

Senate Amendments to House Bill No. 1193

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

19 **SECTION 1.** This act shall be known and may be cited as the
20 "Requiring Efficiency For Our Colleges and Universities System and
21 Education System (REFOCUSES) Act."

22 **SECTION 2.** The purpose of this act is to prohibit
23 institutions of higher learning, community colleges and public
24 schools from taking certain actions and engaging in discriminatory
25 practices. This act seeks to ensure that employment, academic
26 opportunities and student engagement are based solely on
27 individual merit, qualifications and academic performance, without
28 consideration of an individual's views on diversity, equity and
29 inclusion.

30 **SECTION 3.** (1) For the purposes of this section, the
31 following words shall have the meanings ascribed herein unless the
32 context clearly requires otherwise:

33 (a) "Diversity, equity and inclusion" shall mean:

34 (i) Any effort to select or influence the
35 composition of the faculty or student body by favoring applicants

36 based on race, sex, color, or ethnicity, apart from ensuring
37 colorblind and sex-neutral admissions and hiring in accordance
38 with state and federal antidiscrimination laws;

39 (ii) Any effort to promote differential treatment
40 of or provide special benefits to individuals in employment or
41 admissions based on race, color, or ethnicity;

42 (iii) Any effort to promote or promulgate policies
43 and procedures designed or implemented to favor individuals based
44 on race, color or ethnicity, except as otherwise permitted in
45 state and federal law;

46 (iv) Any effort to require trainings, programming,
47 or activities designed and\or implemented to compel participants
48 to change their beliefs with reference to race, color, ethnicity,
49 gender identity, or sexual orientation; and

50 (v) Any effort to promote as the official position
51 of the public school, administration, college, university, or any
52 administrative unit thereof, a position that:

53 1. One (1) race, sex, color, ethnicity,
54 gender identity or sexual orientation is inherently superior to
55 another sex, color, ethnicity, gender identity or sexual
56 orientation;

57 2. An individual by virtue of his or her
58 race, sex, color, ethnicity, gender identity or sexual orientation
59 is inherently oppressive to others whether consciously or
60 unconsciously;

61 3. An individual should be discriminated
62 against or treated adversely solely because of his or her race,
63 sex, color, ethnicity, gender identity or sexual orientation;

64 4. An individual by virtue of his or her
65 race, sex, color, ethnicity, gender identity or sexual orientation
66 bears responsibility for actions committed in the past by like
67 individuals; or

68 5. Requires adherence to the social
69 construction and malleability of sex and gender, gender-neutral
70 pronouns, deconstruction of heteronormativity and sexual
71 privilege.

72 (b) "Diversity, equity and inclusion office" means an
73 office, division or other unit of an institution of higher
74 learning, community college or public school established for the
75 purpose of:

76 (i) Promoting hiring decisions or employment
77 practices at the institution, college or public school that favor
78 individuals based on race, sex, color, ethnicity, gender identity
79 or sexual orientation other than through the use of color-blind
80 and sex-neutral hiring processes in accordance with any applicable
81 state and federal antidiscrimination laws;

82 (ii) Promoting differential treatment of or
83 providing special benefits to favor individuals in admissions and
84 hiring based on race, sex, color, ethnicity, gender identity or
85 sexual orientation;

86 (iii) Promoting policies or procedures designed or
87 implemented to favor individuals based on race, sex, color,
88 ethnicity, gender identity or sexual orientation, other than
89 policies or procedures approved in writing by the institution,
90 college or public school's legal counsel for the sole purpose of
91 ensuring compliance with any applicable court order or state or
92 federal law; or

93 (iv) Conducting trainings, programs or activities
94 designed or implemented to favor individuals based on race, color,
95 sex, ethnicity, gender identity or sexual orientation, other than
96 trainings, programs or activities approved in writing by the
97 institution, college or public school's legal counsel for the sole
98 purpose of ensuring compliance with any applicable court order or
99 state or federal law.

100 (c) "Institution of higher learning" or "institution"
101 means any one of the following, as stipulated in Section 37-101-1:

102 (i) The University of Mississippi;

103 (ii) Mississippi State University of Agriculture
104 and Applied Science;

105 (iii) Mississippi University for Women;

106 (iv) The University of Southern Mississippi;

107 (v) Delta State University;

108 (vi) Alcorn State University;

109 (vii) Jackson State University;

110 (viii) Mississippi Valley State University; and

111 (ix) Any other of like kind which may be hereafter
112 established by the state.

