

By: Representative Brown (20th)

To: Education;
Appropriations

HOUSE BILL NO. 874

1 AN ACT TO CREATE NEW SECTION 37-189-1, MISSISSIPPI CODE OF
2 1972, TO ESTABLISH THE "MISSISSIPPI SCHOLARSHIP ACT (MSA)"; TO
3 CREATE NEW SECTION 37-189-3, MISSISSIPPI CODE OF 1972, TO DEFINE
4 CERTAIN TERMS; TO CREATE NEW SECTION 37-189-5, MISSISSIPPI CODE OF
5 1972, TO ESTABLISH THE MISSISSIPPI SCHOLARSHIP BOARD AND TO
6 PROVIDE FOR APPOINTMENTS TO THE BOARD; TO CREATE NEW SECTION
7 37-189-7, MISSISSIPPI CODE OF 1972, TO PRESCRIBE THE BOARD'S
8 POWERS; TO CREATE NEW SECTION 37-189-9, MISSISSIPPI CODE OF 1972,
9 TO ESTABLISH THE MISSISSIPPI SCHOLARSHIP PROGRAM TO PROVIDE FUNDS
10 TO PUBLIC SCHOOL PARENTS FOR SELECTING THE EDUCATIONAL OPTION THAT
11 MEETS THE EDUCATION NEEDS OF THE PARENT'S CHILD; TO CREATE NEW
12 SECTION 37-189-11, MISSISSIPPI CODE OF 1972, TO ESTABLISH THE
13 MISSISSIPPI SCHOLARSHIP PROGRAM FUND AND THE MISSISSIPPI
14 SCHOLARSHIP PROGRAM EXPENSE FUND IN THE STATE TREASURY; TO CREATE
15 NEW SECTION 37-189-13, MISSISSIPPI CODE OF 1972, TO PRESCRIBE
16 QUALIFYING EXPENSES FOR WHICH FUNDS DEPOSITED INTO A MISSISSIPPI
17 SCHOLARSHIP ACCOUNT MAY BE USED; TO CREATE NEW SECTION 37-189-15,
18 MISSISSIPPI CODE OF 1972, TO REQUIRE A PARENT TO ANNUALLY RENEW AN
19 ELIGIBLE STUDENT'S MISSISSIPPI SCHOLARSHIP; TO CREATE NEW SECTION
20 37-189-17, MISSISSIPPI CODE OF 1972, TO PRESCRIBE THE DUTIES OF
21 THE MISSISSIPPI SCHOLARSHIP BOARD RELATING TO THE ADMINISTRATION
22 OF SCHOLARSHIP ACCOUNTS; TO CREATE NEW SECTION 37-189-19,
23 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BOARD TO ARRANGE FOR
24 THE AUDITING OF INDIVIDUAL SCHOLARSHIP ACCOUNTS AND EDUCATION
25 SERVICE PROVIDERS; TO CREATE NEW SECTION 37-189-21, MISSISSIPPI
26 CODE OF 1972, TO ESTABLISH REQUIREMENTS FOR EDUCATION SERVICE
27 PROVIDERS ACCEPTING PAYMENTS FROM A SCHOLARSHIP ACCOUNT; TO CREATE
28 NEW SECTION 37-189-23, MISSISSIPPI CODE OF 1972, TO REQUIRE A
29 SCHOOL DISTRICT IN WHICH A SCHOLARSHIP RECIPIENT WAS LAST ENROLLED
30 TO PROVIDE AN EDUCATION SERVICE PROVIDER WITH A COPY OF THE
31 STUDENT'S RECORDS; TO CREATE NEW SECTION 37-189-25, MISSISSIPPI
32 CODE OF 1972, TO ABSOLVE PUBLIC ENTITIES FROM ANY LIABILITY BASED
33 ON THE AWARD OF A MISSISSIPPI SCHOLARSHIP; TO CREATE NEW SECTION
34 37-189-27, MISSISSIPPI CODE OF 1972, TO REQUIRE THE GOVERNOR TO



35 INCLUDE FUNDING FOR THE SCHOLARSHIP ACCOUNT PROGRAM IN THE
36 GOVERNOR'S ANNUAL BUDGET REQUEST FOR THE STATE DEPARTMENT OF
37 EDUCATION; AND FOR RELATED PURPOSES.

