

By: Senator(s) Polk

To: Universities and  
Colleges; Accountability,  
Efficiency, Transparency

SENATE BILL NO. 2786

1 AN ACT TO AMEND SECTION 75-60-3, MISSISSIPPI CODE OF 1972, TO  
 2 AMEND THE MISSISSIPPI PROPRIETARY SCHOOL AND COLLEGE REGISTRATION  
 3 LAW TO REVISE AND ADD CERTAIN DEFINITIONS; TO AMEND SECTION  
 4 75-60-4, MISSISSIPPI CODE OF 1972, TO REVISE THE MEMBERSHIP  
 5 QUALIFICATIONS OF THE COMMISSIONERS; TO AMEND SECTION 75-60-5,  
 6 MISSISSIPPI CODE OF 1972, TO EXEMPT SCHOOLS OR COURSES OF  
 7 INSTRUCTION UNDER THE JURISDICTION OF THE BOARD OF NURSING TO THIS  
 8 LAW; TO DELETE THE PROVISION OF LAW ALLOWING NATIONALLY ACCREDITED  
 9 SCHOOLS TO FOLLOW NATIONAL STANDARDS IN LIEU OF STATE STANDARDS  
 10 FOR HIRING AND TRAINING FACULTY; TO AMEND SECTION 75-60-11,  
 11 MISSISSIPPI CODE OF 1972, TO DELETE THE PROVISION OF LAW ALLOWING  
 12 NATIONALLY ACCREDITED SCHOOLS TO SUBMIT NATIONAL ACCREDITATION  
 13 STATUS IN LIEU OF OTHER APPLICATION REQUESTS UNDER THIS LAW; TO  
 14 AMEND SECTION 75-60-19, MISSISSIPPI CODE OF 1972, TO REQUIRE  
 15 CERTAIN NOTICE TO STUDENTS ABOUT THEIR RIGHT TO FILE A COMPLAINT  
 16 WITH THE COMMISSION; TO AMEND SECTION 75-60-23, MISSISSIPPI CODE  
 17 OF 1972, TO CLARIFY THAT ALL PERSONS INVOLVED IN RECRUITMENT MUST  
 18 REGISTER WITH THE COMMISSION AS AN AGENT; TO AMEND SECTION  
 19 75-60-25, MISSISSIPPI CODE OF 1972, TO ADD CAMPUS LOCATION AS A  
 20 REQUIREMENT FOR BUSINESS CARDS FOR AGENTS; AND FOR RELATED  
 21 PURPOSES.

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

23 **SECTION 1.** Section 75-60-3, Mississippi Code of 1972, is  
 24 amended as follows:

25 75-60-3. As used in this chapter:

26 (a) "Course of instruction" means the offering of  
 27 instruction to individuals for a charge, fee or contribution of



28 any kind, to a person or persons for the purpose of training or  
29 preparing such person(s) for a field of endeavor in a business,  
30 trade, technical or industrial occupation.

31 (b) "Program of study" means a \* \* \* series of  
32 individual courses in an area of specialization for which a  
33 diploma, degree, certificate or other written evidence of  
34 proficiency or achievement is offered.

35 (c) "Agent" means any \* \* \* person employed by an  
36 institution licensed by the commission, regardless of job title,  
37 job description, full-time or part-time employment status, who  
38 either directly or indirectly influences the decision of any  
39 prospective student to enroll for a fee in a course of  
40 instruction.

41 (d) "Person" means an individual, corporation,  
42 partnership, association or any other type of organization.

43 (e) "Board" means the \* \* \* Mississippi Community  
44 College Board established in Section 37-4-3 et seq., Mississippi  
45 Code of 1972.

46 (f) "Commission" means the Commission on Proprietary  
47 School and College Registration established under this chapter.

48 (g) "Correspondence education" means a formal  
49 educational process under which the institution provides  
50 instructional materials, by mail or electronic transmission,  
51 including examinations on the materials, to students who are  
52 separated from the instructor. Interaction between the instructor



53 and the student is limited, is not regular and substantive, and is  
54 primarily initiated by the student; courses are typically  
55 self-paced.

