (a) The maximum and minimum contribution allowed on  
214 behalf of each beneficiary for the payment of qualified higher  
215 education expenses at eligible institutions, both as defined in  
216 Section 529 of the Internal Revenue Code of 1986, as amended, or  
217 other applicable federal law;

218 (b) Provisions for withdrawals, refunds, transfers and  
219 any penalties;

220 (c) The name, address and date of birth of the  
221 beneficiary on whose behalf the savings trust account is opened;

222 (d) Terms and conditions for a substitution of the  
223 beneficiary originally named;

224 (e) Terms and conditions for termination of the  
225 account, including any refunds, withdrawals or transfers, and  
226 applicable penalties, and the name of the person or persons  
227 entitled to terminate the account;

228 (f) The time period during which the beneficiary must  
229 use benefits from the savings trust account;

230 (g) All other rights and obligations of the account  
231 owner and the MACS trust fund; and

232 (h) Any other terms and conditions which the board  
233 deems necessary or appropriate, including those necessary to  
234 conform the savings trust account with the requirements of Section  
235 529 of the Internal Revenue Code of 1986, as amended, or other  
236 applicable federal law or regulations.

237 SECTION 7. Mississippi Affordable College Savings Trust  
238 **Fund.**

239 (1) There is hereby created a Mississippi Affordable College  
240 Savings Trust Fund (hereinafter referred to as the "MACS trust  
241 fund") as an instrumentality of the state to be administered by  
242 the State of Mississippi Treasury Department until and unless the  
243 Legislature shall determine otherwise. The MACS trust fund shall  
244 consist of state appropriations, monies acquired from other  
245 governmental or private sources, and money remitted in accordance  
246 with savings trust agreements and shall receive and hold all  
247 payments, contributions and deposits intended for it as well as  
248 gifts, bequests, endowments or federal, state or local grants and  
249 any other public or private source of funds and all earnings  
250 thereon until disbursed as provided hereunder. The amounts on  
251 deposit in the trust fund shall not constitute property of the  
252 state. Amounts on deposit in the trust shall not be commingled  
253 with state funds and the state shall have no claim to or interest  
254 in such funds. Savings trust agreements or any other contract  
255 entered into by or on behalf of the trust shall not constitute a  
256 debt or obligation of the state and no account owner shall be  
257 entitled to any amounts except for those amounts on deposit in or  
258 accrued to their account.

259 The MACS trust fund shall continue in existence as long as it  
260 holds any funds belonging to an account owner or otherwise has any



261 obligations to any person or entity until its existence is  
262 terminated by the Legislature and remaining assets on deposit  
263 therein are returned to account owners or transferred to the state  
264 in accordance with unclaimed property law.

265 (2) There are hereby created three (3) separate accounts  
266 within the MACS trust fund: (a) the administrative account; (b)  
267 the endowment account; and (c) the program account. The  
268 administrative account shall accept, deposit and disburse funds  
269 for the purpose of administering and marketing the program. The  
270 endowment account shall receive and deposit amounts received in  
271 connection with the sales of interests in the MACS trust fund  
272 other than amounts for the administrative account and other than  
273 amounts received pursuant to a savings trust agreement. Amounts  
274 on deposit in the endowment account may be applied as specified by  
275 the board for any purpose related to the program or to otherwise  
276 assist Mississippi residents to attain a postsecondary education.  
277 The program account shall receive, invest and disburse amounts  
278 pursuant to savings trust agreements.

279 (3) The official location of the trust fund shall be the  
280 State of Mississippi Treasury Department, and the facilities of  
281 the State of Mississippi Treasury Department shall be used and  
282 employed in the administration of the fund, including, but without  
283 limitations thereto, the keeping of records, the management of  
284 bank accounts and other investments, the transfer of funds and the  
285 safekeeping of securities evidencing investments. These functions  
286 may be administered pursuant to a management agreement with a  
287 qualified entity or entities.

288 (4) Payments received by the board on behalf of  
289 beneficiaries from account owners, other payors, or from any other  
290 source, public or private, shall be placed in the trust fund, and  
291 the board shall cause there to be maintained separate records and  
292 accounts for individual beneficiaries as may be required under  
293 Section 529 of the Internal Revenue Code of 1986, as amended, and

294 any other applicable federal law.