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

39 **SECTION 1.** The following shall be codified as Section
40 37-189-1, Mississippi Code of 1972:

41 37-189-1. This chapter shall be known and may be cited as
42 the "Mississippi Scholarship Act (MSA)."

43 **SECTION 2.** The following shall be codified as Section
44 37-189-3, Mississippi Code of 1972:

45 37-189-3. The following words and phrases have the meanings
46 ascribed in this section unless the context clearly indicates
47 otherwise:

48 (a) "Account" or "scholarship" means a Mississippi
49 Scholarship account awarded pursuant to this chapter, to which
50 funds are allocated by the board to the parent or parents of an
51 eligible Mississippi Scholarship student in order to pay
52 qualifying education expenses to educate the student pursuant to
53 the requirements and conditions of this chapter.

54 (b) "Board" means the Mississippi Scholarship Board.

55 (c) "Curriculum" means a complete course of study for a
56 particular content area or grade level, including any supplemental
57 materials required by the curriculum.

58 (d) "Education service provider" means a person or
59 organization that receives payments from Mississippi Scholarship
60 accounts to provide educational goods and services to Mississippi
61 Scholarship students.



62 (e) "Eligible recipient" means a child who:
63 (i) Is a resident of this state; and
64 (ii) 1. Is enrolled full time and attending a
65 public elementary or secondary school program in this state for at
66 least forty-five (45) calendar days during an instructional term
67 at the time of application and until an award letter is issued by
68 the board;
69 2. Was enrolled full time in a public
70 elementary or secondary school program in this state for the
71 entire instructional term the previous year; or
72 3. Is eligible at the time of application to
73 enroll in a kindergarten program in this state. However, if on
74 July 1, 2024, the participation rate of the combined number of
75 students in the Mississippi Scholarship Program and students
76 eligible who have applied to participate in the Mississippi
77 Scholarship Program during the previous school year is less than
78 five percent (5%) of net public school enrollment for the previous
79 school year, then, effective July 1, 2026, a child is considered
80 an eligible recipient if the child is enrolled, eligible to be
81 enrolled, or required to be enrolled in a kindergarten program or
82 public elementary or secondary school program in this state at the
83 time of application.
84 (f) "Mississippi Scholarship funds" means the monies
85 deposited in a Mississippi Scholarship student's account in
86 accordance with the requirements of this chapter.



87 (g) "Mississippi Scholarship student" means a student
88 who receives a scholarship pursuant to this chapter.

89 (h) "Parent" means a biological parent, legal guardian,
90 custodian or other person with legal authority to act on behalf of
91 an eligible recipient.

92 (i) "Participating school" means any school that
93 provides education to elementary or secondary students and has
94 notified the board of its intention to participate in the program
95 and comply with the program's requirements.

96 (j) "Resident school district" means the public school
97 district in which the student resides.

98 (k) "Treasurer" means the Treasurer of the State of
99 Mississippi.

100 **SECTION 3.** The following shall be codified as Section
101 37-189-5, Mississippi Code of 1972:

102 37-189-5. (1) The Mississippi Scholarship Program is
103 administered by the Mississippi Scholarship Board. The board
104 consists of the following seven (7) members:

105 (a) The Treasurer or the Treasurer's designee;

106 (b) The State Auditor or the Auditor's designee;

107 (c) The State Attorney General or the Attorney
108 General's designee;

109 (d) The State Superintendent of Public Education or the
110 superintendent's designee;



111 (e) The Commissioner of Higher Education or the
112 commissioner's designee; and

113 (f) Two (2) members appointed by the Governor, with the
114 advice and consent of the Senate, who are parents of Mississippi
115 Scholarship students, or for the initial appointments of board
116 members, parents who intend to apply for the Mississippi
117 Scholarship on behalf of eligible recipients, to be appointed
118 subject to the following requirements:

119 (i) Only state residents are eligible for
120 appointment to the board;

121 (ii) The members must reside in geographically
122 diverse areas of the state;

123 (iii) The members initially must be appointed to
124 staggered terms as follows:

125 1. One (1) member appointed by the Governor
126 for a term of two (2) years; and

127 2. One (1) member appointed by the Governor
128 for a term of three (3) years.

129 After the initial staggering of terms, appointed board
130 members shall serve for a term of three (3) years and are eligible
131 for reappointment at the expiration of their terms; and

132 (iv) If there is a vacancy among appointed
133 members, the vacancy must be filled by appointment for the
134 unexpired term of a person meeting the requirements of this
135 section by the Governor, with the advice and consent of the



136 Senate. Members of the board shall serve until the later of the
137 expiration of the term for which the member was appointed or the
138 appointment of his or her successor.

