

By: Senator(s) Watson, McDaniel

To: Education; Finance

SENATE BILL NO. 2346

1 AN ACT ENTITLED THE "MISSISSIPPI OPPORTUNITY SCHOLARSHIP AND
2 EDUCATION IMPROVEMENT TAX CREDIT ACT OF 2013"; TO PROVIDE
3 DEFINITIONS; TO PROVIDE AN OPPORTUNITY SCHOLARSHIP PROGRAM UNDER
4 WHICH LOW-INCOME AND MIDDLE-INCOME STUDENTS IN PERSISTENTLY LOWEST
5 ACHIEVING SCHOOLS AND ANY STUDENT WITH A DISABILITY MAY USE THE
6 STATE PAYMENTS TO THEIR HOME SCHOOL DISTRICT TO PAY TUITION TO
7 ATTEND A NONRESIDENT PUBLIC SCHOOL OR A PARTICIPATING PRIVATE
8 SCHOOL; TO PROVIDE FOR A 3-YEAR PHASE-IN OF THIS OPPORTUNITY
9 SCHOLARSHIP PROGRAM; TO PROVIDE STANDARDS FOR THE RECEIPT AND
10 CALCULATION OF SUCH SCHOLARSHIPS; TO ESTABLISH AN OPPORTUNITY
11 SCHOLARSHIP FUND; TO PROVIDE FOR THE PHASED-IN REDUCTION OF
12 ADEQUATE EDUCATION FUND PAYMENTS IN RESIDENT SCHOOL DISTRICTS IN
13 THE AMOUNT OF SUCH SCHOLARSHIP PAYMENTS; TO ESTABLISH AND EMPOWER
14 AN EDUCATION OPPORTUNITY BOARD WITHIN THE STATE DEPARTMENT OF
15 EDUCATION TO ADMINISTER THE OPPORTUNITY SCHOLARSHIP PROGRAM; TO
16 PROVIDE FOR AN OPTIONAL LOCAL TUITION GRANT PROGRAM FOR SUCH
17 STUDENTS; TO PROVIDE FOR A MIDDLE-INCOME SCHOLARSHIP PROGRAM; TO
18 PRESCRIBE LIMITATIONS AND REQUIRE ANNUAL REPORTING; TO ESTABLISH
19 AN EDUCATIONAL IMPROVEMENT TAX CREDIT (EITC) PROGRAM ADMINISTERED
20 BY THE MISSISSIPPI DEVELOPMENT AUTHORITY TO PROVIDE FINANCIAL
21 ASSISTANCE TO LOW- AND MIDDLE-INCOME FAMILIES SEEKING EDUCATIONAL
22 OPTIONS FOR THEIR CHILDREN; TO AUTHORIZE THE INCOME TAX CREDIT FOR
23 BUSINESS FIRMS MAKING CONTRIBUTIONS TO QUALIFIED EDUCATIONAL
24 SCHOLARSHIP ORGANIZATIONS, PREKINDERGARTEN SCHOLARSHIP
25 ORGANIZATIONS OR EDUCATIONAL IMPROVEMENT ORGANIZATIONS AND TO
26 PROVIDE STANDARDS AND LIMITATIONS FOR SUCH CONTRIBUTIONS; TO
27 PROVIDE THAT THE AMOUNT OF SUCH CONTRIBUTIONS ARE NONTAXABLE
28 INCOME TO THE RECIPIENT; TO AMEND SECTION 27-7-17, MISSISSIPPI
29 CODE OF 1972, TO PROVIDE A STATE INCOME TAX DEDUCTION FOR PARENTS
30 WHO SEND THEIR CHILDREN OR DEPENDENTS TO A PRIVATE SCHOOL OR A
31 HOMESCHOOL PROGRAM; AND FOR RELATED PURPOSES.

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



33 **SECTION 1. Short title.** This act shall be known and may be
34 cited as the "Mississippi Opportunity Scholarship and Educational
35 Improvement Tax Credit Act of 2013."

36 **SECTION 2. Opportunity scholarships.** (1) The Legislature
37 finds that:

38 (a) Pursuant to Section 201 of the Mississippi
39 Constitution of 1890, the Legislature has the responsibility to
40 provide for the maintenance and support of a thorough and
41 efficient system of public education to serve the needs of this
42 state.

43 (b) Parents are best suited to choose the most
44 appropriate means of education for their school-age children.

45 (c) Providing diverse educational opportunities for the
46 children of this state is a civic and civil rights imperative and
47 a matter of serious concern.

48 (d) The importance of providing educational choices
49 that will meet the needs of parents and the need to maintain and
50 support an effective system of education make it imperative to
51 provide for the increased availability of diverse opportunities,
52 including both public and nonpublic programs of education, to
53 benefit all citizens of this state.

54 (e) Public schools are the foundation of the system of
55 education in this state. Further, Mississippi's long-standing
56 tradition of local control of public education allows communities
57 to adapt their public school programs to meet local needs. For



58 these reasons, a robust program of interdistrict school choice is
59 a critical means of providing families with increased educational
60 options within the traditional public school system.

61 (f) The accessibility to families of nonpublic
62 educational alternatives decreases the burden on the state and
63 local school districts and increases the range of educational
64 choices available to Mississippi families, thus providing a
65 benefit to all citizens in Mississippi.

66 (g) It is the long-term goal of the Legislature to
67 offer assistance to all families in this state, in order to
68 provide every child in this state with diverse educational
69 opportunities and options.

70 (h) As an initial step toward the long-term goal of
71 offering assistance to all Mississippi families, this act provides
72 assistance to disadvantaged school-age children in this state who
73 would otherwise attend persistently lowest achieving schools.

74 (i) Many disadvantaged school-age children in this
75 state enjoy comparatively fewer educational opportunities or
76 options than school-age children who possess greater economic
77 means.

78 (j) The programs of educational choice provided in this
79 act are elements of an overall program of providing funds to
80 increase the availability of educational opportunities for
81 school-age children in this state.



82 (k) A comparatively far greater proportion of public
83 funds are and, upon implementation of an educational choice
84 program, will continue to be devoted to the benefit of children
85 enrolled in the public schools of this state. Therefore, an
86 Opportunity Scholarship Program that offers assistance to parents
87 who choose to enroll their children in participating nonpublic
88 schools should be viewed as an integral part of the state's
89 overall program of educational funding and not as an isolated
90 individual program.

91 (l) A program of financial assistance to enhance
92 educational choice in this state, as one (1) element of the
93 state's plan for the funding of diverse educational opportunities
94 for the citizens of this state, will better prepare Mississippi
95 citizens to compete for employment opportunities, will foster
96 development of a more capable and better-educated workforce and
97 will better enable the state to fulfill its obligation of
98 providing children with the opportunity to receive a quality
99 education.

100 **SECTION 3. Definitions.** The following words and phrases
101 when used in this act shall have the meanings given to them in
102 this section unless the context clearly indicates otherwise:

103 (a) "Assessment" means the Mississippi Department of
104 Education System of School Assessment Test, an equivalent local
105 assessment or another test established by the State Board of
106 Education to meet accreditation requirements and required under



107 the No Child Left Behind Act of 2001 (Public Law 107-110, 115
108 Stat. 1425) or its successor federal statute or required to
109 achieve other standards established by the department for the
110 public school or school district under Section 37-17-6, (relating
111 to a single accountability system).

112 (b) "Average daily attendance" means a school
113 district's average daily attendance as defined in the Adequate
114 Education Program.

115 (c) "Board" means the Education Opportunity Board
116 established under this act.

117 (d) "Department" means the State Department of
118 Education.

119 (e) "Excess Scholarship Fund" or "fund" means the
120 Excess Scholarship Fund established in this act.

121 (f) "Federal poverty line" means the official federal
122 poverty line as defined in Section 673(2) of Subtitle B of the
123 Community Services Block Grant Act (Public Law 97-35, 95 Stat.
124 511), as adjusted from time to time.

125 (g) "Household income" means income as used for the
126 purposes of determining eligibility for a free lunch under the
127 Richard B. Russell National School Lunch Act (60 Stat. 230, 1751
128 et seq.).

129 (h) "Kindergarten" means a one-year formal kindergarten
130 program that occurs during the school year immediately prior to
131 First Grade.



132 (i) "Local scholarship" means a scholarship that is
133 both:

134 (i) Funded by the local revenues of a low-income
135 child's resident school district in an amount equal to at least
136 thirty-five percent (35%) of the school district's share of its
137 total revenue per average daily membership; and

138 (ii) Applied toward the low-income child's tuition
139 to attend a nonresident public school.

140 (j) "Low-income child" means a school-age child with a
141 household income that does not exceed one and three tenths (1.3)
142 times the federal poverty line for the school year preceding the
143 school year for which an opportunity scholarship is to be
144 distributed.

145 (k) "Middle-income child" means a school-age child with
146 a household income that does not exceed three (3) times the
147 federal poverty level for the school year immediately preceding
148 the school year for which an opportunity scholarship is to be
149 distributed.

150 (l) "Middle-income scholarship" means a middle-income
151 scholarship awarded to a middle-income child under this act to pay
152 tuition for the child to attend a nonresident public school or a
153 participating nonpublic school.

154 (m) "Middle-income scholarship recipient" means a
155 middle-income child who is awarded a middle-income scholarship
156 under this act.



157 (n) "Nonpublic school" means a school, other than a
158 public school, located within this state where a Mississippi
159 resident may legally fulfill the compulsory school attendance
160 requirements of Section 37-13-91, and that meets the applicable
161 requirements of Title VI of the Civil Rights Act of 1964 (Public
162 Law 88-352, 78 Stat. 241). The term also includes a full-time or
163 part-time kindergarten program operated by a nonpublic school.

164 (o) "Nonresident public school" means a public school
165 outside a child's resident school district.

166 (p) "Nonresident school district" means a school
167 district other than the school district in which a school-age
168 child resides.

169 (q) "Nonresident student" means a school-age child
170 attending a public school outside the child's resident school
171 district.

172 (r) "Opportunity scholarship" means an opportunity
173 scholarship awarded to a low-income child under this act to pay
174 tuition for the child to attend a nonresident public school or a
175 participating nonpublic school.

176 (s) "Opportunity Scholarship Program" or "program"
177 means the Opportunity Scholarship Program established under this
178 act.

179 (t) "Opportunity scholarship recipient" means a
180 low-income child who is awarded an opportunity scholarship under
181 this act.



182 (u) "Parent" means a Mississippi resident who is a
183 parent or guardian of a compulsory-school-age child.

184 (v) "Participating nonpublic school" means a nonpublic
185 school located in this state and offering a program of instruction
186 for Kindergarten through 12th Grade, or a combination of grades,
187 that certifies to the board under Section 6 of this act that it
188 meets the following criteria:

189 (i) The nonpublic school is a nonprofit entity
190 that is exempt from federal taxation under Section 501(c)(3) of
191 the Internal Revenue Code of 1986 (Public Law 99-514, 26 USC
192 Section 1 et seq.);

193 (ii) The nonpublic school does not discriminate in
194 its admission policies or practices for opportunity scholarship
195 applicants on the basis of measures of achievement or aptitude or
196 status as a handicapped person; provided, however, that an
197 applicant may be required to meet established eligibility criteria
198 for participation in magnet schools or in schools with specialized
199 academic missions; and

200 (iii) The nonpublic school is in full compliance
201 with all federal and state laws applicable to nonpublic schools on
202 the date prior to the effective date of this act.

203 (w) "Persistently lowest achieving school" means a
204 public elementary or secondary school within this state that is
205 among the lowest performing five percent (5%) of schools. To



206 determine the lowest performing five percent (5%) of schools, the
207 State Department of Education shall:

208 (i) Consider all public schools in this state,
209 with the exception of charter schools, area vocational-technical
210 schools, schools that do not draw their student body from a
211 particular attendance boundary, and schools with specialized
212 academic programs with specific admissions criteria;

213 (ii) Exclude schools that have made adequate
214 yearly progress or were determined to be making progress for at
215 least one (1) of the two (2) most recent school years or that have
216 not been measured for adequate yearly progress in one (1) of the
217 two (2) most recent school years;

218 (iii) Rank all remaining schools based upon their
219 performance on the most recent assessment for which data is posted
220 on the department's publicly accessible internet website; and

221 (iv) Include the lowest performing ten (10)
222 schools ranked under subparagraph (iii) of this paragraph on a
223 list of persistently lowest achieving schools.