295 (5) Account owners and any other payors or contributors  
296 shall only be permitted to contribute cash or any other form of  
297 payment or contribution as may be permitted under Section 529 of  
298 the Internal Revenue Code of 1986, as amended, and approved by the  
299 board. The board shall cause the program to maintain adequate  
300 safeguards against contributions in excess of what may be required  
301 for qualified higher education expenses. The trust fund, through  
302 the Treasurer, is hereby specifically authorized to receive and  
303 deposit into the trust fund any gift of any nature, real or  
304 personal property, made by an individual by testamentary  
305 disposition, including, without limitation, any specific gift or  
306 bequeath made by will, trust or other disposition to the extent  
307 permitted under Section 529 of the Internal Revenue Code of 1986,  
308 as amended. The trust fund may receive amounts transferred from  
309 an UGMA, UTMA or other account established for the benefit of a  
310 minor provided that the trust beneficiary of such an account is  
311 identified as the legal owner of the MACS trust fund account upon  
312 attaining majority age.

313 (6) The account owner retains ownership of all amounts on  
314 deposit in his or her account with the program up to the date of  
315 distribution on behalf of a designated beneficiary. Earnings  
316 derived from investment of the contributions shall be considered  
317 to be held in trust in the same manner as contributions, except as  
318 applied for purposes of the designated beneficiary and for  
319 purposes of maintaining and administering the program as provided  
320 in this act. Amounts on deposit therein shall be available for  
321 expenses and penalties imposed by the board for the program as  
322 disclosed in the savings trust agreement.

323 (7) The trust fund shall constitute a fund of an  
324 instrumentality of the state, and its property and income shall be  
325 exempt from all taxation by the state and by all of its political  
326 subdivisions.

327 (8) The assets of the MACS trust fund shall be preserved,  
328 invested and expended solely pursuant to and for the purposes of  
329 this act and shall not be loaned or otherwise transferred or used  
330 by the State of Mississippi for any other purpose.

331 **SECTION 8. Savings Trust Agreements; Tax Exclusions and**  
332 **Deductions.**

333 (1) All property and income of the MACS trust fund, as an  
334 instrumentality of the state, shall be exempt from all taxation by  
335 the state and by its political subdivisions.

336 (2) Any interest, dividends, gains or income of any kind on  
337 any account in the MACS trust fund shall be excluded from the  
338 gross income of any account owner, contributor, payor or  
339 beneficiary for purposes of the Mississippi Income Tax Law to the  
340 extent such amounts remain on deposit in the MACS trust fund or  
341 are withdrawn pursuant to a qualified withdrawal. The MACS trust  
342 fund and MPACT shall constitute the only programs established  
343 pursuant to Section 529 of the Internal Revenue Code of 1986, as  
344 amended, to be exempt from Mississippi income tax. Any  
345 contributor or payor to a MACS account may deduct from their  
346 Mississippi taxable income any contributions or payments to an  
347 account or accounts in the MACS trust fund up to a maximum amount  
348 of Twenty Thousand Dollars (\$20,000.00) for joint filers and Ten  
349 Thousand Dollars (\$10,000.00) for single and other filers.  
350 Contributions or payments for such tax years may be made after  
351 such calendar years but prior to the deadline for making  
352 contributions to an individual retirement account under federal  
353 law for such years. The earnings portion of any withdrawals from  
354 an account that are not qualified withdrawals, as well as any  
355 amounts included in such nonqualified withdrawals previously  
356 deducted from taxable income under this section, shall be included  
357 in the gross income of the resident recipient of the withdrawal  
358 for purposes of the Mississippi Income Tax Law in the year of such  
359 withdrawal.

360           SECTION 9. Investment Authority.

361           (1) The board has authority to establish a comprehensive  
362 investment plan for the purposes of this act, to invest any funds  
363 of the trust fund in any instrument, obligation, security or  
364 property that constitutes legal investments for public funds in  
365 the state, and to name and use depositories for its investments  
366 and holdings. The comprehensive investment plan shall specify the  
367 investment policies to be utilized by the board in its  
368 administration of the funds. The board may authorize investments  
369 in any investment vehicle authorized for the MPACT Program under  
370 Section 37-155-9. However, the restrictions in Section 37-155-9  
371 as to percentages of the total fund that may be invested in any  
372 category of authorized investment shall not apply to the MACS  
373 trust fund. The program account may, but shall not be required  
374 to, invest in obligations of the state of any political  
375 subdivision thereof or in any business entity in the state.

376           Notwithstanding any provisions of state law to the contrary,  
377 the board shall invest or cause to be invested amounts on deposit  
378 in the trust fund in a manner reasonable and appropriate to  
379 achieve the objectives of the program, exercising the discretion  
380 and care of a prudent person in similar circumstances with similar  
381 objectives. The board shall give due consideration to the risk,  
382 expected rate of return, term or maturity, diversification of  
383 total investments, liquidity and anticipated investments in and  
384 withdrawals from the trust fund.