113 (d) "Community college" or "college" means any one (1)
114 of the following:

- 115 (i) Coahoma Community College;
- 116 (ii) Copiah-Lincoln Community College;
- 117 (iii) East Central Community College;
- 118 (iv) East Mississippi Community College;
- 119 (v) Hinds Community College;
- 120 (vi) Holmes Community College;
- 121 (vii) Itawamba Community College;
- 122 (viii) Jones College;
- 123 (ix) Meridian Community College;
- 124 (x) Mississippi Delta Community College;
- 125 (xi) Mississippi Gulf Coast Community College;
- 126 (xii) Northeast Mississippi Community College;
- 127 (xiii) Northwest Mississippi Community College;
- 128 (xiv) Pearl River Community College; and
- 129 (xv) Southwest Mississippi Community College.

130 (e) "Public school" means an early education,
131 elementary or secondary school governmental entity under the
132 exercise and management of a local school governing board,
133 established to supervise one or more public schools within its
134 geographical limits pursuant to state statutes. The terms also
135 include:

- 136 (i) Agricultural high schools;

137 (ii) The Mississippi School for the Deaf and
138 Blind, under the governing authority of the State Board of
139 Education;

140 (iii) The Mississippi School of the Arts, under
141 the governing authority of the State Board of Education;

142 (iv) The Mississippi School for Mathematics and
143 Science, under the governing authority of the State Board of
144 Education; and

145 (v) Public charter schools.

146 (f) "Board" or "boards" means either the Board of
147 Trustees of State Institutions of Higher Learning, the Mississippi
148 Community College Board, the Mississippi State Board of Education,
149 or the Mississippi Charter School Authorizer Board, or all of
150 them, as applicable.

151 (2) The Board of Trustees of State Institutions of Higher
152 Learning, the Mississippi Community College Board, the Mississippi
153 State Board of Education and the Mississippi Charter School
154 Authorizer Board shall ensure that each institution, college and
155 public school, as applicable:

156 (a) Does not expend any funds derived from government
157 appropriations, deposits, donations, endowments, fees, grants,
158 gifts, income, receipts, tuition or any other source, except as
159 required by federal law, to:

160 (i) Establish or maintain a diversity, equity and
161 inclusion office as defined in subsection (1)(b) of this section;

162 (ii) Hire or assign an employee of the
163 institution, college or public school or contract with a third
164 party to perform the duties of a diversity, equity and inclusion
165 office;

166 (iii) Compel, require, induce or solicit any
167 person to provide a diversity, equity and inclusion statement or
168 give preferential consideration in hiring or admission to any
169 person based on the provision of a diversity, equity and inclusion
170 statement;

171 (iv) Give preference based on race, sex, color,
172 ethnicity, gender identity or sexual orientation to an applicant
173 for employment, or when awarding a contract at the institution,
174 college or public school;

175 (v) Require, as a condition of enrolling at,
176 accepting employment with, or being awarded a contract at an
177 institution, college or public school, or as a requirement of
178 continuing enrollment, employment or contractual obligation at an
179 institution, college or public school, any person to participate
180 in diversity, equity and inclusion training, which includes a
181 training, program or activity designed or implemented to favor one
182 (1) individual over another based on race, color, ethnicity,
183 gender identity or sexual orientation, unless approved in writing
184 by the institution, college or public school's legal counsel and
185 either the Board of Trustees of State Institutions of Higher
186 Learning, the Mississippi Community College Board, the Mississippi
187 State Board of Education, or the Mississippi Charter School

188 Authorizer Board, as applicable, for the sole purpose of ensuring
189 compliance with any applicable court order or state or federal
190 law; and

191 (vi) Penalize or discriminate against a student,
192 employee or contractor on the basis of their refusal to support,
193 believe, endorse, embrace, confess, act upon or otherwise assent
194 to a diversity equity or inclusion concept as set forth in this
195 section (3).