224 (x) "Resident school district" means the school
225 district in which a school-age child resides.

226 (y) "School-age child" means a compulsory-school-age
227 child enrolling in Grades 1 through 12 pursuant to Section
228 37-13-91.

229 (z) "Student with a disability" means a school-age
230 child who has been identified, in accordance with special



231 education services and programs, as a "child with a disability,"
232 as defined in 34 CFR Section 300.8 (relating to a child with a
233 disability).

234 (aa) "Total revenue per average daily attendance" means
235 a school district's total revenue per average daily attendance
236 minus the amount of reimbursement to the school district from the
237 Adequate Education Program for pupil transportation.

238 **SECTION 4. Opportunity Scholarship Program.** (1)

239 **Establishment.** Beginning with the 2013-2014 school year, the
240 Opportunity Scholarship Program shall be established to provide
241 scholarships to help low-income children pay tuition to attend a
242 nonresident public school or a participating nonpublic school.

243 (2) **Phase-in.** The Opportunity Scholarship Program shall be
244 phased in as follows:

245 (a) During the 2013-2014 school year, the Opportunity
246 Scholarship Program shall be available to low-income children who
247 satisfy both of the following:

248 (i) Either attended a persistently lowest
249 achieving school during the 2012-2013 school year or will be a
250 kindergarten student during the 2013-2014 school year; and

251 (ii) Will reside within the attendance boundary of
252 a persistently lowest achieving school as of the first day of
253 classes of the 2013-2014 school year; or

254 (iii) Student has a documented disability under
255 the federal IDEA law and requires services that are available in a



256 nonresident or nonpublic special purpose school, as determined by
257 the State Department of Education.

258 (b) During the 2014-2015 school year, the Opportunity
259 Scholarship Program shall be available to children who qualified
260 for the program for the 2013-2014 school year under paragraph (a)
261 of this subsection and to low-income children who will reside
262 within the attendance boundary of a persistently lowest achieving
263 school as of the first day of classes of the 2014-2015 school
264 year.

265 (c) (i) During the 2015-2016 school year and each
266 school year thereafter, the Opportunity Scholarship Program shall
267 be available to all low-income children residing in this state,
268 provided that the aggregate amount of all opportunity scholarships
269 awarded for the 2015-2016 school year and for each school year
270 thereafter to low-income children who do not reside within the
271 attendance boundary of a persistently lowest achieving school as
272 of the first day of classes of the school year shall not exceed
273 Twenty-five Million Dollars (\$25,000,000.00).

274 (ii) Nothing in this paragraph shall be construed
275 to limit the amount of opportunity scholarships awarded to
276 low-income children who were eligible for opportunity scholarships
277 in the 2013-2014 and 2014-2015 school years or who reside within
278 the attendance boundary of a persistently lowest achieving school
279 as of the first day of classes of a school year.



280 (3) **List of persistently lowest achieving schools to be**
281 **published.** By July 1, 2013, and by February 1 of each year
282 thereafter, the department shall publish on the department's
283 publicly accessible Internet website a list of persistently lowest
284 achieving schools that will be in effect for purposes of this act
285 for the following school year. The department shall publish the
286 list based upon the most recent school year for which data is
287 available.

288 (4) **Notice.** (a) For each school year, by a date
289 established by the board, each school district in this state shall
290 post on its publicly accessible Internet website notice of the
291 following:

292 (i) A description of the Opportunity Scholarship
293 Program.

294 (ii) Instructions for applying for an opportunity
295 scholarship.

296 (iii) Instructions for applying for a local
297 scholarship where the school district has elected to provide a
298 local scholarship under Section 5 of this act.

299 (iv) A statement as to whether any schools in the
300 school district have been designated by the department as
301 persistently lowest achieving schools.

302 (v) Notice that a parent must contact directly the
303 nonresident public school or participating nonpublic school in



304 which the parent's child seeks to enroll for application
305 instructions.

306 (b) The notice shall be in a form provided by the
307 board.

308 **SECTION 5. Opportunity scholarship to attend a nonresident**

309 **public school.** (1) **Eligibility.** A low-income child who is
310 eligible to participate in the Opportunity Scholarship Program may
311 receive an opportunity scholarship to pay tuition to attend a
312 nonresident public school that accepts a child's enrollment
313 application under subsection (4) of this section.

314 (2) **Local scholarship.** A school district may elect to
315 provide a local scholarship to low-income children residing within
316 the school district to pay tuition to attend a nonresident public
317 school that accepts a child's enrollment application under
318 subsection (4) of this section. A school district that elects to
319 provide a local scholarship shall:

320 (a) By a date established by the board, notify all
321 residents of the school district of the availability and amount of
322 the local scholarship for the following school year and the
323 process by which a low-income child may apply to the board to
324 receive the opportunity and local scholarships. The school
325 district shall post the notice on the school district's publicly
326 accessible Internet website. The notice may be incorporated into
327 the notice the school district is required to provide under
328 Section 4 of this act.



329 (b) By a date established by the board, notify the
330 board of the availability and amount of the local scholarship for
331 the following school year.

332 (c) When directed to do so by the board, pay to the
333 board the local scholarship for each low-income child residing in
334 the district who the board determines to be eligible for the local
335 scholarship and who the board confirms has enrolled in a
336 nonresident public school.

337 (d) Comply with all guidelines developed by the board
338 under Section 10 of this act.

339 (3) **Application for opportunity and local scholarships.** (a)
340 By a date established by the board and pursuant to guidelines
341 developed by the board under Section 10 of this act, the parent of
342 a low-income child may apply to the board:

343 (i) For an opportunity scholarship for the
344 following school year.

345 (ii) For a local scholarship for the following
346 school year, where the low-income child's resident school district
347 has elected to provide a local scholarship under subsection (2) of
348 this section.

349 (b) By a date established by the board, the board shall
350 notify parents whether the scholarships for which the student
351 applied will be awarded for the following school year.

352 (4) **Application for enrollment in a nonresident public**
353 **school.** (a) By a date established by the board, the parent of a



354 low-income child who has been awarded a scholarship under
355 subsection (3) of this section may apply to one or more
356 nonresident public schools for enrollment of the child for the
357 following school year. The application shall be on a form
358 provided by the nonresident school district.

359 (b) (i) By a date established by the board, the
360 nonresident school district shall provide written notice to the
361 parent and the board as to whether the child will be offered
362 enrollment in the requested nonresident public school for the
363 following school year.

364 (ii) By a date established by the board, the
365 parent must provide written notice to the board, the resident
366 school district and the nonresident school district whether the
367 offer of enrollment will be accepted.

368 (iii) By a date established by the board, the
369 board shall provide the resident school district and the
370 nonresident school district with written confirmation of the
371 opportunity scholarship recipient's enrollment in the nonresident
372 school district.

373 (iv) If the child is not enrolled in a nonresident
374 public school, the child's resident school district shall
375 determine the public school within the resident school district to
376 which the child will be assigned.

377 (c) Each school district shall develop guidelines
378 setting forth the terms and conditions under which it will enroll



379 nonresident students receiving opportunity and local scholarships
380 and shall develop an enrollment application form and process. If
381 a school district determines to enroll nonresident students
382 receiving opportunity and local scholarships, the school district
383 must enroll such nonresident students on a random basis from a
384 pool of applicants who meet the application deadline established
385 by the board, provided that:

386 (i) The nonresident student's enrollment in the
387 nonresident school district would not place either the nonresident
388 school district or the resident school district in violation of a
389 valid and binding desegregation order;

390 (ii) The nonresident student has not been expelled
391 nor is the nonresident student in the process of being expelled
392 under applicable regulations of the State Board of Education;

393 (iii) The nonresident student has not been
394 recruited by the school district or its representatives for
395 athletic purposes; or

396 (iv) The nonresident student meets the established
397 eligibility criteria for participation in a magnet school or in a
398 public school with a specialized academic mission.

399 (d) A nonresident school district may give priority in
400 enrollment to a nonresident student who has been awarded a local
401 scholarship.

402 (5) **State payments.** The state shall make payment pursuant
403 to the schedule contained in Section 7 of this act to each school



404 district or area vocational-technical school that accepts a
405 nonresident student under the provisions of this act subject to
406 the following terms and conditions:

407 (a) The state shall pay to each school district or area
408 vocational-technical school that accepts a nonresident student, on
409 a tuition basis, the amount determined under Section 7 of this
410 act.

411 (b) (i) For a nonresident student who is an
412 opportunity scholarship recipient and defined as a "student with a
413 disability," services provided to the opportunity scholarship
414 recipient shall be charged against the state's special education
415 payments to the resident school district, provided that the
416 resident school district shall not be charged more for services
417 provided to the opportunity scholarship recipient by the
418 nonresident school district than the difference between the
419 current year cost of the services had the opportunity scholarship
420 recipient remained in the resident school district and the sum of
421 the opportunity scholarship, the local scholarship and the
422 per-pupil special education funding following the opportunity
423 scholarship recipient.

424 (ii) The resident school district shall provide
425 the board with documentation of the prior year's cost of services
426 provided to the opportunity scholarship recipient and an estimate
427 of the cost of providing those services in the current year had
428 the opportunity scholarship recipient remained in the resident



429 school district. Any cost not covered by this funding shall be
430 paid by the nonresident school district enrolling the opportunity
431 scholarship recipient.

432 (c) An opportunity scholarship recipient shall be
433 included in the average daily attendance of the opportunity
434 scholarship recipient's resident school district.

435 (d) In the event an opportunity scholarship recipient
436 withdraws from a nonresident school district prior to the
437 completion of the school year, the following shall apply:

438 (i) The nonresident school district shall, within
439 fifteen (15) days of the opportunity scholarship recipient's
440 withdrawal from the nonresident school district, provide the board
441 with written notice of the opportunity scholarship recipient's
442 withdrawal from the nonresident school district.

443 (ii) The resident school district, nonresident
444 school district or participating nonpublic school in which the
445 opportunity scholarship recipient subsequently enrolls shall
446 notify the board within five (5) days of the opportunity
447 scholarship recipient's enrollment.

448 (iii) Within thirty (30) days after receiving the
449 notice required under subparagraph (ii) of this paragraph, the
450 board shall do the following:

451 1. If the opportunity scholarship recipient
452 enrolls in the resident school district or a nonresident school
453 district, pay the resident school district or nonresident school



454 district the full amount of the opportunity scholarship payment
455 reduced on a pro rata basis for the portion of the school year in
456 which the opportunity scholarship recipient was enrolled in
457 another school.

458 2. If the opportunity scholarship recipient
459 enrolls in a participating nonpublic school, pay the opportunity
460 scholarship recipient's parent the full amount of the opportunity
461 scholarship payment reduced on a pro rata basis for the portion of
462 the school year in which the opportunity scholarship recipient was
463 enrolled in another school. Such payment shall be made to the
464 parents of the opportunity scholarship recipient pursuant to the
465 provisions of Section 6(2)(c)(i)1 of this act.

466 (6) **Limitation.** The tuition charged by a nonresident school
467 district to an opportunity scholarship recipient under this
468 section shall not exceed the sum of the opportunity scholarship
469 and the local scholarship, if applicable, awarded to the
470 opportunity scholarship recipient.

471 (7) **Transportation.** (a) Notwithstanding any provisions of
472 Section 37-41-1 to the contrary, a school district that provides
473 its resident public school pupils with transportation to and from
474 the resident public schools or to and from any points within or
475 without this state in order to provide field trips shall provide a
476 student who resides within the school district but regularly
477 attends a nonresident public school, including a charter school,
478 that is located not more than ten (10) miles from the student's



479 resident school district by the nearest public highway, with
480 transportation to and from such nonresident public school or to
481 and from any points within or without this state in order to
482 provide field trips.

483 (b) Transportation of a student under this subsection
484 shall be subject to reimbursement.

