

By: Representative Moore

To: Education

HOUSE BILL NO. 906

1 AN ACT TO CREATE THE OPPORTUNITY SCHOLARSHIP PROGRAM TO
 2 PROVIDE LOW INCOME PUBLIC SCHOOL STUDENTS AN OPPORTUNITY TO ATTEND
 3 AN APPROVED NONPUBLIC SCHOOL; TO PRESCRIBE ELIGIBILITY CRITERIA
 4 FOR STUDENTS TO RECEIVE SCHOLARSHIPS AND FOR NONPUBLIC SCHOOLS TO
 5 PARTICIPATE IN THE PROGRAM; TO REQUIRE THE STATE BOARD OF
 6 EDUCATION TO SELECT A SCHOLARSHIP GRANTING ORGANIZATION TO
 7 ADMINISTER THE PROGRAM; TO PROVIDE AN INCOME TAX CREDIT FOR
 8 CONTRIBUTIONS TO THE PROGRAM; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** (1) There is created the Opportunity Scholarship
 11 Program, the purpose of which is to give low income public school
 12 students an opportunity to enroll in and attend an approved
 13 nonpublic school. The program shall be administered by a
 14 scholarship granting organization (SGO) selected by the State
 15 Board of Education, as required under Section 6 of this act.

16 (2) A public school student's parent or guardian may request
 17 and receive from the SGO an opportunity scholarship for the
 18 student to enroll in an approved nonpublic school in accordance
 19 with the provisions of this section if:

20 (a) (i) The public school that the student attended in
 21 the preceding school year was graded "D" or "F" in that school



22 year and in two (2) school years during a period of four (4)
23 years, and the student attended the school during a school year in
24 which the school was graded "D" or "F"; or

25 (ii) The student is entering kindergarten or first
26 grade and lives or will live within the attendance zone of a
27 school described under subparagraph (i) of this paragraph during
28 the next school year;

29 (b) The family income of the student is up to two
30 hundred fifty percent (250%) of the established poverty level; and

31 (c) The parent or guardian has obtained acceptance for
32 admission of the student to an approved nonpublic school and has
33 notified the SGO and the school district of the request for an
34 opportunity scholarship before July 1 of the first year in which
35 the student intends to use the scholarship.

36 (3) This section does not apply to students enrolled in a
37 school operating to provide educational services to youth in a
38 juvenile justice system commitment program.

39 **SECTION 2.** (1) For each school that has been graded "D" or
40 "F" for two (2) school years during a period of four (4) years,
41 the school district in which the school is located shall provide
42 timely notice to the parents and guardians of students enrolled in
43 or assigned to the "D" or "F" school of all options available for
44 students under this act. The notice from the school district must
45 be given to parents and guardians as soon as the "D" or "F"



46 designation has been assigned to the school by the State Board of
47 Education.

48 (2) Any transportation costs that may be incurred for a
49 student to attend an approved nonpublic school on an opportunity
50 scholarship shall be the responsibility of the parent or guardian
51 of the student.

52 **SECTION 3.** (1) To be eligible to participate in the
53 Opportunity Scholarship Program, a school must be a nonpublic
54 school operating in Mississippi, may be sectarian or nonsectarian,
55 and must:

56 (a) Demonstrate fiscal soundness by being in operation
57 for one (1) school year or provide the State Department of
58 Education with a statement by a certified public accountant
59 confirming that the school desiring to participate is insured. In
60 addition, the owner or owners of the nonpublic school must have
61 sufficient capital or credit to operate the school for the
62 upcoming school year, serving the number of students anticipated
63 with expected revenues from tuition and other sources that
64 reasonably may be expected. In lieu of such a statement from a
65 certified public accountant, a surety bond or letter of credit for
66 an amount equal to the opportunity scholarship funds available for
67 any quarter may be filed with the department.

68 (b) Notify the State Department of Education of its
69 intent to participate in the program before May 1 of the school
70 year preceding the school year in which the school intends to



71 participate. The notice must specify the grade levels and
72 services that the school has available for the Opportunity
73 Scholarship Program.

