

By: Representative Guice

To: Universities and
Colleges; Appropriations

HOUSE BILL NO. 711

1 AN ACT TO AMEND SECTIONS 37-155-5 AND 37-155-107, MISSISSIPPI
2 CODE OF 1972, TO REVISE THE DEFINITION OF THE TERM "TUITION" AS
3 USED IN RELATION TO THE MISSISSIPPI PREPAID AFFORDABLE COLLEGE
4 TUITION (MPACT) PROGRAM AND THE MISSISSIPPI AFFORDABLE COLLEGE
5 SAVINGS (MACS) PROGRAM; TO AMEND SECTION 37-155-11, MISSISSIPPI
6 CODE OF 1972, TO CLARIFY THAT PLANS FOR WHICH PREPAID TUITION
7 CONTRACTS ARE AVAILABLE UNDER THE MPACT PROGRAM ARE BASED ON THE
8 NUMBER OF CREDIT HOURS REQUIRED FOR A CERTIFICATE OR DEGREE RATHER
9 THAN THE TYPICAL FULL-TIME HOURLY COURSE LOAD RECOGNIZED BY THE
10 INSTITUTION FOR TUITION PAYMENT PURPOSES, AND TO CLARIFY THAT A
11 BENEFICIARY'S ENTIRE TUITION FOR A QUARTER, SEMESTER OR TERM WILL
12 BE PAID UNDER THE PLAN REGARDLESS OF THE NUMBER OF CREDIT HOURS
13 TAKEN BY THE BENEFICIARY; TO AMEND SECTION 37-155-21, MISSISSIPPI
14 CODE OF 1972, TO REQUIRE THE BOARD OF DIRECTORS OF THE COLLEGE
15 SAVINGS PLANS OF MISSISSIPPI TRUST FUNDS TO INCLUDE THE NUMBER OF
16 CREDIT HOURS ORIGINALLY COVERED AND THE NUMBER REMAINING IN ITS
17 ANNUAL STATEMENT TO SAVINGS PLAN PURCHASERS; AND FOR RELATED
18 PURPOSES.

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

20 **SECTION 1.** Section 37-155-5, Mississippi Code of 1972, is
21 amended as follows:

22 37-155-5. As used in this article, the following terms have
23 the meanings ascribed to them in this section, unless the context
24 clearly indicates otherwise:

25 (a) **Prepaid Tuition Contract.** A contract entered into
26 between the Board of Directors of the College Savings Plans of
27 Mississippi Trust Funds and a purchaser pursuant to this article.

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

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

39 (c) **Purchaser.** A person, corporation, trust,
40 charitable organization or other such entity that makes or is
41 obligated to make advance payments in accordance with a prepaid
42 tuition contract entered into pursuant to this article. However,
43 no purchaser may request or accept any form of compensation, fee,
44 commission, service charge or any other form of payment or
45 remuneration for entering into a contract for the benefit of a
46 nonresident beneficiary.

47 (d) **Beneficiary.** (i) The beneficiary of a prepaid
48 tuition contract must be eighteen (18) years of age or younger at
49 the time the purchaser enters into the contract and must be: (A)
50 a resident of this state at the time the purchaser enters into the
51 contract; or (B) a nonresident if the purchaser is a resident of
52 this state at the time that the contract is entered into.

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

55 (iii) A beneficiary is considered a resident for
56 purposes of tuition regardless of the beneficiary's residence on
57 the date of enrollment. However, for contracts entered into after
58 July 1, 2003, this provision only applies to nonresident
59 beneficiaries if (A) the original purchaser was the parent,
60 grandparent or legal guardian of the beneficiary; or (B) the
61 beneficiary was a resident of Mississippi at the time the contract
62 was purchased.

63 (e) **Institution of higher education.** Any public
64 institution of higher learning or public community or junior
65 college located in Mississippi.

66 (f) **Tuition.** The quarter, semester or term charges for
67 the number of credit hours taken by a beneficiary in each quarter,
68 semester or term, as the case may be, and all required fees

69 imposed by an institution of higher education as a condition of
70 enrollment by all students.

71 (g) **Board or board of directors.** The Board of
72 Directors of the College Savings Plans of Mississippi Trust Funds
73 as provided in Section 37-155-7.

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

75 **SECTION 2.** Section 37-155-105, Mississippi Code of
76 1972, is amended as follows:

77 37-155-105. As used in this article, the following words and
78 phrases have the meanings ascribed in this section unless the
79 context clearly indicates otherwise:

80 (a) "MACS Program" means the Mississippi Affordable
81 College Savings Program established under this article.

82 (b) "MACS Trust Fund" means a special fund in the State
83 Treasury established under Section 37-155-111, and administered by
84 the Treasury Department.

85 (c) "Account owner" means a resident or nonresident
86 person, corporation, trust, charitable organization or other
87 entity which contributes to or invests money in a savings trust
88 account under the MACS Program on behalf of a beneficiary and
89 which is listed as the owner of the savings trust account.