485 **SECTION 6. Opportunity scholarship to attend a participating**
486 **nonpublic school.** (1) **Eligibility.** The parent of a low-income
487 child who is eligible to receive an opportunity scholarship under
488 Section 4 of this act and desires to apply for an opportunity
489 scholarship to attend a participating nonpublic school must:

490 (a) By a date established by the board, apply to the
491 board for an opportunity scholarship for the following school year
492 pursuant to guidelines developed by the board under Section 10 of
493 this act. By a date established by the board, the board shall
494 notify parents whether the opportunity scholarship will be awarded
495 for the following school year.

496 (b) Apply for enrollment directly to the participating
497 nonpublic school pursuant to application procedures developed by
498 the participating nonpublic school. By a date established by the
499 board, a participating nonpublic school shall provide written
500 confirmation to the board of each opportunity scholarship
501 recipient whose application for enrollment has been accepted for
502 the following school year. By a date established by the board,
503 the board shall provide the opportunity scholarship recipient's



504 resident school district with written confirmation of the
505 opportunity scholarship recipient's enrollment in the
506 participating nonpublic school.

507 (2) **Payment of opportunity scholarship awards.** The state
508 shall provide payment of an opportunity scholarship to the parents
509 of each opportunity scholarship recipient who is enrolled in a
510 participating nonpublic school under the provisions of this
511 section subject to the following terms and conditions:

512 (a) Opportunity scholarships shall be awarded only for
513 the payment of costs of tuition at a participating nonpublic
514 school within this state. Opportunity scholarships shall not be
515 awarded for enrollment in a home education program defined under
516 Section 37-13-91.

517 (b) Opportunity scholarships shall be paid to the
518 parents of an opportunity scholarship recipient upon the board's
519 receipt of written confirmation of enrollment from the
520 participating nonpublic school selected by the recipient. The
521 opportunity scholarship award shall be paid by check which may be
522 endorsed by the parents only for payment of tuition at the
523 participating nonpublic school at which the opportunity
524 scholarship recipient's enrollment has been confirmed.

525 (c) In the event an opportunity scholarship recipient
526 withdraws from a participating nonpublic school prior to the
527 completion of the school year, the following shall apply:



528 (i) The participating nonpublic school shall,
529 within fifteen (15) days of the opportunity scholarship
530 recipient's withdrawal from the participating nonpublic school:

531 1. Provide the board with written notice of
532 the opportunity scholarship recipient's withdrawal from the
533 participating nonpublic school; and

534 2. Return to the board the full amount of the
535 opportunity scholarship payment reduced on a pro rata basis by the
536 tuition for the portion of the school year in which the
537 opportunity scholarship recipient was enrolled.

538 (ii) If the participating nonpublic school fails
539 to submit to the board the amount required to be paid under
540 subparagraph (i) of this paragraph, the board shall impose
541 interest on the unpaid amount, calculated from the due date at the
542 rate determined by the Commissioner of Revenue for interest
543 payments on overdue taxes or the refund of taxes.

544 (iii) If the opportunity scholarship recipient
545 enrolls in another participating nonpublic school within the
546 school year for which the opportunity scholarship was awarded, the
547 board shall pay the parent of the opportunity scholarship
548 recipient the opportunity scholarship award prorated for the
549 remaining portion of the school year.

550 (d) In the event an opportunity scholarship recipient
551 is expelled from a participating nonpublic school prior to the
552 completion of the school year and the opportunity scholarship



553 recipient subsequently enrolls in his resident school district,
554 the board shall pay the resident school district the opportunity
555 scholarship award prorated for the remaining portion of the school
556 year. The resident school district shall apply this amount toward
557 providing educational services for the opportunity scholarship
558 recipient, which may include, but shall not be limited to, an
559 alternative assignment or alternative education services.

560 (e) **Penalties.** (i) Each opportunity scholarship check
561 issued under this section shall contain the following statement:

562 "FAILURE TO ENDORSE THIS CHECK AS DIRECTED BY THE BOARD
563 MAY SUBJECT THE ENDORSER TO CIVIL PENALTIES AND CRIMINAL
564 PROSECUTION."

565 (ii) A parent's endorsement or use of an
566 opportunity scholarship check in a manner other than as directed
567 by the department may subject the parent to the following
568 penalties:

569 1. A civil penalty equal to three hundred
570 percent (300%) of the full amount of the annual opportunity
571 scholarship award made to the parent.

572 2. Disqualification from future eligibility
573 for an opportunity scholarship.

574 3. Criminal prosecution.

575 (3) **Enrollment requirements.** The following shall apply to a
576 participating nonpublic school which admits an opportunity
577 scholarship recipient:



578 (a) The participating nonpublic school shall not
579 discriminate on any basis that is illegal under federal or state
580 laws applicable to nonpublic schools on the date prior to the
581 effective date of this act.

582 (b) The participating nonpublic school shall prohibit
583 discrimination in enrollment on the basis of race or color.

584 (c) The participating nonpublic school may not recruit
585 any public school student to enroll for athletic purposes.

586 (d) For each school year, by a date established by the
587 board, a nonpublic school that desires to enroll opportunity
588 scholarship recipients under this act shall certify to the board
589 that it satisfies the definition of "participating nonpublic
590 school" in Section 3 of this act. Such certification shall be on
591 a form developed by the board.

592 (4) **Policies.** Upon request, a participating nonpublic
593 school shall make available for review by the parents of any
594 opportunity scholarship recipient seeking enrollment, its written
595 school policies and procedures related to tuition charges,
596 admissions, academic offerings and requirements, discipline,
597 religious instruction, parent involvement, standardized testing,
598 the release of results of standardized tests administered by the
599 participating nonpublic school, and extracurricular activities,
600 and suspension and expulsion of students, including educational
601 accommodations and counseling offered to students and parents.



602 (5) **Assessments.** (a) (i) Each participating nonpublic
603 school shall administer annually an assessment or a nationally
604 normed standardized achievement test in reading/language arts and
605 mathematics to each opportunity scholarship recipient attending
606 the participating nonpublic school in Grades 3, 5, 8 and 11.

607 (ii) To comply with this paragraph, a
608 participating nonpublic school may either administer an assessment
609 or administer a nationally normed standardized achievement test
610 chosen by the participating nonpublic school from a list
611 established under paragraph (b) of this subsection.

612 (b) The board shall establish a list of at least eight
613 (8) nationally normed standardized achievement tests from which
614 the participating nonpublic school shall select a test to be
615 administered if the participating nonpublic school does not choose
616 to administer an assessment.

617 (c) Each participating nonpublic school shall:

618 (i) release each opportunity scholarship
619 recipient's individual results on the assessment or nationally
620 normed standardized achievement test administered to opportunity
621 scholarship recipients under paragraph (a) of this subsection to
622 the parent of the opportunity scholarship recipient.

623 (ii) If the participating nonpublic school has a
624 publicly accessible Internet website, post on the website the
625 participating nonpublic school's aggregate results on the
626 assessment or nationally normed standardized achievement test



627 administered to opportunity scholarship recipients under paragraph
628 (a) of this subsection, provided that the participating nonpublic
629 school shall not post results that reveal the identity of any
630 individual student.

631 (d) The participating nonpublic school shall bear the
632 cost of the testing administered under this subsection and shall
633 not impose an assessment or testing fee on an opportunity
634 scholarship recipient.

635 (6) **Construction.** Nothing in this section shall be
636 construed to:

637 (a) Prohibit a participating nonpublic school from
638 limiting admission to a particular grade level, a single gender or
639 to areas of concentration of the participating nonpublic school,
640 including, but not limited to, mathematics, science and the arts.

641 (b) Empower the state or any of its agencies or
642 officers or political subdivisions to impose any additional
643 requirements on any participating nonpublic school which are not
644 otherwise authorized under the laws of this state or to require
645 any participating nonpublic school to enroll any opportunity
646 scholarship recipient if the participating nonpublic school does
647 not offer appropriate programs or is not structured or equipped
648 with the necessary facilities to meet the special needs of the
649 opportunity scholarship recipient or does not offer a particular
650 program requested.



651 **SECTION 7. Amount of opportunity scholarship.** (1)

652 **Calculation.** (a) The amount of the opportunity scholarship shall
653 equal one hundred percent (100%) of the state's share of the
654 resident school district's total revenue per average daily
655 attendance of the prior school year.

656 (b) In no case shall the combined amount of the
657 opportunity scholarship award and any additional financial
658 assistance provided by a participating nonpublic school exceed the
659 tuition rate for the participating nonpublic school.

660 (2) **Limitation.** No nonresident public school or
661 participating nonpublic school may charge an opportunity
662 scholarship recipient a higher tuition rate than the rate the
663 nonresident public school or participating nonpublic school would
664 have charged to a student who had not received an opportunity
665 scholarship.

666 (3) **Excess Scholarship Fund.** (a) The Excess Scholarship
667 Fund is established in the State Treasury and shall be funded by
668 the amount of the opportunity scholarship awarded to an
669 opportunity scholarship recipient under this section in excess of
670 the amount of tuition charged to the opportunity scholarship
671 recipient.

672 (b) The fund shall be administered by the board and
673 applied as follows:

674 (i) During the 2014-2015 school year and each
675 school year thereafter, money in the fund shall be applied toward



676 the costs of the Opportunity Scholarship Program, subject to
677 subparagraph (ii) of this paragraph.

678 (ii) During the 2016-2017 school year and each
679 school year thereafter, one-half (1/2) of the money in the fund
680 shall be applied toward costs of the following programs:

681 1. One-half (1/2) of the money under this
682 subparagraph shall be applied to the public school demonstration
683 grant program. Any unused grant funding shall be added to the
684 total amount of funds available for the middle-income scholarship
685 program.

686 2. One-half (1/2) of the money under this
687 subparagraph shall be applied toward the costs of the
688 middle-income scholarship program.

689 (4) **Annual appropriations.** (a) Opportunity scholarships
690 authorized under this section shall be made from annual
691 appropriations made by the Legislature to the department and
692 monies available in the fund for that purpose.

693 (b) In the event that insufficient monies are available
694 in any fiscal year to provide opportunity scholarships to all
695 eligible opportunity scholarship recipients in the amount
696 authorized, the board shall make pro rata reductions in the amount
697 of the opportunity scholarship provided to each opportunity
698 scholarship recipient.



699 (c) The total amount of opportunity scholarships
700 provided in any fiscal year shall be limited to the amount of
701 money appropriated for that fiscal year and monies in the fund.

702 (5) **Nontaxable.** Opportunity scholarship funds received by a
703 parent pursuant to this section shall not be considered taxable
704 income for purposes of Mississippi income tax provisions, nor
705 shall such opportunity scholarships constitute financial
706 assistance or appropriations to the participating nonpublic school
707 attended by the opportunity scholarship recipient.

708 (6) **Continued eligibility.** (a) Subject to subsection (4)
709 of this section, a child enrolled in a nonresident public school
710 or a participating nonpublic school who received an opportunity
711 scholarship under this section in the prior school year shall
712 receive an opportunity scholarship in each school year of
713 enrollment under the Opportunity Scholarship Program, provided
714 that the child remains eligible.

715 (b) (i) If a child who received an opportunity
716 scholarship under this section in the prior school year ceases to
717 qualify as a low-income child, the child shall continue to receive
718 a partial scholarship until completing the eighth grade, provided
719 that the child continues to meet all other eligibility
720 requirements.

721 (ii) In calculating the amount of the partial
722 scholarship, the board shall make a pro rata reduction in the



723 child's opportunity scholarship award based upon the child's
724 household income.

725 (7) **Penalties.** Any person who fraudulently submits an
726 opportunity or local scholarship application or who knowingly
727 falsifies material information on an opportunity or local
728 scholarship application shall be subject to the following
729 penalties:

730 (a) Imposition by the board of a civil penalty of up to
731 One Thousand Dollars (\$1,000.00); and

732 (b) Disqualification from future participation in the
733 Opportunity Scholarship Program.

734 (8) **Residence in more than one (1) school district within a**
735 **school year.** Where an opportunity scholarship recipient resides
736 within more than one (1) school district during a school year, the
737 amount of the opportunity scholarship shall be charged against
738 each resident school district on a pro rata basis.