56 (h) "Distance education" means a formal educational  
57 process in which the majority of the instruction (interaction  
58 between students and instructors and among students) in a course  
59 occurs when students and instructors are not in the same place.  
60 Instruction may be synchronous or asynchronous. A distance  
61 education course may use the Internet; one-way and two-way  
62 transmissions through open broadcast, closed circuit, cable,  
63 microwave, broadband lines, fiber optics, satellite or wireless  
64 communications devices; audio conferencing; or video cassettes,  
65 DVDs and CD-ROMs if used as part of the distance learning course  
66 or program.

67 (i) "General education course" means a unit of learning  
68 that is nontechnical in nature and is a fundamental part of a  
69 program. The content is drawn from oral and written  
70 communications, social studies, mathematics, natural sciences and  
71 the humanities.

72 (j) "Nontechnical course" means a unit of learning that  
73 is nontechnical in nature and includes general education courses,  
74 basic/college life skills and other related courses.

75 (k) "Occupational degree" means a credential awarded by  
76 a school upon successful completion of an associate degree



77 program. This program shall contain a minimum of sixty percent  
78 (60%) technical course credits/clock hours.

79 (1) "Institution" means a proprietary school, career  
80 college, school person or other organization that offers programs  
81 that require registration in accordance with Section 75-60-5.

82 (m) "Technical course" means a unit of learning that  
83 yields skills, knowledge and understanding essential to the  
84 specific occupation for which the program is designed.

85 **SECTION 2.** Section 75-60-4, Mississippi Code of 1972, is  
86 amended as follows:

87 75-60-4. (1) The \* \* \* Mississippi Community College Board  
88 shall appoint a "Commission on Proprietary School and College  
89 Registration" to be composed of five (5) qualified members, one  
90 (1) appointed from each of the five (5) Mississippi congressional  
91 districts existing on January 1, 1992. The membership of said  
92 commission shall be composed of persons who have held a teaching,  
93 managerial or other similar position with any public, private,  
94 trade, technical or other school; provided, however, that one (1)  
95 member of the commission shall be actively engaged in, or retired  
96 from, teaching, managerial or other similar position with a  
97 privately owned trade, technical or other school. The membership  
98 of said commission shall be appointed by the board within ninety  
99 (90) days of the passage of this chapter. In making the first  
100 appointments, two (2) members shall be appointed for three (3)  
101 years, two (2) members for four (4) years, and one (1) member for



102 five (5) years. Thereafter, all members shall be appointed for a  
103 term of five (5) years. If one (1) of the members appointed by  
104 the board resigns or is otherwise unable to serve, a new member  
105 shall be appointed by the commission to fill the unexpired term.  
106 All five (5) members of the commission have full voting rights.  
107 The members shall not be paid for their services, but may be  
108 compensated for the expenses necessarily incurred in the  
109 attendance at meetings or in performing other services for the  
110 commission at a rate prescribed under Section 25-3-69, Mississippi  
111 Code of 1972, plus actual expenses and mileage as provided by  
112 Section 25-3-41, Mississippi Code of 1972. Members of the  
113 commission shall annually elect a chairman from among its members  
114 who is not actively engaged with a privately owned trade or  
115 technical school.

116 (2) The \* \* \* Mississippi Community College Board shall  
117 appoint such staff as may be required for the performance of the  
118 commission's duties and provide necessary facilities.

119 (3) The \* \* \* Mississippi Community College Board shall levy  
120 only fees authorized in this chapter only in such amounts as may  
121 be required for the performance of the commission's duties.

122 (4) In addition to the fees authorized in this chapter,  
123 the \* \* \* Mississippi Community College Board is authorized to  
124 levy and collect fees from proprietary schools and colleges (a) to  
125 recover the cost of audits, investigations and hearings relating  
126 to such institutions, and (b) to recover the cost of activities



127 conducted under Section 73-15-25 relating to the accreditation of  
128 practical nursing programs.