139 (2) Members of the board shall serve without compensation.
140 The board may reimburse members for all reasonable and necessary
141 expenses, including travel expenses, actually incurred by board
142 members in the conduct of their official duties. Any expense
143 reimbursements must be made from the Mississippi Scholarship
144 Program Expense Fund at the same rate paid to state employees.

145 (3) The Treasurer is the chairman and presiding officer of
146 the board. The Treasurer may provide office space and staff to
147 the board upon request of the board.

148 (4) A majority of the members of the board constitutes a
149 quorum for the transaction of the business of the board.

150 (5) Members of the board are subject to the ethical
151 standards and financial disclosure requirements of the State of
152 Mississippi.

153 **SECTION 4.** The following shall be codified as Section
154 37-189-7, Mississippi Code of 1972:

155 37-189-7. The board may take any action necessary to
156 effectuate the provisions of this chapter and to successfully
157 administer the Mississippi Scholarship Program, subject to
158 applicable state and federal law, including, but not limited to,
159 the following actions:

160 (a) Adopt and amend bylaws;



161 (b) Execute contracts and other instruments for
162 necessary goods and services, employ necessary personnel and
163 engage the services of private consultants, actuaries, auditors,
164 counsel, managers, trustees and any other contractor or
165 professional needed for rendering professional and technical
166 assistance and advice;

167 (c) Implement the program through the use of financial
168 organizations as account depositories and managers;

169 (d) Develop and impose requirements, policies,
170 procedures and guidelines to implement and manage the program;

171 (e) Determine whether an expenditure of Mississippi
172 Scholarship funds is or was a qualifying expense to educate a
173 Mississippi Scholarship student. The board may approve or deny
174 expenditures by a majority vote;

175 (f) Review any appeals made pursuant to this chapter;

176 (g) Establish the method by which monies in the
177 Mississippi Scholarship Expense Fund are allocated to pay for
178 administrative costs and assess, collect and expend administrative
179 fees, charges and penalties;

180 (h) Authorize the assessment, collection and retention
181 of fees and charges against the amounts paid into and the earnings
182 on the Mississippi Scholarship funds by a financial institution,
183 investment manager, fund manager or other professional managing or
184 investing the Mississippi Scholarship funds and accounts;



185 (i) Invest and reinvest any of the funds and accounts
186 under the board's control with a financial institution, an
187 investment manager, a fund manager or other professionals
188 investing the funds and accounts; and

189 (j) Solicit and accept gifts, including bequests and
190 other testamentary gifts made by will, trust or other disposition,
191 grants, loans, aid and property, real or personal, of any nature
192 and from any source, or participate in any federal, state or local
193 governmental program in carrying out the purposes of this chapter.
194 The board must use the property received to effectuate the desires
195 of the donor and may convert the property received into cash
196 within one hundred eighty (180) days of receipt.

197 **SECTION 5.** The following shall be codified as Section
198 37-189-9, Mississippi Code of 1972:

199 37-189-1. (1) The Mississippi Scholarship Program is
200 established to provide the option for a parent to better meet the
201 individual education needs of the parent's eligible child. The
202 program must be operational before July 1, 2023.

203 (2) The board shall create a standard application form that
204 a parent can submit to establish the student's eligibility for the
205 award of Mississippi Scholarship funds, which award will be placed
206 in an educational services scholarship account to be used for
207 qualifying education expenses on behalf of the eligible recipient.
208 Information about scholarship funds and the application process
209 must be made available on the board's website.



210 (3) The board shall make applications available before March
211 1, 2023, and shall begin accepting applications immediately. The
212 board may update the application as needed. The board shall issue
213 an award letter to eligible recipients within forty-five (45) days
214 of receipt of a completed application and all required
215 documentation.