739 **SECTION 8. Guidelines.** (1) **Requirements.** Within thirty
740 (30) days of the effective date of this act, the board shall
741 establish guidelines that provide the following:

742 (a) Forms to apply for opportunity and local
743 scholarships, including application and approval processes and
744 deadlines for application and notification.

745 (b) Procedures to verify the accuracy of the
746 information provided in an opportunity or local scholarship
747 application.



748 (c) Procedures for school district, school and parent
749 notification of opportunity or local scholarship awards.

750 (d) Procedures for administration of the opportunity
751 and local scholarship programs.

752 (e) Confirmation of school enrollment by opportunity
753 scholarship recipients.

754 (f) Procedures for making payment of opportunity
755 scholarship awards, including policies and procedures to minimize
756 the likelihood of fraud or misuse of opportunity scholarship
757 funds. For an opportunity scholarship recipient enrolled in a
758 participating nonpublic school, the procedures shall include
759 restrictive endorsement of opportunity scholarship award checks to
760 the participating nonpublic school in which the opportunity
761 scholarship recipient is enrolled.

762 (g) Procedures for participating nonpublic schools to
763 pay pro rata refunds of opportunity scholarships to the board when
764 an opportunity scholarship recipient withdraws from a
765 participating nonpublic school during the school year for which
766 the opportunity scholarship was paid.

767 (h) Development and distribution of public information
768 concerning the opportunity and local scholarship and interdistrict
769 enrollment programs.

770 (i) Procedures to determine the eligibility of homeless
771 students for opportunity scholarships under this section.



772 (j) Deadline dates for actions required to be taken by
773 the board, the department, school districts, participating
774 nonpublic schools and parents under this section.

775 (k) Such other procedures as are necessary to fully
776 implement the opportunity and local scholarship and interdistrict
777 enrollment programs.

778 (l) A list of at least eight (8) nationally normed
779 standardized achievement tests from which a participating
780 nonpublic school may select a test to be administered pursuant to
781 Section 6 of this act. The initial list developed by the board
782 shall, at a minimum, include the following: California
783 Achievement Test, Comprehensive Testing Program (CTPIV), Iowa Test
784 of Basic Skills, Metropolitan Achievement Test, Peabody
785 Achievement Individual Test Revised Version, Stanford Achievement
786 Test, Terra Nova and Woodcock Johnson Revised Tests of Achievement
787 III.

788 (2) **Publication.** The guidelines shall be published as a
789 statement of policy. The board shall post the guidelines on the
790 department's publicly accessible Internet website.

791 (3) **State Board of Education.** Notwithstanding any other
792 provision of law to the contrary, the programs, procedures and
793 guidelines authorized by this section shall not be subject to
794 review, regulation or approval by the State Board of Education.

795 **SECTION 9. Reduction in amount of school aid.**

796 Notwithstanding any other provision of law to the contrary,



797 beginning in the second consecutive school year of enrollment in a
798 nonresident public school or a participating nonpublic school by
799 an opportunity scholarship recipient who was enrolled in the
800 recipient's resident school district or in a charter school when
801 the recipient first received an opportunity scholarship under this
802 act, the amount of Mississippi Adequate Education Program funding
803 paid by the department to the resident school district shall be
804 reduced by an amount equal to the state's share of the school
805 district's total revenue per average daily attendance.

806 **SECTION 10. Education Opportunity Board.** (1)

807 **Establishment.** An independent board to be known as the Education
808 Opportunity Board is established to be administratively located
809 within the department. The board shall consist of three (3)
810 members appointed by the Governor with the advice and consent of
811 the Senate.

812 (2) **Terms of members.** Members of the board shall serve a
813 term of four (4) years. Vacancies shall be filled for an
814 unexpired term in the same manner as original appointments.
815 Members shall continue to serve after the expiration of their term
816 until the Governor appoints a replacement who is confirmed by the
817 Senate. All members of the board must be residents of this state.

818 (3) **Chairperson.** The Governor shall annually select a
819 chairperson from among the membership of the board.

820 (4) **Meetings.** Meetings shall be held at the call of the
821 chairperson or upon request in writing of a majority of the board.



822 A majority shall constitute a quorum and a majority of such quorum
823 shall have the authority to act upon any matter properly before
824 the board unless otherwise specified in this act.

825 (5) **Compensation prohibited.** Members of the board shall
826 receive no compensation for their services but shall be reimbursed
827 for their actual and necessary expenses incurred in the
828 performance of their official board duties.

829 (6) **Executive director and staff.** (a) There shall be an
830 executive director of the board who shall serve as the executive
831 officer and secretary of the board. The board shall employ and
832 fix the reasonable compensation of the executive director.

833 (b) The executive director, with approval of the board,
834 may employ additional professional and clerical personnel as may
835 be necessary to carry out the duties and responsibilities of the
836 board.

837 (c) The department shall provide adequate funding,
838 space and equipment to facilitate the activities of the board.

839 (7) **Legal advice and assistance.** The Attorney General shall
840 provide such legal advice and assistance as the board may require.

841 (8) **Powers and duties.** The board shall have the following
842 powers and duties:

843 (a) Establish guidelines for the administration of the
844 opportunity and local scholarship programs as required under this
845 act.



846 (b) Administer the opportunity and local scholarship
847 application and approval processes.

848 (c) Develop the opportunity and local scholarship
849 application form and any other forms necessary to administer the
850 opportunity and local scholarship programs, including the notice
851 required to be provided by school districts under Section 4 of
852 this act.

853 (d) Review and verify the income and residence of
854 opportunity and local scholarship applicants.

855 (e) Announce the award of opportunity and local
856 scholarships for the following school year under Sections 5 and 6
857 of this act.

858 (f) Confirm the enrollment of opportunity scholarship
859 recipients in nonresident public schools and participating
860 nonpublic schools and allocate opportunity scholarship funds to
861 opportunity scholarship recipients.

862 (g) Make payment of opportunity scholarship awards as
863 provided in Sections 5 and 6 of this act.

864 (h) Notify school districts that elect to create a
865 local scholarship when payment must be made.

866 (i) Beginning after the first school year of
867 implementation of the Opportunity Scholarship Program, prepare a
868 report to be submitted to the Governor and the Legislature by
869 December 1 of each year, made available to the parents of
870 opportunity scholarship recipients and placed on the department's



871 publicly accessible Internet website that includes at least the
872 following information for the prior school year:

873 (i) The total number of opportunity scholarships
874 requested.

875 (ii) The total number and total dollar amount of
876 opportunity scholarships awarded, in total and disaggregated by:

877 1. Whether the opportunity scholarship
878 recipient attends a nonresident public school or a participating
879 nonpublic school.

880 2. Grade level of the opportunity scholarship
881 recipient.

882 3. Whether the opportunity scholarship
883 recipient resides in a school district with at least one (1)
884 persistently lowest achieving school.

885 (iii) The administrative costs of the Opportunity
886 Scholarship Program.

887 (iv) A listing of nonresident public schools to
888 which opportunity scholarship funds were disbursed on behalf of
889 opportunity scholarship recipients and the amount disbursed to
890 each nonresident public school.

891 (v) A listing of participating nonpublic schools
892 in which opportunity scholarship recipients enrolled and the
893 number of opportunity scholarship recipients who enrolled in each
894 participating nonpublic school.



895 (vi) The total number and total dollar amount of
896 local scholarships awarded, disaggregated by the resident school
897 districts that made the local scholarship awards.

898 (j) For the 2016-2017 school year and each school year
899 thereafter, administer and announce the award of public school
900 choice demonstration grants to eligible school districts as
901 provided under Section 12 of this act, and annually redistribute
902 any remaining funds from the public school choice demonstration
903 grants program to the middle-income scholarship program.

904 (k) For the 2016-2017 school year and each school year
905 thereafter, administer the middle-income scholarship program.

906 (l) **Study.** Following the 2016-2017 school year, the
907 board shall conduct a study of the effectiveness of the
908 Opportunity Scholarship Program and shall deliver a written report
909 of its findings, including any recommendations for changes to the
910 program, to the Governor, the Chairman of the Education Committee
911 of the Senate and the Chairman of the Education Committee of the
912 House of Representatives by December 31, 2016.

913 **SECTION 11. Optional local tuition grant program.** A school
914 district may, out of funds received from the state for educational
915 purposes, establish a program of tuition grants to provide for the
916 education of resident students who wish to attend a nonresident
917 public school or a participating nonpublic school on a tuition
918 basis. A student who receives a tuition grant under this section
919 shall be included in the average daily attendance of the student's



920 resident school district for the purpose of providing adequate
921 education funding and special education funding.

922 **SECTION 12. Public school choice demonstration grant**

923 **program.** (1) **Establishment.** A school district may, out of funds
924 received by the board under Section 7 of this act and available
925 state and local funds, establish a program of tuition grants to
926 provide for the education of resident students who wish to attend
927 a nonresident public school.

928 (2) **Limit.** No grant award issued by the board to a school
929 district under this section shall exceed Five Hundred Thousand
930 Dollars (\$500,000.00).

931 (3) **Procedure.** Grant applications shall only be received,
932 reviewed and allocated by the board during an annual two-week
933 grant review process to begin on July 1 and end on July 15 of each
934 calendar year.

935 (4) **Eligibility.** To be eligible for grants under this
936 program, the school district shall:

937 (a) Submit an application to the board at a date to be
938 determined by the board requesting a public school choice
939 demonstration grant.

940 (b) Submit a statement of the amount of the grant
941 sought, including the estimated number of tuition grants to be
942 distributed.

943 (c) Demonstrate a commitment of funds received from
944 both local sources and the state for educational purposes of at



945 least Three Dollars (\$3.00) for every One Dollar (\$1.00) of grant
946 funds issued under Section 7 of this act.

947 (d) Meet any other requirements as set by the board.

948 (5) **Average daily attendance.** A student who receives a
949 tuition grant under this section shall be included in the average
950 daily attendance of the student's resident school district for the
951 purpose of providing adequate education funding and special
952 education funding.

953 **SECTION 13. Middle-income scholarship program.** (1)

954 **Establishment.** Beginning with the 2015-2016 school year, the
955 board shall establish a middle-income scholarship program to
956 provide scholarships to help middle-income children in this state
957 pay tuition to attend a nonresident public school or participating
958 nonpublic school. The board shall make annual middle-income
959 scholarship awards on a pro rata basis from the funding provided
960 under Section 7 of this act.

961 (2) **Notice.** (a) By a date determined by the board, each
962 school district in this state shall provide all residents of the
963 school district with notice of the following:

964 (i) A description of the middle-income scholarship
965 program.

966 (ii) Instructions for applying for a middle-income
967 scholarship.

968 (iii) Notice that a parent must contact directly
969 the nonresident public school or participating nonpublic school in



970 which the parent's child seeks to enroll for application
971 instructions.

972 (b) The school district shall provide the notice to all
973 residents of the school district by notice posted on the school
974 district's publicly accessible Internet website. The notice shall
975 be in a form provided by the board.

976 (3) **Regulations.** In promulgating regulations for the
977 administration of the middle-income scholarship, the board shall
978 develop application and enrollment processes and procedures
979 substantively similar to Sections 5 and 6 of this act.

980 (4) **Limitation.** (a) No nonresident public school or
981 participating nonpublic school may charge a middle-income
982 scholarship recipient a higher tuition rate than the rate the
983 nonresident public school or participating nonpublic school would
984 have charged to a student who had not received a middle-income
985 scholarship.

986 (b) The combined amount of the middle-income
987 scholarship award and any additional financial assistance provided
988 by the participating nonpublic school shall not exceed the tuition
989 rate for the participating nonpublic school.

990 (5) **Applicability.** The provisions of Sections 5 and 6 of
991 this act shall apply to the middle-income scholarship program
992 established under this section.