385           (2) All investments shall be acquired by the board at prices  
386 not exceeding the prevailing market values for such securities.

387           (3) Any limitations herein set forth shall be applicable  
388 only at the time of purchase and shall not require the liquidation  
389 of any investment at any time. All investments shall be clearly  
390 marked to indicate ownership by the system and to the extent  
391 possible shall be registered in the name of the system.

392           (4) Subject to the above terms, conditions, limitations and

393 restrictions, the board shall have power to sell, assign, transfer  
394 and dispose of any of the securities and investments of the  
395 system, provided that said sale, assignment or transfer has the  
396 majority approval of the entire board. The board may employ or  
397 contract with investment managers, evaluation services, or other  
398 such services as determined by the board to be necessary for the  
399 effective and efficient operation of the system.

400 (5) Except as otherwise provided herein, no trustee and no  
401 employee of the board shall have any direct or indirect interest  
402 in the income, gains or profits of any investment made by the  
403 board, nor shall any such person receive any pay or emolument for  
404 his services in connection with any investment made by the board.

405 No trustee or employee of the board shall become an endorser or  
406 surety, or in any manner an obligor for money loaned by or  
407 borrowed from the system.

408 (6) Under the authority granted in Section 5(t), the board  
409 may establish criteria for investment managers, mutual funds or  
410 other such entities to act as contractors or consultants to the  
411 board. The board may contract, either directly or through such  
412 contractors or consultants, to provide such services as may be a  
413 part of the comprehensive investment plan or as may be deemed  
414 necessary or proper by the board, including, but not limited to,  
415 providing consolidated billing, individual and collective record  
416 keeping and accounting, and asset purchase, control and  
417 safekeeping.

418 (7) No account owner, contributor, payor or beneficiary may  
419 directly or indirectly direct the investment of any account except  
420 as may be permitted under Section 529 of the Internal Revenue Code  
421 of 1986, as amended.

422 (8) The board may approve different investment plans and  
423 options to be offered to participants to the extent permitted  
424 under Section 529 of the Internal Revenue Code of 1986, as  
425 amended, and consistent with the objectives of this act and may

426 require the assistance of investment counseling prior to  
427 participation in different options.

428 (9) Interests or accounts in the MACS trust fund and  
429 transactions in such interests or accounts shall be exempt from  
430 Sections 75-71-113 and 75-71-401 of the Mississippi Uniform  
431 Securities Laws.

432 SECTION 10. **Statement and Reports.**

433 (1) The board shall furnish without charge to each account  
434 owner an annual statement of:

435 (a) The amount contributed by the account owner under  
436 the savings trust agreement;

437 (b) The annual earnings and accumulated earnings on the  
438 savings trust account; and

439 (c) Any other terms and conditions which the board  
440 deems by rule is necessary or appropriate, including those  
441 necessary to conform the savings trust account with the  
442 requirements of Section 529 of the Internal Revenue Code of 1986,  
443 as amended, or other applicable federal law or regulations.

444 (2) The board shall furnish an additional statement  
445 complying with subsection (a) to an account owner or beneficiary  
446 on written request. The board may charge a reasonable fee for  
447 each statement furnished under this subsection.

448 (3) The board shall prepare or cause to be prepared an  
449 annual report setting forth in appropriate detail an accounting of  
450 the funds and a description of the financial condition of the  
451 program at the close of each fiscal year. Such report shall be  
452 submitted to the Governor, Lieutenant Governor, the President of  
453 the Senate, the Speaker of the House of Representatives, and  
454 members of the Board of Trustees of State Institutions of Higher  
455 Learning, the Junior College Board and the State Board of  
456 Education. In addition, the board shall make the report available  
457 to account owners of savings trust agreements. The accounts of  
458 the fund shall be subject to annual audits by the State Auditor,

459 or his designee.

460 SECTION 11. **No Promise or Guarantee of Admission.**

461 This act is not a promise or guarantee that the beneficiary  
462 will be:

463 (a) Admitted to any institution of higher education;

464 (b) Admitted to a particular institution of higher  
465 education after admission;

466 (c) Allowed to continue enrollment at an institution of  
467 higher education; or

468 (d) Graduated from an institution of higher education.

469 SECTION 12. **No Promise or Guarantee of Returns.**

470 Nothing in this act or in any savings trust agreement entered  
471 into pursuant to this act shall be construed as a promise or  
472 guarantee by the state or any agency or instrumentality thereof  
473 that either qualified higher education expenses in general or any  
474 specific qualified higher education expense shall be covered in  
475 full by contributions or earnings on any savings trust account.  
476 Savings trust accounts and agreements entered into pursuant to  
477 this act are not guaranteed by the full faith and credit of the  
478 State of Mississippi.