90 (d) "Beneficiary" means a resident or nonresident
91 beneficiary of a savings trust agreement who meets the
92 requirements of Section 529 of the Internal Revenue Code of 1986,
93 as amended, or other applicable federal law, and any regulations
94 established by the board.

95 (e) "Institution of higher education" means an eligible
96 educational institution as defined in Section 529 of the Internal
97 Revenue Code of 1986, as amended, or any other applicable federal
98 law.

99 (f) "Tuition" means the quarter, semester or term
100 charges for the number of credit hours taken by a beneficiary in
101 each quarter, semester or term, as the case may be, and all

102 required fees imposed by an institution of higher education as a
103 condition of enrollment by all students.

104 (g) "Board" means the Board of Directors of the College
105 Savings Plans of Mississippi Trust Funds established under Section
106 37-155-7.

107 (h) "Payor" means a person, corporation, trust,
108 charitable organization or other such entity which contributes
109 money or makes a payment to either a savings trust account
110 established pursuant to this article or a prepaid tuition account
111 established under Sections 37-155-1 through 37-155-27 on behalf of
112 a beneficiary.

113 (i) "Savings trust account" means an account
114 established by an account owner pursuant to this article on behalf
115 of a beneficiary in order to apply distributions from the account
116 toward qualified higher education expenses at eligible educational
117 institutions, as defined in Section 529 of the Internal Revenue
118 Code of 1986, as amended, or other applicable federal law.

119 (j) "Savings trust agreement" means the agreement
120 entered into between the board and the account owner establishing
121 a savings trust account.

122 (k) "Qualified higher education expense" means any
123 higher education expense, as defined in Section 529 of the
124 Internal Revenue Code of 1986, as amended, or other applicable
125 federal law.

126 (l) "Qualified withdrawal" means a withdrawal by an
127 account owner or beneficiary for qualified higher education
128 expenses or as otherwise permitted under Section 529 of the
129 Internal Revenue Code of 1986, as amended, without a penalty
130 required under the Internal Revenue Code.

131 **SECTION 3.** Section 37-155-11, Mississippi Code of 1972, is
132 amended as follows:

133 37-155-11. (1) The board shall make prepaid tuition
134 contracts available for the: (a) junior college plan; (b) senior
135 college plan; and (c) junior-senior college plan.

136 (a) **Junior College Plan.** Through the junior college
137 plan, a prepaid tuition contract shall provide tuition and
138 required fees for the beneficiary to attend a public community or
139 junior college for the number of undergraduate credit hours * * *
140 required for a certificate or an associate degree awarded by a
141 public community or junior college, not to exceed a maximum of two
142 (2) years.

143 (b) **Senior College Plan.** Through the senior college
144 plan, a prepaid tuition contract shall provide prepaid tuition and
145 required fees for the beneficiary to attend a public senior
146 college or university for the number of undergraduate credit
147 hours * * * required for a baccalaureate degree awarded by a
148 public senior college or university, not to exceed a maximum of
149 five (5) years.

150 (c) **Junior-Senior College Plan.** Through the
151 junior-senior college plan, a prepaid tuition contract shall
152 provide prepaid tuition and required fees for the beneficiary to
153 attend:

154 (i) A public community or junior college for the
155 number of undergraduate credit hours * * * required for a person
156 to receive a certificate or associate degree awarded by a public
157 community or junior college, not to exceed a maximum of two (2)
158 years; and

159 (ii) A public senior college or university for the
160 number of credit hours * * * required for the person to receive a
161 baccalaureate degree awarded by a public senior college or
162 university, not to exceed a maximum of five (5) years.

163 (2) Subject to any academic restrictions relating to hourly
164 course loads imposed by the institution at which a beneficiary is
165 enrolled, the beneficiary may determine the number of credit hours

166 that the beneficiary will take during each quarter, semester or
167 term, as the case may be, and the prepaid tuition contract shall
168 provide the beneficiary's entire tuition and fees, including any
169 additional hourly tuition for coursework taken in excess of the
170 typical full-time hourly course load as defined by the institution
171 for tuition payment purposes, for that quarter, semester or term.
172 However, the total, cumulative prepaid tuition and fees a
173 beneficiary receives under a prepaid tuition contract may not
174 exceed the amount authorized for the applicable plan under
175 subsection (1) of this section.

176 **SECTION 4.** Section 37-155-21, Mississippi Code of 1972, is
177 amended as follows:

178 37-155-21. (1) The board shall furnish without charge to
179 each purchaser an annual statement of:

180 (a) The amount paid by the purchaser under the prepaid
181 tuition contract;

182 (b) The number of credit hours and years originally
183 covered by the contract;

184 (c) The number of credit hours and years remaining
185 under the contract; and

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

188 (2) The board shall furnish a statement complying with
189 subsection (1) to a purchaser or beneficiary on written request.
190 The board may charge a reasonable fee for each statement furnished
191 under this subsection.

192 **SECTION 5.** This act shall take effect and be in force from
193 and after July 1, 2007.