129 (5) It shall be the purpose of the Commission on Proprietary  
130 School and College Registration to establish and implement the  
131 registration program as provided in this chapter. All  
132 controversies involving the registration of such schools shall be  
133 initially heard by a duly authorized hearing officer of the  
134 commission before whom a complete record shall be made. After the  
135 conclusion of the hearing, the duly authorized hearing officer of  
136 the commission shall make a recommendation to the commission as to  
137 the resolution of the controversies, and the commission, after  
138 considering the transcribed record and the recommendation of its  
139 hearing officer, shall make its decision which becomes final  
140 unless the school or college or other person involved shall appeal  
141 to the \* \* \* Mississippi Community College Board, which appeal  
142 shall be on the record previously made before the commission's  
143 hearing officer except as may be provided by rules and regulations  
144 adopted by the \* \* \* Mississippi Community College Board. All  
145 appeals from the \* \* \* Mississippi Community College Board shall  
146 be on the record and shall be filed in the Chancery Court of the  
147 First Judicial District of Hinds County, Mississippi.

148 **SECTION 3.** Section 75-60-5, Mississippi Code of 1972, is  
149 amended as follows:

150 75-60-5. (1) The provisions of this chapter do not apply to  
151 the following categories of courses, schools or colleges:



152 (a) Tuition-free courses or schools conducted by  
153 employers exclusively for their own employees;

154 (b) Schools, colleges, technical institutes, community  
155 colleges, junior colleges or universities under the jurisdiction  
156 of the Board of Trustees of State Institutions of Higher Learning  
157 or the \* \* \* Mississippi Community College Board;

158 (c) Schools or courses of instruction under the  
159 jurisdiction of the State Board of Cosmetology, State Board of  
160 Barber Examiners \* \* \*, the State Board of Massage Therapy or the  
161 State Board of Nursing;

162 (d) Courses of instruction required by law to be  
163 approved or licensed, or given by institutions approved or  
164 licensed, by a state board or agency other than the Commission on  
165 Proprietary School and College Registration; however, a school so  
166 approved or licensed may apply to the Commission on Proprietary  
167 School and College Registration for a certificate of registration  
168 to be issued in accordance with the provisions of this chapter;

169 (e) Correspondence \* \* \* education;

170 (f) Nonprofit private schools offering academic credits  
171 at primary or secondary levels, or conducting classes for  
172 exceptional education as defined by regulations of the State  
173 Department of Education;

174 (g) Private nonprofit colleges and universities or any  
175 private school offering academic credits at primary, secondary or  
176 postsecondary levels;



177 (h) Courses of instruction conducted by a public school  
178 district or a combination of public school districts;

179 (i) Courses of instruction conducted outside the United  
180 States;

181 (j) A school that offers only instruction in subjects  
182 that the Commission on Proprietary School and College Registration  
183 determines are primarily for a vocational, personal improvement or  
184 cultural purposes and that does not represent to the public that  
185 its course of study or instruction will or may produce income for  
186 those who take that study or instruction;

187 (k) Courses conducted primarily on an individual  
188 tutorial basis, where not more than one (1) student is involved at  
189 any one time, except in those instances where the Commission on  
190 Proprietary School and College Registration determines that the  
191 course is for the purpose of preparing for a vocational objective;

192 (l) Kindergartens or similar programs for preschool-age  
193 children.

194 \* \* \*

195 **SECTION 4.** Section 75-60-11, Mississippi Code of 1972, is  
196 amended as follows:

197 75-60-11. (1) The Commission on Proprietary School and  
198 College Registration shall issue a certificate of registration to  
199 an applicant of good reputation, offering one or more courses of  
200 instruction upon determining that the applicant has the  
201 facilities, resources and faculty to provide students with the





202 kind of instruction that it proposes to offer. A certificate of  
203 registration shall be granted or denied within sixty (60) days of  
204 the receipt of the application therefor by the commission. If the  
205 commission has not completed its determination with respect to the  
206 issuance of the certificate of registration within such sixty-day  
207 period, it shall issue a temporary certificate to the applicant,  
208 which certificate is sufficient to meet the requirements of  
209 Section 75-60-13 until such time as determination is made. Any  
210 certificate issued by the commission is valid only for the  
211 institution and courses for which it is issued and does not cover  
212 other schools or branches operated by the owner. A certificate of  
213 registration is valid for two (2) years unless earlier revoked for  
214 cause by the commission. The commission shall adopt rules and  
215 regulations for administration of the registration process. The  
216 commission may cause an investigation to be made into the  
217 correctness of the information submitted in any application for  
218 registration. If the commission believes that false, misleading  
219 or incomplete information has been submitted to it in connection  
220 with any application for registration, the commission shall  
221 conduct a hearing on the matter and may withhold a certificate of  
222 registration upon finding that the applicant has failed to meet  
223 the standards for such certificate or has submitted false,  
224 misleading or incomplete information to the commission.  
225 Application for a certificate of registration shall be made in  
226 writing to the commission on forms furnished by the commission. A



227 certificate of registration is not transferable and shall be  
228 prominently displayed on the premises of an institution.