196 (b) Within one hundred twenty (120) days of the
197 effective date of this act, the Board of Trustees of State
198 Institutions of Higher Learning, the Mississippi Community College
199 Board, the State Board of Education and the Mississippi Charter
200 School Authorizer Board shall adopt a complaint process,
201 investigative procedures, and all other policies, procedures and
202 penalties for appropriately investigating and disciplining an
203 employee, contractor, institution, college or public school that
204 engages in conduct in violation of paragraph (a) of this
205 subsection.

206 (3) (a) A person may file a complaint with the Board of
207 Trustees of State Institutions of Higher Learning, Mississippi
208 Community College Board, Mississippi State Board of Education or
209 Mississippi Charter School Authorizer Board, as applicable, of a
210 violation or potential violation of this section by an
211 institution, college or public school under the boards' purview.
212 Any person under eighteen (18) years of age may bring an action at
213 any time to assert a violation of this section through a parent,

214 guardian or next friend and may bring an action in his or her own
215 name upon reaching the age of eighteen (18) years.

216 (b) The respective board shall investigate the reported
217 violation or potential violation under the board's procedures as
218 established in subsection (2) (b) of this section and make a
219 finding within forty-five (45) days and report that finding to the
220 person making the complaint and to the institution, college, or
221 public school that is the subject of the investigation.

222 (4) (a) If any person, parent, guardian or next friend
223 making a complaint under subsection (3) of this section is
224 aggrieved by the action or inaction of the respective board, he or
225 she may notify the Attorney General of a violation or potential
226 violation of this section by an institution, college or public
227 school by forwarding the Attorney General the complaint filed with
228 the respective board along with the decision of the board and any
229 supporting documentation.

230 (b) After receipt of such notification, the attorney
231 general may file suit for a writ of mandamus compelling an
232 institution, college or public school to comply with this
233 subsection if the Attorney General finds substantial and
234 compelling evidence the violation occurred or is occurring.

235 (5) A person filing a complaint with any board is limited to
236 any student enrolled in a degree program at an institution,
237 college or public school, any faculty or staff member of an
238 institution, college or public school, any contractor of an
239 institution, college or public school, or any parent, guardian or

240 next friend of a minor student who has allegedly been harmed by
241 the institution, college or public school's failure to comply with
242 this act.

243 (6) Within one hundred twenty (120) days of the effective
244 date of this act, the boards shall transmit a copy of all
245 requirements adopted in subsection (2)(b) of this section to the
246 Lieutenant Governor and the Speaker of the House. Additionally,
247 the boards shall include a plan detailing the methods they will
248 use to provide notification of the policy to students, employees,
249 parents, guardians and next friends.

250 (7) Beginning in 2026, by July 30 of each year, each
251 institution, college or public school shall submit to their
252 respective boards an annual report summarizing all reported
253 incidents and the dispositions of those investigations and
254 violations. By October 30 of each year, each board shall prepare
255 a report that compiles the reports from each institution, college
256 and public school and makes recommendations for any proposed
257 changes to this act and submit it to the Legislature. The
258 Legislature may call a representative of each board to testify
259 before the standing legislative committees with primary
260 jurisdiction over higher education and education, as applicable,
261 at a public hearing of the committees regarding the boards'
262 compliance with this section.

263 (8) Nothing in this section may be construed to limit or
264 prohibit an institution, college or public school, or an employee
265 of such, from submitting to a grantor or accrediting body a

266 statement that certifies compliance with controlling state and
267 federal antidiscrimination laws for purposes of applying for a
268 grant or from complying with the terms of accreditation by an
269 accrediting body.

270 (9) Subsection (2) (a) of this section may not be construed
271 to apply to and/or prohibit:

272 (a) Programs for Military Veterans, students with
273 disabilities or students presently or formerly under a child
274 protective services order;

275 (b) Scholarly research or a creative work by students,
276 faculty or staff at an institution, college or public school or
277 the dissemination of that work;

278 (c) An activity of a registered student organization,
279 guest speaker or performer at an institution, college or public
280 school;

281 (d) A policy, practice, procedure, program or activity
282 to enhance student academic achievement, academic course
283 instruction, academic coursework or postgraduate outcomes that is
284 designed and implemented without regard to race, sex, color,
285 ethnicity, gender identity or sexual orientation;

286 (e) Data collection;

287 (f) Student recruitment;

288 (g) Programs, campus activities or certifications for
289 compliance with state and federal laws or applicable court order;

290 (h) An institution, college or public school from
291 requiring or taking action against a student, employee or
292 contractor for failing to comply with federal or state law;

293 (i) Discussing pathological approaches or experience
294 with students with mental or physical disabilities; or

295 (j) Affirming fidelity to and providing an oath to
296 uphold the constitution and the laws of the State of Mississippi
297 and the United States.