216 (4) The board shall approve an application for a Mississippi
217 Scholarship if all of the following circumstances are met:

218 (a) A parent submits an application for a Mississippi
219 Scholarship in accordance with the rules promulgated by the board;

220 (b) A student on whose behalf the parent is applying is
221 an eligible recipient;

222 (c) The parent signs an agreement with the board,
223 promising to do all of the following:

224 (i) To provide an education for the eligible
225 recipient in at least the subjects of reading, language,
226 mathematics, science and social studies;

227 (ii) To use the Mississippi Scholarship funds
228 exclusively for qualifying expenses as provided for in Section
229 37-189-13;

230 (iii) To comply with the rules and requirements of
231 the Mississippi Scholarship Program; and

232 (iv) To afford the Mississippi Scholarship student
233 opportunities for educational enrichment such as organized
234 athletics, art, music or literature.



235 (5) An application for a Mississippi Scholarship is
236 confidential and not a public record subject to release under the
237 Mississippi Public Records Act.

238 **SECTION 6.** The following shall be codified as Section
239 37-189-11, Mississippi Code of 1972:

240 37-189-11. (1) There is created in the State Treasury a
241 special revenue fund known as the "Mississippi Scholarship Program
242 Fund." The fund is administered by the Treasurer and consists of
243 funds transferred by the State Department of Education in
244 accordance with this chapter. All interest and other returns
245 derived from the deposit and investment of monies in the
246 Mississippi Scholarship Program Fund must be credited to the fund.
247 Any balance, including accrued interest and other returns,
248 remaining in the fund at the end of each fiscal year may not
249 revert to the General Fund but must remain in the fund and be
250 expended as provided by this section.

251 (2) The amount of Mississippi Scholarship funds made
252 available to an eligible recipient on a yearly basis must be equal
253 to one hundred percent (100%) of the prior year's statewide
254 average of state K-12 education funding allotted per pupil based
255 on net enrollment. However, the amount of the funding to an
256 eligible recipient who is awarded a Mississippi Scholarship
257 account for less than a full fiscal year must be prorated based on
258 the portion of the fiscal year the eligible recipient is awarded
259 the Mississippi Scholarship account. Before the submission of the



260 State Department of Education's budget request each year, the
261 board shall notify the State Department of Education of the total
262 number of eligible Mississippi Scholarship applications received
263 by the board for purposes of facilitating the necessary transfer
264 of monies pursuant to this chapter.

265 (3) Expenditures from the Mississippi Scholarship Program
266 Fund must be limited to the purposes set forth in this chapter.
267 However, an amount not to exceed five percent (5%) of the fund
268 must be transferred annually to the Mississippi Scholarship
269 Program Expense Fund established in subsection (8) of this section
270 to cover the annual administrative costs of the Mississippi
271 Scholarship Program. If the number of Mississippi Scholarship
272 accounts increases significantly after any fiscal year, the
273 Treasurer may request an appropriation by the Legislature to the
274 Mississippi Scholarship Program Expense Fund in an amount equal to
275 the administrative costs associated with the increase in
276 Mississippi Scholarship accounts.

277 (4) The first deposit of Mississippi Scholarship funds into
278 an eligible recipient account is subject to the execution of the
279 parental agreement required by this chapter. Upon execution of
280 the required parental agreement, and subject to the provisions of
281 this chapter, one-half (1/2) of the total annually required
282 deposit must be made no later than August 15 of every year into an
283 eligible recipient's Mississippi Scholarship account, and one-half
284 (1/2) of the total annually required deposit must be made no later



285 than January 15 of every year. Any funds remaining in a
286 Mississippi Scholarship account at the end of a fiscal year may be
287 carried over to the next fiscal year upon successful renewal of
288 the account.

289 (5) Funds deposited in a student's Mississippi Scholarship
290 account do not constitute taxable income to the parent or the
291 Mississippi Scholarship student.

292 (6) The board shall continue to make deposits into an
293 eligible recipient's Mississippi Scholarship account in accordance
294 with this section unless any of the following conditions occur:

295 (a) A parent of an eligible recipient fails to renew a
296 Mississippi Scholarship account or withdraws from the Mississippi
297 Scholarship Program;

298 (b) The board determines that a student is no longer
299 eligible for a Mississippi Scholarship;

300 (c) The board suspends or revokes participation in the
301 Mississippi Scholarship Program for failure to comply with the
302 requirements of this chapter;

303 (d) The Mississippi Scholarship student successfully
304 completes a secondary education program; or

305 (e) The Mississippi Scholarship student reaches
306 twenty-one (21) years of age.