229 \* \* \*

230 ( \* \* \*2) The commission shall assign registration numbers  
231 to all schools registered with it. Schools shall display their  
232 registration numbers on all school publications and on all  
233 advertisements bearing the name of the school.

234 **SECTION 5.** Section 75-60-19, Mississippi Code of 1972, is  
235 amended as follows:

236 75-60-19. (1) The Commission on Proprietary School and  
237 College Registration may suspend, revoke or cancel a certificate  
238 of registration for any one (1) or any combination of the  
239 following causes:

240 (a) Violation of any provision of the sections of this  
241 chapter or any regulation made by the commission;

242 (b) The furnishing of false, misleading or incomplete  
243 information requested by the commission;

244 (c) The signing of an application or the holding of a  
245 certificate of registration by a person who has pleaded guilty or  
246 has been found guilty of a felony or has pleaded guilty or been  
247 found guilty of any other indictable offense;

248 (d) The signing of an application or the holding of a  
249 certificate of registration by a person who is addicted to the use  
250 of any narcotic drug, or who is found to be mentally incompetent;



251 (e) Violation of any commitment made in an application  
252 for a certificate of registration;

253 (f) Presentation to prospective students of misleading,  
254 false or fraudulent information relating to the course of  
255 instruction, employment opportunity, or opportunities for  
256 enrollment in accredited institutions of higher education after  
257 entering or completing courses offered by the holder of a  
258 certificate of registration;

259 (g) Failure to provide or maintain premises or  
260 equipment for offering courses of instruction in a safe and  
261 sanitary condition;

262 (h) Refusal by an agent to display his agent permit  
263 upon demand of a prospective student or other interested person;

264 (i) Failure to maintain financial resources adequate  
265 for the satisfactory conduct of courses of study as presented in  
266 the plan of operation or to retain a sufficient number and  
267 qualified staff of instruction; however nothing in this chapter  
268 shall require an instructor to be certificated by the Commission  
269 on Proprietary School and College Registration or to hold any type  
270 of post-high school degree;

271 (j) Offering training or courses of instruction other  
272 than those presented in the application; however, schools may  
273 offer special courses adapted to the needs of individual students  
274 where the special courses are in the subject field specified in  
275 the application;



276 (k) Accepting the services of an agent not licensed in  
277 accordance with Sections 75-60-23 through 75-60-37, inclusive;

278 (l) Conviction or a plea of nolo contendere on the part  
279 of any owner, operator or director of a registered school of any  
280 felony under Mississippi law or the law of another jurisdiction;

281 (m) Continued employment of a teacher or instructor who  
282 has been convicted of or entered a plea of nolo contendere to any  
283 felony under Mississippi law or the law of another jurisdiction;

284 (n) Incompetence of any owner or operator to operate a  
285 school.

286 (2) (a) Any person who believes he has been aggrieved by a  
287 violation of this section shall have the right to file a written  
288 complaint within two (2) years of the alleged violation. The  
289 commission shall maintain a written record of each complaint that  
290 is made. The commission shall also send to the complainant a form  
291 acknowledging the complaint and requesting further information if  
292 necessary and shall advise the director of the school that a  
293 complaint has been made and, where appropriate, the nature of the  
294 complaint.

295 (b) The commission shall within twenty (20) days of  
296 receipt of such written complaint commence an investigation of the  
297 alleged violation and shall, within ninety (90) days of the  
298 receipt of such written complaint, issue a written finding. The  
299 commission shall furnish such findings to the person who filed the  
300 complaint and to the chief operating officer of the school cited



301 in the complaint. If the commission finds that there has been a  
302 violation of this section, the commission shall take appropriate  
303 action.