74 (c) Comply with the antidiscrimination provisions of 42
75 USCS sec. 2000d.

76 (d) Meet state and local health and safety laws and
77 codes.

78 (e) Accept scholarship students on an entirely random
79 and religious-neutral basis without regard to a student's past
80 academic history; however, the school may give preference in
81 accepting applications to siblings of students who already have
82 been accepted on a random and religious-neutral basis.

83 (f) Be academically accountable to the parent or
84 guardian for meeting the educational needs of the student. The
85 school must furnish to the parent or guardian a school profile
86 that includes student performance.

87 (g) Employ or contract with teachers who: hold a
88 baccalaureate or higher degree; have at least three (3) years of
89 teaching experience in public or nonpublic schools; or have
90 special skills, knowledge or expertise that qualifies them to
91 provide instruction in subjects taught.

92 (h) Comply with all state statutes relating to
93 nonpublic schools.



94 (i) Adhere to the tenets of its published disciplinary
95 procedures before the expulsion of any opportunity scholarship
96 student.

97 (2) The State Board of Education shall determine eligible
98 nonpublic schools based upon the criteria set forth in subsection
99 (1) of this section and shall maintain a list of approved
100 nonpublic schools.

101 **SECTION 4.** (1) Any student participating in the Opportunity
102 Scholarship Program must comply fully with the nonpublic school's
103 code of conduct.

104 (2) The parent or guardian of each student participating in
105 the Opportunity Scholarship Program must comply fully with the
106 nonpublic school's parental involvement requirements, unless
107 excused by the school for illness or other good cause.

108 **SECTION 5.** (1) The maximum opportunity scholarship that may
109 be granted for an eligible student must be a calculated amount
110 equal to ninety percent (90%) of the base student cost, as
111 determined under the Mississippi Adequate Education Program, or
112 the amount of the approved nonpublic school's cost of educating
113 the child, whichever is less. Fees eligible for reimbursement
114 from the scholarship must include textbook fees, laboratory fees
115 and other fees related to instruction.

116 (2) No liability on the part of the state shall arise based
117 on any grant or use of an opportunity scholarship.



118 SECTION 6. (1) The State Board of Education shall select a
119 scholarship granting organization (SGO) to serve as the
120 administrator of the Opportunity Scholarship Program and shall
121 establish compensation for services performed by the SGO. The SGO
122 shall demonstrate to the board that it has been granted exemption
123 from the federal income tax as an organization described in
124 Section 501(c)(3) of the Internal Revenue Code.

125 (2) The SGO shall:

126 (a) Create a fund to be designated the "Opportunity
127 Scholarship Fund," which shall consist of money designated for
128 deposit into the fund from gifts, donations or contributions from
129 individuals, corporations or any other source, public or private.
130 Unexpended monies in the fund and earned interest may not be used
131 or expended for any purpose except as authorized by this act.

132 (b) Notify the State Department of Education of
133 scholarships awarded to students attending approved nonpublic
134 schools.

135 (c) Distribute periodic scholarship payments as checks
136 made out to a student's parent or guardian and mailed to the
137 approved nonpublic school where the student is enrolled. The
138 parent or guardian must endorse the check before it may be
139 deposited.

140 (d) Provide a receipt approved by the State Department
141 of Education to taxpayers for contributions made to the SGO.



142 (e) Ensure that at least ninety-three percent (93%) of
143 its revenue from donations is spent on scholarships and that all
144 revenue from interest or investments is spent on scholarships.

145 (f) Ensure that scholarships are portable during the
146 school year and can be used at any approved nonpublic school that
147 accepts the eligible student according to a parent or guardian's
148 wishes. If a student moves to a new approved nonpublic school
149 during a school year, the scholarship amount may be prorated.

