

By: Senator(s) Hewes, Brown

To: Education;
Appropriations

SENATE BILL NO. 2695

1 AN ACT TO PROVIDE THAT A PUBLIC SCHOOL STUDENT'S PARENT OR
2 GUARDIAN MAY REQUEST AND RECEIVE FROM THE STATE DEPARTMENT OF
3 EDUCATION AN OPPORTUNITY SCHOLARSHIP PAYMENT FOR THE STUDENTS TO
4 ATTEND AN ACCREDITED PRIVATE OR PAROCHIAL SCHOOL; TO SPECIFY
5 SCHOOL DISTRICT OBLIGATIONS AND PRIVATE SCHOOL ELIGIBILITY FOR THE
6 SCHOLARSHIP PROGRAM; TO PROVIDE FOR SCHOLARSHIP FUNDING AND
7 PAYMENT; TO PROVIDE FOR REGULATIONS; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** (1) **Findings and intent.** The Legislature shall
10 make available opportunity scholarships in order to give parents
11 and guardians the opportunity for their children to attend an
12 eligible private or parochial school when the parent or guardian
13 chooses to apply the equivalent of the public education funds
14 generated by his or her child to the cost of tuition in the
15 eligible private or parochial school as provided in this section.
16 Eligibility of a private or parochial school shall include the
17 control and accountability requirements that, coupled with the
18 exercise of parental choice, are reasonably necessary to secure
19 the educational public purpose.

20 (2) **Opportunity scholarship eligibility.** A public school
21 student's parent or guardian may request and receive from the
22 state an opportunity scholarship for the child to enroll in and
23 attend a private or parochial school in accordance with the
24 provisions of this section if:

25 (a) The student is a compulsory-school-age child as
26 defined in Section 37-13-91;

27 (b) The parent or guardian has obtained acceptance for
28 admission of the student to a private or parochial school eligible
29 for the program, and has notified the Department of Education and

30 the school district of the request for an opportunity scholarship
31 no later than July 1 of the first year in which the student
32 intends to use the scholarship. For purposes of continuity of
33 educational choice, the opportunity scholarship shall remain in
34 force until the student returns to a public school. At any time
35 upon reasonable notice to the State Department of Education and
36 the school district, the student's parent or guardian may remove
37 the student from the private school and place the student in a
38 public school;

39 (c) A school district shall, for each student enrolled
40 in or assigned to a public school in its district, timely notify
41 the parent or guardian of the student of the option of requesting
42 a state opportunity scholarship to a private or parochial school;

43 (d) For students in the district who are participating
44 in the Opportunity Scholarship Program, the district shall provide
45 locations and times to take all statewide assessments required;

46 (e) Students with disabilities who are eligible to
47 receive services from the school district under federal or state
48 law, and who participate in this program, remain eligible to
49 receive services from the school district as provided by federal
50 or state law;

51 (f) If for any reason a qualified private or parochial
52 school is not available for the student or if the parent or
53 guardian chooses to request that the student be enrolled in the
54 higher performing public school pursuant to state or federal law,
55 rather than choosing to request the state opportunity scholarship,
56 transportation costs to the higher performing public school shall
57 be the responsibility of the school district. The district may
58 utilize state categorical transportation funds or other available
59 funds for this purpose.

60 (3) **Private or parochial school eligibility.** To be eligible
61 to participate in the opportunity scholarship program, a private

62 or parochial school must be a Mississippi private or parochial
63 school, may be sectarian or nonsectarian, and must:

64 (a) Demonstrate fiscal soundness by being in operation
65 for one (1) school year or provide the Department of Education
66 with a statement by a certified public accountant confirming that
67 the private or parochial school desiring to participate is insured
68 and the owner or owners have sufficient capital or credit to
69 operate the school for the upcoming year serving the number of
70 students anticipated with expected revenues from tuition and other
71 sources that may be reasonably expected. In lieu of such a
72 statement, a surety bond or letter of credit for the amount equal
73 to the opportunity scholarship funds for any quarter may be filed
74 with the department;

75 (b) Except for the first year of implementation, notify
76 the Department of Education and the school district in whose
77 service area the school is located of its intent to participate in
78 the program under this section by May 1 of the school year
79 preceding the school year in which it intends to participate. The
80 notice shall specify the grade levels and services that the
81 private or parochial school has available for the opportunity
82 scholarship program;

83 (c) Comply with the antidiscrimination provisions of 42
84 USC 2000d;

85 (d) Meet state and local health and safety laws and
86 codes;

87 (e) Accept scholarship students on an entirely random
88 and religious-neutral basis without regard to the student's past
89 academic history; however, the private or parochial school may
90 give preference in accepting applications to siblings of students
91 who have already been accepted on a random and religious-neutral
92 basis;

93 (f) Be subject to the instruction, curriculum and
94 attendance criteria adopted by an appropriate nonpublic school