307 (7) If any of the conditions in subsection (6) of this
308 section occur, the board must notify the parent that the eligible
309 recipient's account will be closed in forty-five (45) calendar



310 days. If a parent fails to adequately address the condition or
311 conditions upon which closure is based or does not respond within
312 thirty (30) calendar days of receipt of notice, the board must
313 close the account, and any remaining monies must be returned to
314 the state.

315 (8) (a) There is created in the State Treasury a special
316 revenue fund known as the "Mississippi Scholarship Program Expense
317 Fund." The fund consists of: monies received pursuant to this
318 section; monies, if any, transferred from special revenue funds
319 administered by the Treasurer; any governmental or private grants;
320 and state general fund appropriations, if any, for the Mississippi
321 Scholarship Program. All interest and other returns derived from
322 the deposit and investment of monies in the Mississippi
323 Scholarship Program Expense Fund must be credited to the fund.
324 Any balance, including accrued interest and other returns,
325 remaining in the fund at the end of each fiscal year may not
326 revert to the General Fund but must remain in the fund and be
327 expended as provided by this section.

328 (b) All expenses incurred by the Treasurer or the board
329 in developing and administering the Mississippi Scholarship
330 Program are payable from the Mississippi Scholarship Expense Fund.

331 **SECTION 7.** The following shall be codified as Section
332 37-189-13, Mississippi Code of 1972:

333 37-189-13. (1) Parents of a Mississippi Scholarship student
334 shall agree to use the funds deposited in their student's



335 Mississippi Scholarship account only for the following qualifying
336 expenses to educate the student:

337 (a) Ongoing services provided by a public school
338 district, including, without limitation, individual classes and
339 extracurricular activities and programs;

340 (b) Tuition and fees at a participating school;

341 (c) Tutoring services provided by an individual or a
342 tutoring facility, so long as the tutoring services are not
343 provided by a member of the Mississippi Scholarship student's
344 immediate family;

345 (d) Fees for nationally standardized assessments,
346 advanced placement examinations, any examinations related to
347 college or university admission, and tuition or fees, or both, for
348 preparatory courses for these exams;

349 (e) Tuition and fees for programs of study or the
350 curriculum of courses that lead to an industry-recognized
351 credential that satisfies a workforce need;

352 (f) Tuition and fees for online learning programs;

353 (g) Tuition and fees for alternative education
354 programs, apprenticeships, pre-apprenticeships and internships;

355 (h) Fees for after-school or summer education programs;

356 (i) Educational services and therapies, including, but
357 not limited to, occupational, behavioral, physical,
358 speech-language and audiology therapies;



359 (j) Curriculum as required by a participating school or
360 program;

361 (k) Fees for transportation paid to a fee-for-service
362 transportation provider for the student to travel to and from an
363 education service provider; and

364 (l) Any other qualified expenses as approved by the
365 Mississippi Scholarship Board.

366 (2) This section may not be construed to require a
367 Mississippi Scholarship student to be enrolled, full time or part
368 time, in either a nonpublic school or a nonpublic online school.

369 (3) Mississippi Scholarship funds may not be refunded,
370 rebated or shared with a parent or student in any manner. Any
371 refund or rebate for goods or services purchased with Mississippi
372 Scholarship funds must be credited directly to a student's
373 Mississippi Scholarship account.

374 (4) This section may not be construed to prohibit the
375 parents of a Mississippi Scholarship student from making payments
376 for the costs of educational goods and services not covered by the
377 funds in their student's Mississippi Scholarship account.
378 However, personal deposits into a Mississippi Scholarship account
379 are not permitted.

380 **SECTION 8.** The following shall be codified as Section
381 37-189-15, Mississippi Code of 1972:

382 37-189-15. (1) A parent must renew an eligible recipient's
383 Mississippi Scholarship on an annual basis. Notwithstanding any



384 changes in eligibility, a Mississippi Scholarship student who has
385 qualified previously for a Mississippi Scholarship account remains
386 eligible to apply for renewal until one (1) of the conditions set
387 forth in subsection (6) of Section 37-189-11 occurs. The board
388 shall verify with the State Department of Education the following
389 information by July 1 of every year:

390 (a) A list of all active Mississippi Scholarship
391 accounts;

392 (b) The resident school district of each Mississippi
393 Scholarship student; and

394 (c) For a Mississippi Scholarship student who chooses
395 to attend a participating school, annual confirmation of the
396 student's continued attendance at a school outside of the resident
397 school district.