993 **SECTION 14. Educational improvement tax credit (EITC).** (1)

994 **Definitions.** The following words and phrases when used in this



995 section shall have the meanings given to them in this section
996 unless the context clearly indicates otherwise:

997 (a) "Business firm" means an entity authorized to do
998 business in this state and subject to taxes imposed under the
999 Mississippi Income Tax Law, Section 27-7-1 et seq. The term
1000 includes a pass-through entity. For purposes of this section, a
1001 business firm shall be included in one (1) of the following
1002 groups:

1003 (i) Group 1 includes any business firm that is
1004 either entering the second year of a two-year commitment or
1005 applying for tax credits for a contribution to an educational
1006 improvement organization that is also a school district
1007 foundation, public school foundation or charter school foundation.

1008 (ii) Group 2 includes any business firm that is
1009 renewing a two-year commitment that was fulfilled in the most
1010 recent fiscal year or is applying for tax credits for a
1011 contribution to a prekindergarten scholarship organization in the
1012 same amount that it had contributed in the most recent fiscal
1013 year.

1014 (iii) Group 3 includes any business firm other
1015 than a business firm in Group 1 or Group 2.

1016 (b) "Contribution" means a donation of cash, personal
1017 property or services, the value of which is the net cost of the
1018 donation to the donor or the pro rata hourly wage, including
1019 benefits, of the individual performing the services.



1020 (c) "Authority" means the Mississippi Development
1021 Authority.

1022 (d) "Educational improvement organization" means a
1023 nonprofit entity which:

1024 (i) Is exempt from federal taxation under Section
1025 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514,
1026 26 USC Section 1 et seq.); and

1027 (ii) Contributes at least eighty percent (80%) of
1028 its annual receipts as grants to a public school for innovative
1029 educational programs.

1030 For purposes of this definition, a nonprofit entity
1031 "contributes" its annual cash receipts when it expends or
1032 otherwise irrevocably encumbers those funds for expenditure during
1033 the then current fiscal year of the nonprofit entity or during the
1034 next succeeding fiscal year of the nonprofit entity. A "nonprofit
1035 entity" includes a school district foundation, public school
1036 foundation or charter school foundation.

1037 (e) "Eligible prekindergarten student" means a student,
1038 including an eligible student with a disability, who is enrolled
1039 in a prekindergarten program and is a member of a household with a
1040 maximum annual household income as increased by the applicable
1041 income allowance.

1042 (f) "Eligible student" means a school-age student,
1043 including an eligible student with a disability, who is enrolled



1044 in a school and is a member of a household with a maximum annual
1045 household income as increased by the applicable income allowance.

1046 (g) "Eligible student with a disability" means a
1047 prekindergarten student or a school-age student who meets all of
1048 the following:

1049 (i) Is either enrolled in a special education
1050 school or has otherwise been identified, in accordance with
1051 applicable state and federal law relating to special education
1052 services and programs as a "child with a disability," as defined
1053 in 34 CFR Section 300.8 (relating to a child with a disability).

1054 (ii) Needs special education and related services.

1055 (iii) Is enrolled in a prekindergarten program or
1056 in a school.

1057 (iv) Is a member of a household with a household
1058 income of not more than the maximum annual household income.

1059 (h) "Household" means an individual living alone or
1060 with the following: a spouse, parent and their unemancipated
1061 minor children, other unemancipated minor children who are related
1062 by blood or marriage, or other adults or unemancipated minor
1063 children living in the household who are dependent upon the
1064 individual.

1065 (i) "Household income" means all monies or property
1066 received of whatever nature and from whatever source derived. The
1067 term does not include the following:



1068 (i) Periodic payments for sickness and disability
1069 other than regular wages received during a period of sickness or
1070 disability.

1071 (ii) Disability, retirement or other payments
1072 arising under workers' compensation acts, occupational disease
1073 acts, and similar legislation by any government.

1074 (iii) Payments commonly recognized as old-age or
1075 retirement benefits paid to persons retired from service after
1076 reaching a specific age or after a stated period of employment.

1077 (iv) Payments commonly known as public assistance
1078 or unemployment compensation payments by a governmental agency.

1079 (v) Payments to reimburse actual expenses.

1080 (vi) Payments made by employers or labor unions
1081 for programs covering hospitalization, sickness, disability or
1082 death, supplemental unemployment benefits, strike benefits, social
1083 security and retirement.

1084 (vii) Compensation received by United States
1085 servicemen serving in a combat zone.

1086 (j) "Income allowance" means:

1087 (i) Subject to subparagraph (ii) of this
1088 paragraph, the amount of:

1089 1. Before July 1, 2014, Ten Thousand Dollars
1090 (\$10,000.00) for each eligible student, eligible prekindergarten
1091 student, and dependent member of a household.



1092 2. After June 30, 2015, Twelve Thousand
1093 Dollars (\$12,000.00) for each eligible student, eligible
1094 prekindergarten student, and dependent member of a household.

1095 (ii) Beginning July 1, 2016, the Mississippi
1096 Development Authority shall annually adjust the income allowance
1097 amounts under subparagraph (i) of this paragraph to reflect any
1098 upward changes in the Consumer Price Index for all consumers for
1099 the Mississippi area in the preceding twelve (12) months and shall
1100 immediately submit the adjusted amounts to the Secretary of State
1101 for publication as a notice.

1102 (k) "Innovative educational program" means an advanced
1103 academic or similar program that is not part of the regular
1104 academic program of a public school but that enhances the
1105 curriculum or academic program of the public school or provides
1106 prekindergarten programs to public school students.

1107 (l) "Maximum annual household income" means:

1108 (i) Except as stated in subparagraph (ii) of this
1109 paragraph and subject to subparagraph (iii) of this paragraph, the
1110 following:

1111 1. Before July 1, 2013, not more than Fifty
1112 Thousand Dollars (\$50,000.00).

1113 2. After June 30, 2013, not more than Sixty
1114 Thousand Dollars (\$60,000.00).

1115 (ii) With respect to an eligible student with a
1116 disability, as calculated by multiplying the sum of:



1117 1. The applicable amount under subparagraph
1118 (i) of this paragraph; and
1119 2. The applicable income allowance; by
1120 3. The applicable support level factor
1121 according to the following table:

1122	Support Level	Support Level Factor
1123	1	1.50
1124	2	2.993

1125 (iii) Beginning July 1, 2014, the Mississippi
1126 Development Authority shall annually adjust the income amounts
1127 under subparagraphs (i) and (ii) of this paragraph to reflect any
1128 upward changes in the Consumer Price Index for all consumers for
1129 the Mississippi area in the preceding twelve (12) months and shall
1130 immediately submit the adjusted amounts to the Secretary of State
1131 for publication as a notice.

1132 (m) "Pass-through entity" means a partnership or a
1133 single-member limited liability company treated as a disregarded
1134 entity for federal income tax purposes or a Mississippi S
1135 Corporation as defined in Section 27-8-1.

1136 (n) "Prekindergarten program" means a program of
1137 instruction for three-year-old or four-year-old students that
1138 utilizes a curriculum aligned with the curriculum of the school
1139 with which it is affiliated and that provides:



1140 (i) A minimum of two (2) hours of instructional
1141 and developmental activities per day at least sixty (60) days per
1142 school year; or

1143 (ii) A minimum of two (2) hours of instructional
1144 and developmental activities per day at least twenty (20) days
1145 over the summer recess.

1146 (o) "Prekindergarten scholarship organization" means a
1147 nonprofit entity that:

1148 (i) Either is exempt from federal taxation under
1149 Section 501(c) (3) of the Internal Revenue Code of 1986 or is
1150 operated as a separate segregated fund by a scholarship
1151 organization that has been qualified under this section.

1152 (ii) Contributes at least eighty percent (80%) of
1153 its annual cash receipts to a prekindergarten scholarship program
1154 by expending or otherwise irrevocably encumbering those funds for
1155 distribution during the then current fiscal year of the
1156 organization or during the next succeeding fiscal year of the
1157 organization.

1158 (p) "Prekindergarten scholarship program" means a
1159 program to provide tuition to eligible prekindergarten students to
1160 attend a prekindergarten program operated by or in conjunction
1161 with a school located in this state and that includes an
1162 application and review process for the purpose of making awards to
1163 eligible prekindergarten students and awards scholarships to



1164 eligible prekindergarten students without limiting availability to
1165 only students of one (1) school.

1166 (q) "Scholarship" means an award under a scholarship
1167 program.

1168 (r) "Scholarship organization" means a nonprofit entity
1169 that:

1170 (i) Is exempt from federal taxation under Section
1171 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514,
1172 26 USC Section 1 et seq.); and

1173 (ii) Contributes at least eighty percent (80%) of
1174 its annual cash receipts to a scholarship program. For purposes
1175 of this definition, a nonprofit entity "contributes" its annual
1176 cash receipts to a scholarship program when it expends or
1177 otherwise irrevocably encumbers those funds for distribution
1178 during the then current fiscal year of the nonprofit entity or
1179 during the next succeeding fiscal year of the nonprofit entity.

1180 (s) "Scholarship program" means a program to provide
1181 tuition to eligible students to attend a school located in this
1182 state. A scholarship program must include an application and
1183 review process for the purpose of making awards to eligible
1184 students. The award of scholarships to eligible students shall be
1185 made without limiting availability to only students of one (1)
1186 school.



1187 (t) "School" means an elementary school or secondary
1188 school at which the compulsory attendance requirements of the
1189 state may be met or a public or nonpublic prekindergarten.

1190 (u) "School age" means from the earliest admission age
1191 to a school's prekindergarten or kindergarten program or, when no
1192 prekindergarten or kindergarten program is provided, the school's
1193 earliest admission age for students, until the end of the school
1194 year the student attains twenty-one (21) years of age or
1195 graduation from high school, whichever occurs first.

1196 (v) "Special education school" means a school or
1197 program within a school that is designated specifically and
1198 exclusively for students with any of the disabilities listed in 34
1199 CFR Section 300.8 (relating to a child with a disability) and
1200 meets one (1) of the following:

1201 (i) Is licensed;

1202 (ii) Is accredited by an accrediting association
1203 approved by the State Board of Education;

1204 (iii) Is a school for the blind or deaf receiving
1205 state appropriations; or

1206 (iv) Is operated by or under the authority of a
1207 bona fide religious institution or by the state or any political
1208 subdivision thereof.

1209 (w) "Support level" means the level of support needed
1210 by an eligible student with a disability, as stated in the
1211 following:



1212 (i) Support level 1. The student is not enrolled
1213 in a special education school.

1214 (ii) Support level 2. The student is enrolled in
1215 a special education school.

1216 (x) "Tax credit" means the educational improvement tax
1217 credit established under this section.

1218 **SECTION 15. Qualification and application.** (1)

1219 **Establishment.** An educational improvement tax credit program is
1220 established to enhance the educational opportunities available to
1221 all students in this state.

1222 (2) **Information.** In order to qualify under this section, a
1223 scholarship organization, a prekindergarten scholarship
1224 organization, or an educational improvement organization must
1225 submit information to the Mississippi Development Authority that
1226 enables the authority to confirm that the organization is exempt
1227 from taxation under Section 501(c)(3) of the Internal Revenue Code
1228 of 1986.

1229 (3) **Scholarship organizations and prekindergarten**
1230 **scholarship organizations.** A scholarship organization or
1231 prekindergarten scholarship organization must certify to the
1232 authority that the organization is eligible to participate in the
1233 program established under this section and must agree to annually
1234 report the following information to the authority by September 1
1235 of each year:



1236 (a) (i) The number of scholarships awarded during the
1237 immediately preceding school year to eligible prekindergarten
1238 students.

1239 (ii) The total and average amounts of scholarships
1240 awarded during the immediately preceding school year to eligible
1241 prekindergarten students.

1242 (iii) The number of scholarships awarded during
1243 the immediately preceding school year to eligible students in
1244 Kindergarten through Grade 8.

1245 (iv) The total and average amounts of scholarships
1246 awarded during the immediately preceding school year to eligible
1247 students in Kindergarten through Grade 8.

1248 (v) The number of scholarships awarded during the
1249 immediately preceding school year to eligible students in Grades 9
1250 through 12.

1251 (vi) The total and average amounts of scholarships
1252 awarded during the immediately preceding school year to eligible
1253 students in Grades 9 through 12.