479 SECTION 13. **Financial Aid.**

480 Notwithstanding any provision of state law to the contrary,  
481 no monies on deposit in either the MACS or MPACT programs shall be  
482 considered an asset of either the parent, guardian or student for  
483 purposes of determining an individual's eligibility for a  
484 need-based grant, need-based scholarship or need-based work  
485 opportunity offered or administered by any state agency except as  
486 may be required by the funding source of such financial aid.

487 SECTION 14. **Severability.**

488 The provisions of this act are severable. If any part of  
489 this act is declared invalid or unconstitutional, such declaration  
490 shall not affect the part which remains.

491 SECTION 15. Section 37-155-5, Mississippi Code of 1972, is

492 amended as follows:[RDD1]

493 37-155-5. The following terms have the meanings ascribed to  
494 them in this section, unless the context clearly indicates  
495 otherwise:

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

499 (b) **Trust Fund.** There is created a special fund in the  
500 State of Mississippi Treasury Department to be designated as the  
501 "Mississippi Prepaid Affordable College Tuition Trust Fund"  
502 (hereinafter referred to as the trust fund or fund) and to be  
503 administered by the State of Mississippi Treasury Department. The  
504 fund shall consist of state appropriations, monies acquired from  
505 other governmental or private sources, and money remitted in  
506 accordance with prepaid tuition contracts. In the event that  
507 dividends, interest and gains exceed the amount necessary for  
508 program administration and disbursements, the board may designate  
509 a percentage of the fund to serve as a contingency fund.

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

514 (d) **Beneficiary.** (i) The beneficiary of a prepaid  
515 tuition contract must be eighteen (18) years of age or younger at  
516 the time the purchaser enters into the contract and must be: (A)  
517 a resident of this state at the time the purchaser enters into the  
518 contract; or (B) a nonresident if the purchaser is a resident of  
519 this state at the time that the contract is entered into.

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

522 (iii) A beneficiary is considered a resident for  
523 purposes of tuition regardless of the beneficiary's residence on  
524 the date of enrollment.



525           (e) **Institution of Higher Education.** Any public  
526 institution of higher learning or public community or junior  
527 college located in Mississippi.

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

531           (g) **Board.** The Board of Directors of the College  
532 Savings Plans of Mississippi as provided in Section 37-155-7.

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

534           SECTION 16. Section 37-155-7, Mississippi Code of 1972, is  
535 amended as follows:[RDD2]

536           37-155-7. (1) From and after July 1, 2000, the board of  
537 directors created herein shall be reconstituted as the Board of  
538 Directors of the College Savings Plans of Mississippi. The board  
539 of directors shall consist of thirteen (13) members as follows:

540           (a) Nine (9) voting members as follows: the State  
541 Treasurer; the Commissioner of Higher Education; the Executive  
542 Director of the Community and Junior College Board; Department of  
543 Finance and Administration Executive Director; and one (1) member  
544 from each congressional district to be appointed by the Governor  
545 with the advice and consent of the Senate. One (1) member shall  
546 be appointed for an initial term of one (1) year; one (1) member  
547 shall be appointed for an initial term of two (2) years; one (1)  
548 member for an initial term of three (3) years; one (1) member for  
549 an initial term of four (4) years; and one (1) member for an  
550 initial term of five (5) years. On the expiration of any of the  
551 terms of office, the Governor shall appoint successors by and with  
552 the advice and consent of the Senate for terms of five (5) years  
553 in each case.

554           (b) Two (2) nonvoting, advisory members of the board  
555 shall be appointed by each of the following officers: the  
556 Lieutenant Governor and the Speaker of the House of  
557 Representatives. Successors to the appointed members shall serve

558 for the length of the term for each appointing official and shall  
559 be eligible for reappointment, and shall serve until a successor  
560 is appointed. Any person appointed to fill a vacancy on the board  
561 shall be appointed in a like manner and shall serve for only the  
562 unexpired term.

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

566 (3) Members of the board of directors shall serve without  
567 compensation, but shall be reimbursed for each day's official  
568 duties of the board at the same per diem as established by Section  
569 25-36-69 and actual travel and lodging expenses as established by  
570 Section 25-3-41.

571 (4) The board of directors shall annually elect one (1)  
572 member to serve as chairman of the board and one (1) member to  
573 serve as vice chairman. The vice chairman shall act as chairman  
574 in the absence of or upon the disability of the chairman or in the  
575 event of a vacancy of the office of chairman.

576 SECTION 17. This act shall take effect and be in force from  
577 and after July 1, 2000.