398 (2) If a parent fails to renew an eligible recipient's
399 Mississippi Scholarship, the board shall notify the parent that
400 the eligible recipient's account will be closed in forty-five (45)
401 calendar days. If a parent chooses not to renew or does not
402 respond within thirty (30) calendar days of receipt of notice, the
403 board must close the account, and any remaining monies must be
404 returned to the state.

405 (3) If an eligible recipient decides to return to the
406 Mississippi Scholarship Program after failing to renew, the
407 recipient must reapply.



408 (4) The board, in consultation with the State Department of
409 Education, may adopt rules and policies to provide the least
410 disruptive process for Mississippi Scholarship students who desire
411 to stop receiving Mississippi Scholarship payments to return full
412 time to a public school in their resident school district.

413 (5) The board, in consultation with the State Department of
414 Education, may adopt rules and policies for Mississippi
415 Scholarship students who want to continue to receive services
416 provided by a public school or district in the student's resident
417 school district, including individual classes and extracurricular
418 programs, in combination with an individualized educational
419 program. The board, in consultation with the State Department of
420 Education, shall ensure that any public school or school district
421 providing these services receives the appropriate pro rata share
422 of a student's Mississippi Scholarship funds based on the
423 percentage of total instruction provided to the student by the
424 public school or resident school district. School boards shall
425 charge tuition to Mississippi Scholarship students who enroll for
426 services in a public school within the local school district.
427 Mississippi Scholarship students who enroll for services part time
428 in public school may not be included in net enrollment for state
429 aid funding purposes. This subsection may not be construed to
430 prohibit a Mississippi Scholarship student from using the funds
431 deposited in the student's account on both services provided by a



432 public school or district and other qualifying expenses, including
433 educational services offered by a nonpublic school.

434 **SECTION 9.** The following shall be codified as Section
435 37-189-17, Mississippi Code of 1972:

436 37-189-17. (1) In addition to the duties, obligations and
437 authority stated in this chapter, the board has the following
438 duties, obligations and authority with respect to the
439 administration of Mississippi Scholarship accounts:

440 (a) To maintain an updated list of participating
441 schools and to ensure that the list is publicly available through
442 various sources, including the Internet;

443 (b) To provide parents with a written explanation of
444 the allowable uses of Mississippi Scholarship funds, the
445 responsibilities of parents, the duties of the board and the role
446 of any private financial management firms or other private
447 organizations that the board may contract with to administer the
448 Mississippi Scholarship Program or any aspect of the program; and

449 (c) To ensure that parents of students with a
450 disability receive notice that participation in the Mississippi
451 Scholarship Program is a parental placement under 20 USC Section
452 1412 of the Individuals with Disabilities Education Act (IDEA)
453 along with an explanation of the rights that parentally placed
454 students possess under IDEA and any applicable state laws and
455 regulations.



456 (2) The board may contract with private organizations to
457 administer the Mississippi Scholarship Program. This includes,
458 but is not limited to, private financial management firms to
459 manage Mississippi Scholarship accounts.

460 (3) The board shall implement, or contract with a private
461 organization to implement, a commercially viable, cost-effective
462 and parent-friendly system for payment for services from
463 Mississippi Scholarship accounts to participating schools or
464 educational service providers, including, but not limited to, the
465 use of debit cards or other electronic or online fund transfers.
466 However, a Mississippi Scholarship account may not be reduced for
467 debit card or electronic payment fees.

468 (4) The board shall seek to implement a commercially viable,
469 cost-effective and parent-friendly system for publicly rating,
470 reviewing and sharing information about participating schools and
471 education service providers, ideally as part of the same system
472 that facilitates the electronic or online funds transfers so as to
473 create a one-stop-shop for parents and Mississippi Scholarship
474 students.

475 (5) If an education service provider requires partial
476 payment of tuition or fees before the start of the academic year
477 to reserve space for a Mississippi Scholarship student admitted to
478 the education service provider, such partial payment may be paid
479 before the start of the school year in which the Mississippi
480 Scholarship is awarded and deducted in an equitable manner from



481 subsequent Mississippi Scholarship deposits to ensure adequate
482 funds remain available throughout the school year; however, if a
483 Mississippi Scholarship student decides not to use the education
484 service provider, the partial reservation payment must be returned
485 to the board by the education service provider and credited to the
486 student's Mississippi Scholarship account.