1254 (vii) Where the scholarship organization or
1255 prekindergarten scholarship organization collects information on a
1256 county-by-county basis, the total number and the total dollar
1257 amount of scholarships awarded during the immediately preceding
1258 school year to residents of each county in which the scholarship
1259 organization or prekindergarten scholarship organization awarded
1260 scholarships.



1261 (b) The information required under paragraph (a) of
1262 this subsection shall be submitted on a form provided by the
1263 authority. No later than May 1 of each year, the authority shall
1264 annually distribute such sample forms, together with the forms on
1265 which the reports are required to be made, to each listed
1266 scholarship organization and prekindergarten scholarship
1267 organization.

1268 (c) The authority may not require any other information
1269 to be provided by scholarship organizations or prekindergarten
1270 scholarship organizations, except as expressly authorized in this
1271 section.

1272 (4) **Educational improvement organization.** (a) An
1273 application submitted by an educational improvement organization
1274 must describe its proposed innovative educational program or
1275 programs in a form prescribed by the authority. In prescribing
1276 the form, the authority shall consult with the Department of
1277 Education as necessary. The authority shall review and approve or
1278 disapprove the application. In order to be eligible to
1279 participate in the program established under this section, an
1280 educational improvement organization must agree to annually report
1281 the following information to the authority by September 1 of each
1282 year:

1283 (i) The name of the innovative educational program
1284 or programs and the total amount of the grant or grants made to
1285 those programs during the immediately preceding school year.



1286 (ii) A description of how each grant was utilized
1287 during the immediately preceding school year and a description of
1288 any demonstrated or expected innovative educational improvements.

1289 (iii) The names of the public schools and school
1290 districts where innovative educational programs that received
1291 grants during the immediately preceding school year were
1292 implemented.

1293 (iv) Where the educational improvement
1294 organization collects information on a county-by-county basis, the
1295 total number and the total dollar amount of grants made during the
1296 immediately preceding school year for programs at public schools
1297 in each county in which the educational improvement organization
1298 made grants.

1299 (b) The information required under paragraph (a) of
1300 this subsection shall be submitted on a form provided by the
1301 authority. No later than May 1 of each year, the authority shall
1302 annually distribute such sample forms, together with the forms on
1303 which the reports are required to be made, to each listed
1304 educational improvement organization.

1305 (c) The authority may not require any other information
1306 to be provided by educational improvement organizations, except as
1307 expressly authorized in this section.

1308 (5) **Notification.** The authority shall notify the
1309 scholarship organization, prekindergarten scholarship organization
1310 or educational improvement organization that the organization



1311 meets the requirements of this section for that fiscal year no
1312 later than sixty (60) days after the organization has submitted
1313 the information required under this section.

1314 (6) **Publication.** The authority shall annually publish a
1315 list of each scholarship organization, prekindergarten scholarship
1316 organization, or educational improvement organization qualified
1317 under this section. The list shall also be posted and updated as
1318 necessary on the publicly accessible Internet website of the
1319 authority.

1320 **SECTION 16.** **Application.** (1) **Scholarship organization or**
1321 **prekindergarten scholarship organization.** In order to receive a
1322 tax credit, a business firm shall apply to the authority. A
1323 business firm shall receive a tax credit if the scholarship
1324 organization or prekindergarten scholarship organization that
1325 receives the contribution appears on the list established under
1326 Section 15 of this act.

1327 (2) **Educational improvement organization.** In order to
1328 receive a tax credit, a business firm shall apply to the
1329 authority. A business firm shall receive a tax credit if the
1330 authority has approved the program provided by the educational
1331 improvement organization that receives the contribution.

1332 (3) **Contributions.** A contribution by a business firm to a
1333 scholarship organization, prekindergarten scholarship
1334 organization, or educational improvement organization shall be



1335 made no later than sixty (60) days following the approval of an
1336 application under subsection (1) or (2) of this section.

1337 **SECTION 17. Tax credit.** (1) **Scholarship or educational**
1338 **improvement organizations.** In accordance with this act, the
1339 Mississippi Department of Revenue shall grant a tax credit against
1340 any income tax due to a business firm providing proof of a
1341 contribution to a scholarship organization or educational
1342 improvement organization in the taxable year in which the
1343 contribution is made which shall not exceed seventy-five percent
1344 (75%) of the total amount contributed during the taxable year by
1345 the business firm. The tax credit shall not exceed Three Hundred
1346 Thousand Dollars (\$300,000.00) annually per business firm for
1347 contributions made to scholarship organizations or educational
1348 improvement organizations.

1349 (2) **Additional amount.** The Mississippi Department of
1350 Revenue shall grant a tax credit of up to ninety percent (90%) of
1351 the total amount contributed during the taxable year if the
1352 business firm provides a written commitment to provide the
1353 scholarship organization or educational improvement organization
1354 with the same amount of contribution for two (2) consecutive tax
1355 years. The business firm must provide the written commitment
1356 under this subsection to the authority at the time of application.

1357 (3) **Prekindergarten scholarship organizations.** In
1358 accordance with this act, the Mississippi Department of Revenue
1359 shall grant a tax credit against any income tax due to a business



1360 firm providing proof of a contribution to a prekindergarten
1361 scholarship organization in the taxable year in which the
1362 contribution is made which shall be equal to one hundred percent
1363 (100%) of the first Ten Thousand Dollars (\$10,000.00) contributed
1364 during the taxable year by the business firm, and which shall not
1365 exceed ninety percent (90%) of the remaining amount contributed
1366 during the taxable year by the business firm. The tax credit
1367 shall not exceed One Hundred Fifty Thousand Dollars (\$150,000.00)
1368 annually per business firm for contributions made to
1369 prekindergarten scholarship organizations.

1370 (4) **Combination of tax credits.** A business firm may receive
1371 tax credits from the Department of Revenue in any tax year for any
1372 combination of contributions under subsection (1), (2) or (3) of
1373 this section. In no case may a business firm receive tax credits
1374 in any tax year in excess of Three Hundred Thousand Dollars
1375 (\$300,000.00) for contributions under subsections (1) and (2) of
1376 this section. In no case shall a business firm receive tax
1377 credits in any tax year in excess of One Hundred Fifty Thousand
1378 Dollars (\$150,000.00) for contributions under subsection (3) of
1379 this section.

1380 (5) **Pass-through entity.** (a) If a pass-through entity does
1381 not intend to use all approved tax credits under this section, it
1382 may elect in writing to transfer all or a portion of the tax
1383 credit to shareholders, members or partners in proportion to the
1384 share of the entity's distributive income to which the



1385 shareholder, member or partner is entitled for use in the taxable
1386 year in which the contribution is made or in the taxable year
1387 immediately following the year in which the contribution is made.
1388 The election shall designate the year in which the transferred tax
1389 credits are to be used and shall be made according to procedures
1390 established by the Department of Revenue.

1391 (b) A pass-through entity and a shareholder, member or
1392 partner of a pass-through entity shall not claim the tax credit
1393 under this section for the same contribution.

1394 (c) The shareholder, member or partner may not
1395 carryforward, carryback, obtain a refund of, or sell or assign the
1396 tax credit.

1397 (d) The shareholder, member or partner may claim the
1398 credit on a joint return, but the tax credit may not exceed the
1399 separate income of that shareholder, member or partner.

1400 (6) **Restriction on applicability of credits.** No tax credits
1401 shall be applied against any tax withheld by an employer from an
1402 employee.

1403 (7) **Time of application for credits.** (a) The authority may
1404 accept applications beginning on May 15 from business firms for
1405 tax credits available during a fiscal year that is to begin on
1406 July 1.

1407 (b) If, on July 1 of a fiscal year, applications for
1408 tax credits available during the fiscal year exceed the total
1409 aggregate amount of tax credits available for the fiscal year, the



1410 authority shall approve applications for tax credits on the
1411 following basis, subject to the provisions of this section:

1412 (i) Group 1 firms whose applications were received
1413 by July 1 shall be accorded first priority in the approval of tax
1414 credit applications. If tax credits applied for by Group 1 firms
1415 exceed the total aggregate amount of tax credits available for the
1416 program under Section 18 of this act, the authority shall approve
1417 on a pro rata basis the applications of all Group 1 firms that
1418 applied by July 1, and the applications of Group 2 and Group 3
1419 firms shall be denied. Approval of a reduced tax credit under
1420 this subparagraph shall not disqualify a Group 1 firm from
1421 receiving a ninety percent (90%) tax credit under subsection (2)
1422 of this section even if the amount of tax credit approved would
1423 require the Group 1 firm to make a lower scholarship contribution
1424 in the second year of a two-year commitment.

1425 (ii) If tax credits remain available after credits
1426 have been awarded under subparagraph (i) of this paragraph, Group
1427 2 firms whose applications were received by July 1 shall be
1428 accorded priority in the approval of applications for the
1429 remaining tax credits. If the sum of the tax credits approved
1430 under subparagraph (i) of this paragraph and the credits applied
1431 for by Group 2 firms exceeds the total aggregate amount of tax
1432 credits available for the program under Section 18 of this act,
1433 the authority shall approve on a pro rata basis the applications
1434 for the remaining tax credits submitted by all Group 2 firms that



1435 applied by July 1, and the applications of Group 3 firms shall be
1436 denied.

1437 (iii) If tax credits remain available on July 1
1438 after credits have been awarded under subparagraphs (i) and (ii)
1439 of this paragraph, applications of Group 3 firms shall be
1440 approved, on a pro rata basis within that group if necessary.
1441 Thereafter, the authority shall approve the applications of all
1442 business firms on a daily basis. If, on any day after July 1, the
1443 cumulative sum of the tax credits approved and the tax credits
1444 applied for on that day exceeds the total aggregate amount of tax
1445 credits available for the program under Section 18 of this act,
1446 the authority shall approve on a pro rata basis the applications
1447 received on that day.

1448 **SECTION 18. Limitations.** (1) **Amount.** (a) For the fiscal
1449 years 2013-2014, 2014-2015 and 2015-2016, the total aggregate
1450 amount of all tax credits approved for scholarship organizations
1451 and educational improvement organizations shall not exceed
1452 Ninety-two Million Dollars (\$92,000,000.00) in a fiscal year. No
1453 less than seventy-five percent (75%) of the total aggregate amount
1454 of all tax credits approved shall be used to provide tax credits
1455 for contributions from business firms to scholarship
1456 organizations. No less than twenty-five (25%) of the total
1457 aggregate amount of all tax credits approved shall be used to
1458 provide tax credits for contributions from business firms to
1459 educational improvement organizations.



1460 (i) From the tax credits for contributions by
1461 business firms to educational improvement organizations, twenty
1462 percent (20%) of the available amount shall initially be set aside
1463 for contributions by business firms to educational improvement
1464 organizations that are also school district foundations, public
1465 school foundations, or charter school foundations and shall be
1466 distributed in accordance with Section 17 of this act.

1467 (ii) Tax credits remaining from the amount set
1468 aside in subparagraph (i) of this paragraph after July 1 of each
1469 year shall be made available to business firms for contributions
1470 to any educational improvement organization and shall be
1471 distributed in accordance with Section 17 of this act.

1472 (b) (i) Subject to adjustment under subparagraph (ii)
1473 of this paragraph, in the fiscal year 2016-2017 and each fiscal
1474 year thereafter, the total aggregate amount of all tax credits
1475 available shall equal the total aggregate amount of all tax
1476 credits available in the prior fiscal year.

1477 (ii) Beginning in the fiscal year 2016-2017, in
1478 any fiscal year in which the total aggregate amount of all tax
1479 credits approved for the prior fiscal year is equal to or greater
1480 than ninety percent (90%) of the total aggregate amount of all tax
1481 credits available for the prior fiscal year, the total aggregate
1482 amount of all tax credits available shall increase by five percent
1483 (5%). The authority shall publish on its Internet website the



1484 total aggregate amount of all tax credits available when the
1485 amount is increased under this paragraph.

1486 (c) For the fiscal years 2013-2014, 2014-2015 and
1487 2015-2016, the total aggregate amount of all tax credits approved
1488 for contributions from business firms to prekindergarten
1489 scholarship programs shall not exceed Eight Million Dollars
1490 (\$8,000,000.00) in a fiscal year.