304 (c) Schools shall disclose in writing to all  
305 prospective and current students their right to file a complaint  
306 with the commission.

307 (d) The existence of an arbitration clause in no way  
308 negates the student's right to file a complaint with the  
309 commission.

310 ( \* \* \*e) The commission may initiate an investigation  
311 without a complaint.

312 (3) **Hearing procedures.** (a) Upon a finding that there is  
313 good cause to believe that a school, or an officer, agent,  
314 employee, partner or teacher, has committed a violation of  
315 subsection (1) of this section, the commission shall initiate  
316 proceedings by serving a notice of hearing upon each and every  
317 such party subject to the administrative action. The school or  
318 such party shall be given reasonable notice of hearing, including  
319 the time, place and nature of the hearing and a statement  
320 sufficiently particular to give notice of the transactions or  
321 occurrences intended to be proved, the material elements of each  
322 cause of action and the civil penalties and/or administrative  
323 sanctions sought.

324 (b) Opportunity shall be afforded to the party to  
325 respond and present evidence and argument on the issues involved



326 in the hearing including the right of cross-examination. In a  
327 hearing, the school or such party shall be accorded the right to  
328 have its representative appear in person or by or with counsel or  
329 other representative. Disposition may be made in any hearing by  
330 stipulation, agreed settlement, consent order, default or other  
331 informal method.

332 (c) The commission shall designate an impartial hearing  
333 officer to conduct the hearing, who shall be empowered to:

334 (i) Administer oaths and affirmations; and

335 (ii) Regulate the course of the hearings, set the  
336 time and place for continued hearings, and fix the time for filing  
337 of briefs and other documents; and

338 (iii) Direct the school or such party to appear  
339 and confer to consider the simplification of the issues by  
340 consent; and

341 (iv) Grant a request for an adjournment of the  
342 hearing only upon good cause shown.

343 The strict legal rules of evidence shall not apply, but the  
344 decision shall be supported by substantial evidence in the record.

345 (4) The commission, acting by and through its hearing  
346 officer, is hereby authorized and empowered to issue subpoenas for  
347 the attendance of witnesses and the production of books and papers  
348 at such hearing. Process issued by the commission shall extend to  
349 all parts of the state and shall be served by any person  
350 designated by the commission for such service. Where, in any



351 proceeding before the hearing officer, any witness fails or  
352 refuses to attend upon a subpoena issued by the commission,  
353 refuses to testify, or refuses to produce any books and papers the  
354 production of which is called for by a subpoena, the attendance of  
355 such witness, the giving of his testimony or the production of the  
356 books and papers shall be enforced by any court of competent  
357 jurisdiction of this state in the manner provided for the  
358 enforcement of attendance and testimony of witnesses in civil  
359 cases in the courts of this state.

360       (5) **Decision after hearing.** The hearing officer shall make  
361 written findings of fact and conclusions of law, and shall also  
362 recommend in writing to the commission a final decision, including  
363 penalties. The hearing officer shall mail a copy of his findings  
364 of fact, conclusions of law and recommended penalty to the party  
365 and his attorney, or representative. The commission shall make  
366 the final decision, which shall be based exclusively on evidence  
367 and other materials introduced at the hearing. If it is  
368 determined that a party has committed a violation, the commission  
369 shall issue a final order and shall impose penalties in accordance  
370 with this section. The commission shall send by certified mail,  
371 return receipt requested, a copy of the final order to the party  
372 and his attorney, or representative. The commission shall, at the  
373 request of the school or such party, furnish a copy of the  
374 transcript or any part thereof upon payment of the cost thereof.



375           (6) **Civil penalties and administrative sanctions.** (a) A  
376 hearing officer may recommend, and the commission may impose, a  
377 civil penalty not to exceed Two Thousand Five Hundred Dollars  
378 (\$2,500.00) for any violation of this section. In the case of a  
379 second or further violation committed within the previous five (5)  
380 years, the liability shall be a civil penalty not to exceed Five  
381 Thousand Dollars (\$5,000.00) for each such violation.