95 accrediting body and be academically accountable to the parent or
96 guardian for meeting the educational needs of the student. The
97 private or parochial school must furnish a school profile which
98 includes student performance;

99 (g) Employ or contract with teachers who hold a
100 baccalaureate or higher degree, or have at least three (3) years
101 of teaching experience in public, private or parochial schools, or
102 have special skills, knowledge or expertise that qualifies them to
103 provide instruction in subjects taught;

104 (h) Comply with all state compulsory attendance
105 statutes relating to private schools;

106 (i) Accept as full tuition and fees the amount provided
107 by the state for each student;

108 (j) Agree not to compel any student attending the
109 private or parochial school on an opportunity scholarship to
110 profess a specific ideological belief, to pray or to worship;

111 (k) Adhere to the tenets of its published disciplinary
112 procedures prior to the expulsion of any opportunity scholarship
113 student.

114 (4) **Obligation of program participant.**

115 (a) Any student participating in the opportunity
116 scholarship program must remain in attendance throughout the
117 school year, unless excused by the school for illness or other
118 good cause, and must comply fully with the school's code of
119 conduct.

120 (b) The parent or guardian of each student
121 participating in the opportunity scholarship program must comply
122 fully with the private or parochial school's parental involvement
123 requirements, unless excused by the school for illness or other
124 good cause.

125 (c) The parent or guardian shall ensure that the
126 student participating in the opportunity scholarship program takes
127 all statewide assessments required.

128 (d) A participant who fails to comply with this
129 subsection (4) shall forfeit the opportunity scholarship.

130 (5) **Opportunity scholarship funding and payment.**

131 (a) The maximum opportunity scholarship granted for an
132 eligible student shall be a calculated amount equivalent to the
133 base student cost under the Mississippi Adequate Education
134 Program. In addition, the calculated amount shall include the
135 per-student share of transportation funds, instructional materials
136 funding, technology funding, and other add-on categorical funds as
137 provided for this purpose from state funds. The amount of the
138 opportunity scholarship shall be the calculated amount or the
139 amount of the private or parochial school's tuition and fees,
140 whichever is less. Fees eligible shall include textbook fees, lab
141 fees and other fees related to instruction, including
142 transportation. The district shall report all students who are
143 attending a private or parochial school under this program. The
144 students attending private or parochial schools on opportunity
145 scholarships shall be reported separately from those students
146 reported for purposes of the Mississippi Adequate Education
147 Program. The public, private or parochial school that provides
148 services to students with disabilities shall receive the funding
149 for such services at the appropriate funding level consistent with
150 the provisions of state law.

151 (b) Following annual notification on July 1 of the
152 number of participants, the Department of Education shall transfer
153 from each school district's appropriated funds the calculated
154 amount from the Mississippi Adequate Education Program and
155 authorized categorical accounts to a separate account for the
156 Opportunity Scholarship Program for quarterly disbursement to the
157 parents or guardians of participating students.

158 (c) Upon proper documentation reviewed and approved by
159 the Department of Education, the State Fiscal Officer shall make
160 opportunity scholarship payments in four (4) equal amounts no

161 later than September 1, November 1, February 1 and April 1 of each
162 academic year in which the opportunity scholarship is in force.
163 The initial payment shall be made after Department of Education
164 verification of admission acceptance and subsequent payments shall
165 be made upon verification of continued enrollment and attendance
166 at the private or parochial school. Payment must be by individual
167 warrant made payable to the student's parent or guardian and
168 mailed by the Department of Education to the private or parochial
169 school of the parent's or guardian's choice and the parent or
170 guardian shall restrictively endorse the warrant to the private or
171 parochial school.

172 (6) **Liability.** No liability shall arise on the part of the
173 state based on any grant or use of an opportunity scholarship.

174 (7) **Rules.** The State Board of Education may adopt rules to
175 implement the provisions of this section. Rules shall include
176 penalties for noncompliance. However, the inclusion of eligible
177 private or parochial schools within options available to
178 Mississippi public school students does not expand the regulatory
179 authority of the state, its officers, or any school district to
180 impose any additional regulation of private or parochial schools
181 beyond those reasonably necessary to enforce requirements set
182 forth in this section.

183 (8) **Openings for nonresident students.** Each private and
184 parochial school choosing to participate in the open enrollment
185 policy shall establish the maximum number of students which may be
186 enrolled under the policy in each particular grade or program in
187 the school. These numbers shall be reported to the State
188 Department of Education before the date on which applications are
189 made available to students.

190 (9) **Transportation.** The parent, guardian or custodian of a
191 student enrolled in a private or parochial school under the
192 opportunity scholarship program shall be responsible for

193 transporting the student to and from school or a regular bus stop
194 in that school's attendance area.

195 **SECTION 2.** This act shall take effect and be in force from
196 and after July 1, 2005.