1491 (d) (i) Subject to adjustment in subparagraph (ii) of
1492 this paragraph, in the fiscal year 2016-2017 and each fiscal year
1493 thereafter, the total aggregate amount of all tax credits
1494 available to prekindergarten scholarship programs shall equal the
1495 total aggregate amount of all tax credits available to
1496 prekindergarten scholarship programs in the prior fiscal year.

1497 (ii) Beginning in the fiscal year 2016-2017, in
1498 any fiscal year in which the total aggregate amount of all tax
1499 credits available is increased under paragraph (b) of this
1500 subsection, the total aggregate amount of all tax credits
1501 available for prekindergarten scholarship programs shall increase
1502 by five percent (5%). The authority shall publish on its Internet
1503 website the total aggregate amount of all tax credits available
1504 for prekindergarten scholarship programs when the amount is
1505 increased under this paragraph.

1506 (2) **Activities.** No tax credit shall be approved for
1507 activities that are a part of a business firm's normal course of
1508 business.



1509 (3) **Tax liability.** (a) Except as provided in paragraph (b)
1510 of this subsection, a tax credit granted for any one (1) taxable
1511 year may not exceed the tax liability of a business firm.

1512 (b) In the case of a credit granted to a pass-through
1513 entity which elects to transfer the credit according to Section 17
1514 of this act, a tax credit granted for any one (1) taxable year and
1515 transferred to a shareholder, member or partner may not exceed the
1516 tax liability of the shareholder, member or partner.

1517 (4) **Use.** A tax credit not used by the applicant in the
1518 taxable year the contribution was made or in the year designated
1519 by the shareholder, member or partner to whom the credit was
1520 transferred may not be carried forward or carried back and is not
1521 refundable or transferable.

1522 (5) **Nontaxable income.** A scholarship received by an
1523 eligible student or eligible prekindergarten student shall not be
1524 considered to be taxable income for the purposes of the
1525 Mississippi Income Tax Law.

1526 **SECTION 19. Lists.** The Department of Revenue shall provide
1527 to the Legislature, by June 30 of each year, a list of all
1528 scholarship organizations, prekindergarten scholarship
1529 organizations and educational improvement organizations that
1530 receive contributions from business firms granted a tax credit.

1531 **SECTION 20. Guidelines.** The Mississippi Development
1532 Authority, in consultation with the Department of Education, shall



1533 develop guidelines to determine the eligibility of an innovative
1534 educational program.

1535 **SECTION 21.** Sections 14 through 20 of this act shall be
1536 codified in Chapter 7, Title 27, Mississippi Code of 1972.

1537 **SECTION 22.** Section 27-7-17, Mississippi Code of 1972, is
1538 amended as follows:

1539 27-7-17. In computing taxable income, there shall be allowed
1540 as deductions:

1541 (1) **Business deductions.**

1542 (a) **Business expenses.** All the ordinary and necessary
1543 expenses paid or incurred during the taxable year in carrying on
1544 any trade or business, including a reasonable allowance for
1545 salaries or other compensation for personal services actually
1546 rendered; nonreimbursable traveling expenses incident to current
1547 employment, including a reasonable amount expended for meals and
1548 lodging while away from home in the pursuit of a trade or
1549 business; and rentals or other payments required to be made as a
1550 condition of the continued use or possession, for purposes of the
1551 trade or business of property to which the taxpayer has not taken
1552 or is not taking title or in which he had no equity. Expense
1553 incurred in connection with earning and distributing nontaxable
1554 income is not an allowable deduction. Limitations on
1555 entertainment expenses shall conform to the provisions of the
1556 Internal Revenue Code of 1986.



1557 (b) **Interest.** All interest paid or accrued during the
1558 taxable year on business indebtedness, except interest upon the
1559 indebtedness for the purchase of tax-free bonds, or any stocks,
1560 the dividends from which are nontaxable under the provisions of
1561 this article; provided, however, in the case of securities
1562 dealers, interest payments or accruals on loans, the proceeds of
1563 which are used to purchase tax-exempt securities, shall be
1564 deductible if income from otherwise tax-free securities is
1565 reported as income. Investment interest expense shall be limited
1566 to investment income. Interest expense incurred for the purchase
1567 of treasury stock, to pay dividends, or incurred as a result of an
1568 undercapitalized affiliated corporation may not be deducted unless
1569 an ordinary and necessary business purpose can be established to
1570 the satisfaction of the commissioner. For the purposes of this
1571 paragraph, the phrase "interest upon the indebtedness for the
1572 purchase of tax-free bonds" applies only to the indebtedness
1573 incurred for the purpose of directly purchasing tax-free bonds and
1574 does not apply to any other indebtedness incurred in the regular
1575 course of the taxpayer's business. Any corporation, association,
1576 organization or other entity taxable under Section 27-7-23(c)
1577 shall allocate interest expense as provided in Section
1578 27-7-23(c) (3) (I).

1579 (c) **Taxes.** Taxes paid or accrued within the taxable
1580 year, except state and federal income taxes, excise taxes based on
1581 or measured by net income, estate and inheritance taxes, gift



1582 taxes, cigar and cigarette taxes, gasoline taxes, and sales and
1583 use taxes unless incurred as an item of expense in a trade or
1584 business or in the production of taxable income. In the case of
1585 an individual, taxes permitted as an itemized deduction under the
1586 provisions of subsection (3)(a) of this section are to be claimed
1587 thereunder.

1588 (d) **Business losses.**

1589 (i) Losses sustained during the taxable year not
1590 compensated for by insurance or otherwise, if incurred in trade or
1591 business, or nonbusiness transactions entered into for profit.

1592 (ii) Limitations on losses from passive activities
1593 and rental real estate shall conform to the provisions of the
1594 Internal Revenue Code of 1986.

1595 (e) **Bad debts.** Losses from debts ascertained to be
1596 worthless and charged off during the taxable year, if sustained in
1597 the conduct of the regular trade or business of the taxpayer;
1598 provided, that such losses shall be allowed only when the taxpayer
1599 has reported as income, on the accrual basis, the amount of such
1600 debt or account.

1601 (f) **Depreciation.** A reasonable allowance for
1602 exhaustion, wear and tear of property used in the trade or
1603 business, or rental property, and depreciation upon buildings
1604 based upon their reasonable value as of March 16, 1912, if
1605 acquired prior thereto, and upon cost if acquired subsequent to
1606 that date.



1607 (g) **Depletion.** In the case of mines, oil and gas
1608 wells, other natural deposits and timber, a reasonable allowance
1609 for depletion and for depreciation of improvements, based upon
1610 cost, including cost of development, not otherwise deducted, or
1611 fair market value as of March 16, 1912, if acquired prior to that
1612 date, such allowance to be made upon regulations prescribed by the
1613 commissioner, with the approval of the Governor.

1614 (h) **Contributions or gifts.** Except as otherwise
1615 provided in paragraph (p) of this subsection or subsection (3) (a)
1616 of this section for individuals, contributions or gifts made by
1617 corporations within the taxable year to corporations,
1618 organizations, associations or institutions, including Community
1619 Chest funds, foundations and trusts created solely and exclusively
1620 for religious, charitable, scientific or educational purposes, or
1621 for the prevention of cruelty to children or animals, no part of
1622 the net earnings of which inure to the benefit of any private
1623 stockholder or individual. This deduction shall be allowed in an
1624 amount not to exceed twenty percent (20%) of the net income. Such
1625 contributions or gifts shall be allowable as deductions only if
1626 verified under rules and regulations prescribed by the
1627 commissioner, with the approval of the Governor. Contributions
1628 made in any form other than cash shall be allowed as a deduction,
1629 subject to the limitations herein provided, in an amount equal to
1630 the actual market value of the contributions at the time the
1631 contribution is actually made and consummated.



1632 (i) **Reserve funds - insurance companies.** In the case
1633 of insurance companies the net additions required by law to be
1634 made within the taxable year to reserve funds when such reserve
1635 funds are maintained for the purpose of liquidating policies at
1636 maturity.

1637 (j) **Annuity income.** The sums, other than dividends,
1638 paid within the taxpayer year on policy or annuity contracts when
1639 such income has been included in gross income.

1640 (k) **Contributions to employee pension plans.**
1641 Contributions made by an employer to a plan or a trust forming
1642 part of a pension plan, stock bonus plan, disability or
1643 death-benefit plan, or profit-sharing plan of such employer for
1644 the exclusive benefit of some or all of his, their, or its
1645 employees, or their beneficiaries, shall be deductible from his,
1646 their, or its income only to the extent that, and for the taxable
1647 year in which, the contribution is deductible for federal income
1648 tax purposes under the Internal Revenue Code of 1986 and any other
1649 provisions of similar purport in the Internal Revenue Laws of the
1650 United States, and the rules, regulations, rulings and
1651 determinations promulgated thereunder, provided that:

1652 (i) The plan or trust be irrevocable.

1653 (ii) The plan or trust constitute a part of a
1654 pension plan, stock bonus plan, disability or death-benefit plan,
1655 or profit-sharing plan for the exclusive benefit of some or all of
1656 the employer's employees and/or officers, or their beneficiaries,



1657 for the purpose of distributing the corpus and income of the plan
1658 or trust to such employees and/or officers, or their
1659 beneficiaries.

1660 (iii) No part of the corpus or income of the plan
1661 or trust can be used for purposes other than for the exclusive
1662 benefit of employees and/or officers, or their beneficiaries.

1663 Contributions to all plans or to all trusts of real or
1664 personal property (or real and personal property combined) or to
1665 insured plans created under a retirement plan for which provision
1666 has been made under the laws of the United States of America,
1667 making such contributions deductible from income for federal
1668 income tax purposes, shall be deductible only to the same extent
1669 under the Income Tax Laws of the State of Mississippi.

1670 (1) **Net operating loss carrybacks and carryovers.** A
1671 net operating loss for any taxable year ending after December 31,
1672 1993, and taxable years thereafter, shall be a net operating loss
1673 carryback to each of the three (3) taxable years preceding the
1674 taxable year of the loss. If the net operating loss for any
1675 taxable year is not exhausted by carrybacks to the three (3)
1676 taxable years preceding the taxable year of the loss, then there
1677 shall be a net operating loss carryover to each of the fifteen
1678 (15) taxable years following the taxable year of the loss
1679 beginning with any taxable year after December 31, 1991.

1680 For any taxable year ending after December 31, 1997, the
1681 period for net operating loss carrybacks and net operating loss



1682 carryovers shall be the same as those established by the Internal
1683 Revenue Code and the rules, regulations, rulings and
1684 determinations promulgated thereunder as in effect at the taxable
1685 year end or on December 31, 2000, whichever is earlier.

1686 A net operating loss for any taxable year ending after
1687 December 31, 2001, and taxable years thereafter, shall be a net
1688 operating loss carryback to each of the two (2) taxable years
1689 preceding the taxable year of the loss. If the net operating loss
1690 for any taxable year is not exhausted by carrybacks to the two (2)
1691 taxable years preceding the taxable year of the loss, then there
1692 shall be a net operating loss carryover to each of the twenty (20)
1693 taxable years following the taxable year of the loss beginning
1694 with any taxable year after the taxable year of the loss.

1695 The term "net operating loss," for the purposes of this
1696 paragraph, shall be the excess of the deductions allowed over the
1697 gross income; provided, however, the following deductions shall
1698 not be allowed in computing same:

1699 (i) No net operating loss deduction shall be
1700 allowed.

1701 (ii) No personal exemption deduction shall be
1702 allowed.

1703 (iii) Allowable deductions which are not
1704 attributable to taxpayer's trade or business shall be allowed only
1705 to the extent of the amount of gross income not derived from such
1706 trade or business.



1707 Any taxpayer entitled to a carryback period as provided by
1708 this paragraph may elect to relinquish the entire carryback period
1709 with respect to a net operating loss for any taxable year ending
1710 after December 31, 1991. The election shall be made in the manner
1711 prescribed by the Department of Revenue and shall be made by the
1712 due date, including extensions of time, for filing the taxpayer's
1713 return for the taxable year of the net operating loss for which
1714 the election is to be in effect. The election, once made for any
1715 taxable year, shall be irrevocable for that taxable year.