382           (b) Notwithstanding the provisions of paragraph (a) of  
383 this subsection, a hearing officer may recommend and the  
384 commission may impose a civil penalty not to exceed Twenty-five  
385 Thousand Dollars (\$25,000.00) for any of the following violations:  
386 (i) operation of a school without a registration in violation of  
387 this chapter; (ii) operation of a school knowing that the school's  
388 registration has been suspended or revoked; (iii) use of false,  
389 misleading, deceptive or fraudulent advertising; (iv) employment  
390 of recruiters on the basis of a commission, bonus or quota, except  
391 as authorized by the commission; (v) directing or authorizing  
392 recruiters to offer guarantees of jobs upon completion of a  
393 course; (vi) failure to make a tuition refund when such failure is  
394 part of a pattern of misconduct; or (vii) violation of any other  
395 provision of this chapter, or any rule or regulation promulgated  
396 pursuant thereto, when such violation constitutes part of a  
397 pattern of misconduct which significantly impairs the educational  
398 quality of the program or programs being offered by the school.  
399 For each enumerated offense, a second or further violation





400 committed within the previous five (5) years shall be subject to a  
401 civil penalty not to exceed Fifty Thousand Dollars (\$50,000.00)  
402 for each such violation.

403 (c) In addition to the penalties authorized in  
404 paragraphs (a) and (b) of this subsection, a hearing officer may  
405 recommend and the commission may impose any of the following  
406 administrative sanctions: (i) a cease and desist order; (ii) a  
407 mandatory direction; (iii) a suspension or revocation of a  
408 certificate of registration; (iv) a probation order; or (v) an  
409 order of restitution.

410 (d) The commission may suspend a registration upon the  
411 failure of a school to pay any fee, fine or penalty as required by  
412 this chapter unless such failure is determined by the commission  
413 to be for good cause.

414 (e) All civil penalties, fines and settlements received  
415 shall accrue to the credit of the Commission on Proprietary School  
416 and College Registration.

417 (7) Any penalty or administrative sanction imposed by the  
418 commission under this section may be appealed by the school,  
419 college or other person affected to the \* \* \* Mississippi  
420 Community College Board as provided in Section 75-60-4(3), which  
421 appeal shall be on the record previously made before the  
422 commission's hearing officer. All appeals from the \* \* \*  
423 Mississippi Community College Board shall be on the record and



424 shall be filed in the Chancery Court of the First Judicial  
425 District of Hinds County, Mississippi.

426 **SECTION 6.** Section 75-60-23, Mississippi Code of 1972, is  
427 amended as follows:

428 75-60-23. No person \* \* \* employed by an institution  
429 licensed by the commission, regardless of job title, job  
430 description, full-time or part-time employment status, shall  
431 directly or indirectly influence the decision of any prospective  
432 student to enroll for a fee in a course of instruction \* \* \*  
433 without first \* \* \* securing a permit as an agent from the  
434 Commission on Proprietary School and College Registration. If  
435 the \* \* \* person represents more than one (1) \* \* \* institution, a  
436 separate permit shall be obtained for each \* \* \* institution  
437 represented \* \* \*. Agent permits shall only be issued to agents  
438 of \* \* \* institutions that hold a certificate of  
439 registration \* \* \* issued by the commission.

440 **SECTION 7.** Section 75-60-25, Mississippi Code of 1972, is  
441 amended as follows:

442 75-60-25. The application for an agent permit shall be made  
443 on forms to be furnished by the Commission on Proprietary School  
444 and College Registration. Any agent permit applied for shall be  
445 granted or denied within sixty (60) days of the receipt of the  
446 application therefor by the commission. If the commission has not  
447 completed its determination with respect to the issuance of an  
448 agent permit within such sixty-day period, it shall issue a



449 temporary agent permit to the applicant, which permit is  
450 sufficient to meet the requirements of Section 75-60-23 until such  
451 time as such determination is made. Upon approval for an agent  
452 permit, the commission shall issue a pocket card to the person,  
453 giving his name, \* \* \* agent permit number and the name and \* \* \*  
454 campus location of his employing school, and certifying that the  
455 person whose name appears on the card is an authorized agent of  
456 the school. An agent permit is valid for one (1) year from the  
457 date on which it was issued.

458         **SECTION 8.** This act shall take effect and be in force from  
459 and after July 1, 2013.