487 (6) The board may accept gifts and grants from any source to
488 cover administrative costs, to inform the public about the
489 Mississippi Scholarship Program, or to provide additional funding
490 for Mississippi Scholarship accounts.

491 (7) The board may propose rules and policies, including
492 emergency rules, if necessary, to meet timelines set forth in this
493 chapter and which are necessary for the administration of this
494 chapter, including:

495 (a) Establishing or contracting for the establishment
496 of a fraud reporting system;

497 (b) Requiring a surety bond for education service
498 providers receiving more than One Hundred Thousand Dollars
499 (\$100,000.00) in Mississippi Scholarship funds;

500 (c) Procedures for refunding payments from education
501 service providers back to Mississippi Scholarship accounts; and

502 (d) Procedures for entering into reciprocal agreements
503 with other state education savings account agencies or entities,
504 whether public or nonpublic, to recognize and allow education



505 service providers approved in other states to receive payments
506 from Mississippi Scholarship accounts under this chapter.

507 (8) (a) The rules or policies adopted by the board should
508 avoid excessive bureaucracy and overly prescriptive mandates and
509 must focus on encouraging participation in the program and
510 encouraging education service providers to provide parents and
511 Mississippi Scholarship students with a broad array of educational
512 options.

513 (b) Rules and policies that do not avoid excessive
514 bureaucracy and overly prescriptive mandates may be appealed by
515 the parent of an eligible student or the parent of a potentially
516 eligible student to a court of general jurisdiction.

517 (c) The court shall determine all questions of law,
518 including the interpretation of a constitutional or statutory
519 provision or a rule adopted by the Mississippi Scholarship Board,
520 without regard to any previous determination that may have been
521 made on the question in any action before the board.

522 **SECTION 10.** The following shall be codified as Section
523 37-189-19, Mississippi Code of 1972:

524 37-189-19. (1) The board may propose rules for the auditing
525 of individual Mississippi Scholarship accounts and shall conduct
526 or contract for the random auditing of individual Mississippi
527 Scholarship accounts as needed to ensure compliance with the
528 requirements of this chapter and rules promulgated under this
529 chapter.



530 (2) As part of the auditing process, the board may remove a
531 parent or eligible recipient from the Mississippi Scholarship
532 program and close a Mississippi Scholarship account for failure to
533 comply with the terms of the parental agreement required by this
534 chapter, failure to comply with applicable laws, failure of the
535 student to remain eligible, or intentional and fraudulent misuse
536 of Mississippi Scholarship funds. The board shall create
537 procedures to ensure that a fair process exists to determine the
538 removal of a parent or eligible recipient from the Mississippi
539 Scholarship program. A parent or Mississippi Scholarship student
540 may appeal the decision to make the student ineligible for funds
541 to the board.

542 (3) The board may conduct or contract for the audit of
543 education service providers accepting payments from Mississippi
544 Scholarship accounts if it determines that the education service
545 provider has:

546 (a) Intentionally and substantially misrepresented
547 information or failed to refund any overpayments in a timely
548 manner; or

549 (b) Routinely failed to provide students with promised
550 educational goods or services.

551 (4) If the board determines that an education service
552 provider intentionally and substantially has misused Mississippi
553 Scholarship funds, the board may bar the education service
554 provider from continuing to receive payments. The board shall



555 create procedures to ensure that a fair process exists to
556 determine whether an education service provider may be barred from
557 receiving payment from Mississippi Scholarship accounts. An
558 education service provider may appeal a decision to bar it from
559 receiving payments to the board. If the board bars an education
560 service provider from receiving payments from Mississippi
561 Scholarship accounts, it must notify parents and students of its
562 decision within ten (10) business days.

563 (5) If the board obtains evidence of potential fraudulent
564 use of Mississippi Scholarship funds, it may refer suspected cases
565 to the State Auditor for purposes of investigation, collection and
566 potential criminal investigation.

567 **SECTION 11.** The following shall be codified as Section
568 37-189-21, Mississippi Code of 1972:

569 37-189-21. (1) To be eligible to accept payments from a
570 Mississippi Scholarship account, an education service provider
571 must:

572 (a) Submit notice to the board that it wishes to
573 participate in the Mississippi Scholarship Program;

574 (b) Provide participating parents with a receipt for
575 all qualifying educational expenses for the Mississippi
576 Scholarship student;

577 (c) Agree not to refund, rebate or share Mississippi
578 Scholarship funds with parents or students in any manner, except



579 that funds may be remitted or refunded to a Mississippi
580 Scholarship account in accordance with Section 37-189-13;

581 (d) Certify that it will not discriminate on any basis
582 prohibited by 42 USC 1981;

583 (e) Agree to submit any employee who will have contact
584 with Mississippi Scholarship students to a criminal background
585 check; and

586 (f) In the case of a participating school, provide
587 notice of enrollment annually to the superintendent of the local
588 school district for any student whose tuition is being paid
589 through the Mississippi Scholarship Program.