298 **SECTION 4.** Section 79-11-711, Mississippi Code of 1972, is
299 amended as follows:

300 79-11-711. (1) If the donor consents in a record, an
301 institution may release or modify, in whole or in part, a
302 restriction contained in a gift instrument on the management,
303 investment, or purpose of an institutional fund. A release or
304 modification may not allow a fund to be used for a purpose other
305 than a charitable purpose of the institution.

306 (2) The court, upon application of an institution, may
307 modify a restriction contained in a gift instrument regarding the
308 management or investment of an institutional fund if the
309 restriction has become impracticable or wasteful, if it impairs
310 the management or investment of the fund, or if, because of
311 circumstances not anticipated by the donor, a modification of a
312 restriction will further the purposes of the fund. To the extent
313 practicable, any modification must be made in accordance with the
314 donor's probable intention.

315 (3) If a particular charitable purpose or a restriction
316 contained in a gift instrument on the use of an institutional fund
317 becomes unlawful, impracticable, impossible to achieve, or
318 wasteful, the court, upon application of an institution, may
319 modify the purpose of the fund or the restriction on the use of
320 the fund in a manner consistent with the charitable purposes
321 expressed in the gift instrument.

322 (4) An application to the court under subsection (2) or (3)
323 of this section shall be made in the name of the institution to
324 the chancery court of the county in which the principal activities
325 of the institution are conducted.

326 (5) Notwithstanding any other provision of law, if a
327 restriction contained in a gift instrument to an institution of
328 higher learning unlawfully includes a restriction based on race,
329 color or ethnicity, the institution may, without application to
330 the court, modify or omit a restriction so that the gift
331 instrument does not include any unlawful restrictions.

332 **SECTION 5.** This act shall take effect and be in force from
333 and after passage.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO ENACT THE "REQUIRING EFFICIENCY FOR OUR COLLEGES
2 AND UNIVERSITIES SYSTEM AND EDUCATION SYSTEM (REFOCUSES) ACT"; TO
3 ESTABLISH THE PURPOSE OF THIS ACT; TO DEFINE TERMS; TO PROHIBIT
4 PUBLIC INSTITUTIONS OF HIGHER LEARNING, COMMUNITY COLLEGES AND
5 PUBLIC SCHOOLS FROM ESTABLISHING OR MAINTAINING A DIVERSITY,
6 EQUITY AND INCLUSION OFFICE; TO ENSURE UNIVERSITIES, COLLEGES AND
7 PUBLIC SCHOOLS TREAT EACH STUDENT, FACULTY, AND STAFF MEMBER
8 FAIRLY; TO REQUIRE UNIVERSITIES, COLLEGES AND PUBLIC SCHOOLS TO

9 ESTABLISH A REPORTING PROCESS FOR VIOLATIONS OF THIS ACT; TO GIVE
10 THE OFFICE OF THE ATTORNEY GENERAL CERTAIN ENFORCEMENT POWERS; TO
11 REQUIRE UNIVERSITIES, COLLEGES AND PUBLIC SCHOOLS TO MAKE A FULL
12 REPORT OF VIOLATIONS AT THEIR UNIVERSITY, COLLEGE OR PUBLIC SCHOOL
13 TO THEIR RESPECTIVE GOVERNING BOARDS; TO REQUIRE THE GOVERNING
14 BOARDS TO MAKE FURTHER REPORTS TO THE LEGISLATURE; TO AMEND
15 SECTION 79-11-711, MISSISSIPPI CODE OF 1972, TO ALLOW INSTITUTIONS
16 OF HIGHER LEARNING TO MODIFY OR OMIT UNLAWFUL RESTRICTIONS TO GIFT
17 INSTRUMENTS; AND FOR RELATED PURPOSES.

SS26\HB1193A.1J

Amanda White
Secretary of the Senate