1716 (m) **Amortization of pollution or environmental control**
1717 **facilities.** Allowance of deduction. Every taxpayer, at his
1718 election, shall be entitled to a deduction for pollution or
1719 environmental control facilities to the same extent as that
1720 allowed under the Internal Revenue Code and the rules,
1721 regulations, rulings and determinations promulgated thereunder.

1722 (n) **Dividend distributions - real estate investment**
1723 **trusts.** "Real estate investment trust" (hereinafter referred to
1724 as REIT) shall have the meaning ascribed to such term in Section
1725 856 of the federal Internal Revenue Code of 1986, as amended. A
1726 REIT is allowed a dividend distributed deduction if the dividend
1727 distributions meet the requirements of Section 857 or are
1728 otherwise deductible under Section 858 or 860, federal Internal
1729 Revenue Code of 1986, as amended. In addition:

1730 (i) A dividend distributed deduction shall only be
1731 allowed for dividends paid by a publicly traded REIT. A qualified



1732 REIT subsidiary shall be allowed a dividend distributed deduction
1733 if its owner is a publicly traded REIT.

1734 (ii) Income generated from real estate contributed
1735 or sold to a REIT by a shareholder or related party shall not give
1736 rise to a dividend distributed deduction, unless the shareholder
1737 or related party would have received the dividend distributed
1738 deduction under this chapter.

1739 (iii) A holding corporation receiving a dividend
1740 from a REIT shall not be allowed the deduction in Section
1741 27-7-15(4)(t).

1742 (iv) Any REIT not allowed the dividend distributed
1743 deduction in the federal Internal Revenue Code of 1986, as
1744 amended, shall not be allowed a dividend distributed deduction
1745 under this chapter.

1746 The commissioner is authorized to promulgate rules and
1747 regulations consistent with the provisions in Section 269 of the
1748 federal Internal Revenue Code of 1986, as amended, so as to
1749 prevent the evasion or avoidance of state income tax.

1750 (o) **Contributions to college savings trust fund**
1751 **accounts.** Contributions or payments to a Mississippi Affordable
1752 College Savings Program account are deductible as provided under
1753 Section 37-155-113. Payments made under a prepaid tuition
1754 contract entered into under the Mississippi Prepaid Affordable
1755 College Tuition Program are deductible as provided under Section
1756 37-155-17.



1757 (p) **Contributions of human pharmaceutical products.** To
1758 the extent that a "major supplier" as defined in Section
1759 27-13-13(2) (d) contributes human pharmaceutical products in excess
1760 of Two Hundred Fifty Million Dollars (\$250,000,000.00) as
1761 determined under Section 170 of the Internal Revenue Code, the
1762 charitable contribution limitation associated with those donations
1763 shall follow the federal limitation but cannot result in the
1764 Mississippi net income being reduced below zero.

1765 (2) **Restrictions on the deductibility of certain intangible**
1766 **expenses and interest expenses with a related member.**

1767 (a) As used in this subsection (2):

1768 (i) "Intangible expenses and costs" include:

1769 1. Expenses, losses and costs for, related
1770 to, or in connection directly or indirectly with the direct or
1771 indirect acquisition, use, maintenance or management, ownership,
1772 sale, exchange or any other disposition of intangible property to
1773 the extent such amounts are allowed as deductions or costs in
1774 determining taxable income under this chapter;

1775 2. Expenses or losses related to or incurred
1776 in connection directly or indirectly with factoring transactions
1777 or discounting transactions;

1778 3. Royalty, patent, technical and copyright
1779 fees;

1780 4. Licensing fees; and

1781 5. Other similar expenses and costs.



1782 (ii) "Intangible property" means patents, patent
1783 applications, trade names, trademarks, service marks, copyrights
1784 and similar types of intangible assets.

1785 (iii) "Interest expenses and cost" means amounts
1786 directly or indirectly allowed as deductions for purposes of
1787 determining taxable income under this chapter to the extent such
1788 interest expenses and costs are directly or indirectly for,
1789 related to, or in connection with the direct or indirect
1790 acquisition, maintenance, management, ownership, sale, exchange or
1791 disposition of intangible property.

1792 (iv) "Related member" means an entity or person
1793 that, with respect to the taxpayer during all or any portion of
1794 the taxable year, is a related entity, a component member as
1795 defined in the Internal Revenue Code, or is an entity or a person
1796 to or from whom there is attribution of stock ownership in
1797 accordance with Section 1563(e) of the Internal Revenue Code.

1798 (v) "Related entity" means:

1799 1. A stockholder who is an individual or a
1800 member of the stockholder's family, as defined in regulations
1801 prescribed by the commissioner, if the stockholder and the members
1802 of the stockholder's family own, directly, indirectly,
1803 beneficially or constructively, in the aggregate, at least fifty
1804 percent (50%) of the value of the taxpayer's outstanding stock;

1805 2. A stockholder, or a stockholder's
1806 partnership, limited liability company, estate, trust or



1807 corporation, if the stockholder and the stockholder's
1808 partnerships, limited liability companies, estates, trusts and
1809 corporations own, directly, indirectly, beneficially or
1810 constructively, in the aggregate, at least fifty percent (50%) of
1811 the value of the taxpayer's outstanding stock;

1812 3. A corporation, or a party related to the
1813 corporation in a manner that would require an attribution of stock
1814 from the corporation to the party or from the party to the
1815 corporation, if the taxpayer owns, directly, indirectly,
1816 beneficially or constructively, at least fifty percent (50%) of
1817 the value of the corporation's outstanding stock under regulation
1818 prescribed by the commissioner;

1819 4. Any entity or person which would be a
1820 related member under this section if the taxpayer were considered
1821 a corporation for purposes of this section.

1822 (b) In computing net income, a taxpayer shall add back
1823 otherwise deductible interest expenses and costs and intangible
1824 expenses and costs directly or indirectly paid, accrued to or
1825 incurred, in connection directly or indirectly with one or more
1826 direct or indirect transactions with one or more related members.

1827 (c) The adjustments required by this subsection shall
1828 not apply to such portion of interest expenses and costs and
1829 intangible expenses and costs that the taxpayer can establish
1830 meets one (1) of the following:



1831 (i) The related member directly or indirectly
1832 paid, accrued or incurred such portion to a person during the same
1833 income year who is not a related member; or

1834 (ii) The transaction giving rise to the interest
1835 expenses and costs or intangible expenses and costs between the
1836 taxpayer and related member was done primarily for a valid
1837 business purpose other than the avoidance of taxes, and the
1838 related member is not primarily engaged in the acquisition, use,
1839 maintenance or management, ownership, sale, exchange or any other
1840 disposition of intangible property.

1841 (d) Nothing in this subsection shall require a taxpayer
1842 to add to its net income more than once any amount of interest
1843 expenses and costs or intangible expenses and costs that the
1844 taxpayer pays, accrues or incurs to a related member.

1845 (e) The commissioner may prescribe such regulations as
1846 necessary or appropriate to carry out the purposes of this
1847 subsection, including, but not limited to, clarifying definitions
1848 of terms, rules of stock attribution, factoring and discount
1849 transactions.

1850 (3) **Individual nonbusiness deductions.**

1851 (a) The amount allowable for individual nonbusiness
1852 itemized deductions for federal income tax purposes where the
1853 individual is eligible to elect, for the taxable year, to itemize
1854 deductions on his federal return except the following:



1855 (i) The deduction for state income taxes paid or
1856 other taxes allowed for federal purposes in lieu of state income
1857 taxes paid;

1858 (ii) The deduction for gaming losses from gaming
1859 establishments;

1860 (iii) The deduction for taxes collected by
1861 licensed gaming establishments pursuant to Section 27-7-901;

1862 (iv) The deduction for taxes collected by gaming
1863 establishments pursuant to Section 27-7-903.

1864 (b) In lieu of the individual nonbusiness itemized
1865 deductions authorized in paragraph (a), for all purposes other
1866 than ordinary and necessary expenses paid or incurred during the
1867 taxable year in carrying on any trade or business, an optional
1868 standard deduction of:

1869 (i) Three Thousand Four Hundred Dollars
1870 (\$3,400.00) through calendar year 1997, Four Thousand Two Hundred
1871 Dollars (\$4,200.00) for the calendar year 1998 and Four Thousand
1872 Six Hundred Dollars (\$4,600.00) for each calendar year thereafter
1873 in the case of married individuals filing a joint or combined
1874 return;

1875 (ii) One Thousand Seven Hundred Dollars
1876 (\$1,700.00) through calendar year 1997, Two Thousand One Hundred
1877 Dollars (\$2,100.00) for the calendar year 1998 and Two Thousand
1878 Three Hundred Dollars (\$2,300.00) for each calendar year



1879 thereafter in the case of married individuals filing separate
1880 returns;

1881 (iii) Three Thousand Four Hundred Dollars
1882 (\$3,400.00) in the case of a head of family; or
1883 (iv) Two Thousand Three Hundred Dollars
1884 (\$2,300.00) in the case of an individual who is not married.

1885 In the case of a husband and wife living together, having
1886 separate incomes, and filing combined returns, the standard
1887 deduction authorized may be divided in any manner they choose. In
1888 the case of separate returns by a husband and wife, the standard
1889 deduction shall not be allowed to either if the taxable income of
1890 one of the spouses is determined without regard to the standard
1891 deduction.

1892 (c) A nonresident individual shall be allowed the same
1893 individual nonbusiness deductions as are authorized for resident
1894 individuals in paragraph (a) or (b) of this subsection; however,
1895 the nonresident individual is entitled only to that proportion of
1896 the individual nonbusiness deductions as his net income from
1897 sources within the State of Mississippi bears to his total or
1898 entire net income from all sources.

1899 (d) The following definitions apply throughout this
1900 paragraph (d):

1901 (i) "Dependent child" means an individual who:
1902 1. Is eligible to receive a free elementary
1903 or high school education in a Mississippi Public School;



1904 2. Qualifies as a dependent (as defined in
1905 Section 152 of the Internal Revenue Code) of the taxpayer; and
1906 3. Is the natural or adopted child of the
1907 taxpayer or, if custody of the child has been awarded in a court
1908 proceeding to someone other than the mother or father, the
1909 court-appointed guardian or custodian of the child.
1910 If the parents of a child are divorced, the term refers to the
1911 parent who is eligible to take the exemption for the child under
1912 Section 151 of the Internal Revenue Code.

1913 (ii) "Education expenditure" refers to any
1914 expenditures made in connection with enrollment, attendance, or
1915 participation of the taxpayer's dependent child in a private
1916 elementary or high school education program in Mississippi. The
1917 term includes tuition, fees, computer software, textbooks,
1918 workbooks, curricula, school supplies (other than personal
1919 computers), and other written materials used primarily for
1920 academic instruction or for academic tutoring, or both.

1921 (iii) "Private elementary or high school education
1922 program" means:

- 1923 1. Homeschooling; or
1924 2. Attendance at a private school;
1925 in Mississippi that satisfies a child's obligation under Section
1926 37-13-91 for compulsory attendance at a school. The term does not
1927 include the delivery of instructional service in a home setting to



1928 a dependent child who is enrolled in a public school or a charter
1929 school.

1930 This paragraph (d) applies to taxable years beginning after
1931 December 31, 2012.

1932 A taxpayer who makes an unreimbursed education expenditure
1933 during the taxpayer's taxable year is entitled to a deduction
1934 against the taxpayer's adjusted gross income in the taxable year.

1935 The amount of the deduction is Five Thousand Dollars
1936 (\$5,000.00) multiplied by the number of the taxpayer's dependent
1937 children for whom the taxpayer made education expenditures in the
1938 taxable year. A husband and wife are entitled to only one (1)
1939 deduction under this paragraph (d).

1940 To receive the deduction provided by this paragraph (d), a
1941 taxpayer must claim the deduction on the taxpayer's annual state
1942 tax return or returns in the manner prescribed by the Department
1943 of Revenue.

1944 (4) Nothing in this section shall permit the same item to be
1945 deducted more than once, either in fact or in effect.

1946 **SECTION 23.** This act shall take effect and be in force from
1947 and after July 1, 2013.