150 (g) Publicly report to the State Department of
151 Education before June 1 of each year the following information
152 prepared by a certified public accountant regarding grants in the
153 preceding calendar year:

154 (i) The total number and total dollar amount of
155 contributions received by the SGO during the preceding calendar
156 year; and

157 (ii) The total number and total dollar amount of
158 scholarships awarded during the preceding calendar year, the total
159 number and total dollar amount of scholarships awarded during the
160 preceding year to students qualifying for the federal free and
161 reduced-price lunch program, and the percentage of first-time
162 scholarship recipients who were enrolled in a public school during
163 the preceding year.

164 (h) Ensure scholarships are not provided for students
165 to attend a school with paid staff or board members, or their
166 relatives, in common with the SGO.



167 (i) Annually submit to the State Department of
168 Education a financial information report for the organization
169 which complies with uniform financial accounting standards
170 established by the department and conducted by a certified public
171 accountant, certifying that the report is free of material
172 misstatements.

173 (3) Each participating school must demonstrate financial
174 viability, if the school is to receive donations of Fifty Thousand
175 Dollars (\$50,000.00) or more during the school year, by filing
176 with the SGO, before the start of the school year, either:

177 (a) A surety bond payable to the SGO in an amount equal
178 to the aggregate amount of contributions expected to be received
179 during the school year; or

180 (b) Financial information that demonstrates the
181 financial viability of the participating school.

182 (4) (a) The SGO shall ensure that each participating school
183 that accepts its scholarship shall:

184 (i) Annually administer, to all participating
185 students in grades that require testing under the statewide
186 assessment testing program, either the uniform state assessment
187 tests or nationally recognized norm-referenced tests that measure
188 learning gains in math and language arts;

189 (ii) Allow costs of the testing requirements to be
190 covered by the scholarships distributed by the SGO;



191 (iii) Provide the parent or guardian of each
192 student who was tested with a copy of the results of the tests on
193 an annual basis, beginning with the first year of testing;

194 (iv) Provide the test results to the State
195 Department of Education on an annual basis, beginning with the
196 first year of testing;

197 (v) Report student information that will allow the
198 state to aggregate data by grade level, gender, family income
199 level and race; and

200 (vi) Provide graduation rates of participating
201 students to the State Department of Education in a manner
202 consistent with nationally recognized standards.

203 (b) The State Department of Education shall:

204 (i) Ensure compliance with all student privacy
205 laws;

206 (ii) Collect all test results; and

207 (iii) Provide the test results and associated
208 learning gains to the public via a state website after the third
209 year of test and test-related data collection. The findings must
210 be aggregated by the students' grade level, gender, family income
211 level, number of years of participation in the scholarship program
212 and race.

213 (5) Individuals and corporations contributing to the
214 Opportunity Scholarship Fund are eligible for a tax credit under
215 Section 7 of this act. Donations accepted by the SGO in any one



216 (1) calendar year may not exceed Ten Million Dollars
217 (\$10,000,000.00).

218 (6) The SGO shall promulgate rules necessary to effectuate
219 the purposes of this act. The rules must include a means of
220 informing the public of the existence of the Opportunity
221 Scholarship Program and the application process for scholarship
222 candidates.

223 **SECTION 7.** (1) Any individual, corporation or other entity
224 having taxable income in this state is allowed an annual tax
225 credit for taxes imposed by Section 27-7-5 for donations made to
226 the Opportunity Scholarship Fund created by Section 6 of House
227 Bill No. 906, 2013 Regular Session. Any unused portion of the
228 credit may be carried forward for three (3) succeeding tax years.

229 (2) Any donation to the fund must be verified by submission
230 to the Department of Revenue of a copy of the receipt provided to
231 the donor taxpayer by the scholarship granting organization or
232 such other written verification as may be required by the
233 Department of Revenue.

234 (3) The maximum amount of donations accepted by the
235 administrator of the Opportunity Scholarship Program created by
236 House Bill No. 906, 2013 Regular Session, in any one (1) calendar
237 year may not exceed Ten Million Dollars (\$10,000,000.00).

238 **SECTION 8.** Section 7 of this act shall be codified as a new
239 section in Chapter 7, Title 27, Mississippi Code of 1972.



240 **SECTION 9.** This act shall take effect and be in force from
241 and after July 1, 2013.