590 (2) This chapter does not limit the independence or autonomy
591 of a nonpublic education service provider or make the actions of a
592 nonpublic education service provider the actions of state
593 government.

594 (3) Nonpublic education service providers must be given
595 maximum freedom to provide for the educational needs of
596 Mississippi Scholarship students without governmental control.

597 (4) A participating nonpublic school or education service
598 provider is not required to alter its creed, practices, admission
599 policy, hiring policy or curriculum in order to accept eligible
600 recipients whose parents pay tuition or fees from a Mississippi
601 Scholarship account pursuant to this chapter.

602 (5) This chapter does not expand the regulatory authority of
603 the state, its officers or any school district to impose any



604 additional regulation on education service providers beyond those
605 necessary to enforce the requirements of the program.

606 **SECTION 12.** The following shall be codified as Section
607 37-189-23, Mississippi Code of 1972:

608 37-189-23. The resident school district or school district
609 in which a Mississippi Scholarship student was last enrolled, as
610 applicable, shall provide an education service provider that has
611 enrolled the student with a complete copy of the student's school
612 records, while complying with the Family Educational Rights and
613 Privacy Act of 1974 (20 USC Section 1232 g).

614 **SECTION 13.** The following shall be codified as Section
615 37-189-25, Mississippi Code of 1972:

616 37-189-25. (1) Liability does not arise on the part of the
617 board, state or any school district based on the award or use of a
618 Mississippi Scholarship awarded pursuant to this chapter.

619 (2) It is the intention of the Legislature in the enactment
620 of this chapter that if any part of this chapter is challenged in
621 court as violating either the state or federal constitution, the
622 parents of eligible Mississippi Scholarship students should be
623 deemed to have standing to be parties to such litigation and
624 should be permitted by the court to intervene if they are not
625 already parties to the litigation.

626 (3) If any provision of this chapter or the application of
627 any provision of this chapter to any person or circumstance is
628 held invalid by a court of competent jurisdiction, the remainder



629 of this chapter or the application of its provisions to persons or
630 circumstances other than those to which it is held invalid is not
631 affected.

632 **SECTION 14.** The following shall be codified as Section
633 37-189-27, Mississippi Code of 1972:

634 37-189-27. (1) Notwithstanding any other provision of this
635 chapter to the contrary, for fiscal year 2023 and each subsequent
636 fiscal year, in addition to all other amounts required by law, the
637 State Department of Education shall include in its budget request,
638 and the Governor shall include in each budget bill submitted to
639 the Legislature, an appropriation to the State Department of
640 Education for the greater of an amount not less than five percent
641 (5%) of net public school enrollment or the total number of
642 eligible Mississippi Scholarship account applications received by
643 the Mississippi Scholarship Board, if available, multiplied by the
644 prior year's statewide average of state funding allotted per
645 pupil. The amount appropriated must be transferred by the State
646 Department of Education to the Mississippi Scholarship Board to be
647 used solely to meet the Mississippi Scholarship Account Program
648 obligations set forth in this chapter. The Governor also shall
649 provide in each budget for the reappropriation for expenditures
650 during the ensuing fiscal year the balance to the State Department
651 of Education which was not transferred to the Mississippi
652 Scholarship Board due to an accumulated balance from prior years,
653 as provided under subsection (2) of this section.



654 (2) Each fiscal year, the amount required to be requested
655 and included in the budget bill for appropriation under subsection
656 (1) of this section must be reduced by the sum of:

657 (a) Any unused accumulated amounts transferred to the
658 Mississippi Scholarship Board for these purposes from previous
659 years; and

660 (b) Any unused appropriations made to the State
661 Department of Education for these purposes which were not
662 transferred to the Mississippi Scholarship Board due to an
663 accumulated balance from prior years.

664 **SECTION 15.** This act shall take effect and be in force from
665 and after July 1, 2022.

