

By: Senator(s) Watson

To: Education;
Appropriations

SENATE BILL NO. 2596

1 AN ACT ENTITLED THE "MISSISSIPPI OPPORTUNITY SCHOLARSHIP ACT
2 OF 2014"; TO PROVIDE DEFINITIONS; TO PROVIDE AN OPPORTUNITY
3 SCHOLARSHIP PROGRAM UNDER WHICH LOW-INCOME AND MIDDLE-INCOME
4 STUDENTS IN PERSISTENTLY LOWEST ACHIEVING SCHOOLS AND ANY STUDENT
5 WITH A DISABILITY MAY USE THE STATE PAYMENTS TO THEIR HOME SCHOOL
6 DISTRICT TO PAY TUITION TO ATTEND A NONRESIDENT PUBLIC SCHOOL OR A
7 PARTICIPATING NONPUBLIC SCHOOL; TO PROVIDE FOR A 3-YEAR PHASE-IN
8 OF THIS OPPORTUNITY SCHOLARSHIP PROGRAM; TO PROVIDE STANDARDS FOR
9 THE RECEIPT AND CALCULATION OF SUCH SCHOLARSHIPS; TO ESTABLISH AN
10 OPPORTUNITY SCHOLARSHIP FUND; TO PROVIDE FOR THE PHASED-IN
11 REDUCTION OF ADEQUATE EDUCATION FUND PAYMENTS IN RESIDENT SCHOOL
12 DISTRICTS IN THE AMOUNT OF SUCH SCHOLARSHIP PAYMENTS; TO ESTABLISH
13 AND EMPOWER AN EDUCATION OPPORTUNITY BOARD WITHIN THE STATE
14 DEPARTMENT OF EDUCATION TO ADMINISTER THE OPPORTUNITY SCHOLARSHIP
15 PROGRAM; TO PROVIDE FOR AN OPTIONAL LOCAL TUITION GRANT PROGRAM
16 FOR SUCH STUDENTS; TO PROVIDE FOR A MIDDLE-INCOME SCHOLARSHIP
17 PROGRAM; TO PRESCRIBE LIMITATIONS AND REQUIRE ANNUAL REPORTING;
18 AND FOR RELATED PURPOSES.

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

20 **SECTION 1. Short title.** This act shall be known and may be
21 cited as the "Mississippi Opportunity Scholarship Act of 2014."

22 **SECTION 2. Opportunity scholarships.** (1) The Legislature
23 finds that:

24 (a) Pursuant to Section 201 of the Mississippi
25 Constitution of 1890, the Legislature has the responsibility to
26 provide for the maintenance and support of a thorough and



27 efficient system of public education to serve the needs of this
28 state.

29 (b) Parents are best suited to choose the most
30 appropriate means of education for their school-age children.

31 (c) Providing diverse educational opportunities for the
32 children of this state is a civic and civil rights imperative and
33 a matter of serious concern.

34 (d) The importance of providing educational choices
35 that will meet the needs of parents and the need to maintain and
36 support an effective system of education make it imperative to
37 provide for the increased availability of diverse opportunities,
38 including both public and nonpublic programs of education, to
39 benefit all citizens of this state.

40 (e) Public schools are the foundation of the system of
41 education in this state. Further, Mississippi's long-standing
42 tradition of local control of public education allows communities
43 to adapt their public school programs to meet local needs. For
44 these reasons, a robust program of interdistrict school choice is
45 a critical means of providing families with increased educational
46 options within the traditional public school system.

47 (f) The accessibility to families of nonpublic
48 educational alternatives decreases the burden on the state and
49 local school districts and increases the range of educational
50 choices available to Mississippi families, thus providing a
51 benefit to all citizens in Mississippi.



52 (g) It is the long-term goal of the Legislature to
53 offer assistance to all families in this state, in order to
54 provide every child in this state with diverse educational
55 opportunities and options.

56 (h) As an initial step toward the long-term goal of
57 offering assistance to all Mississippi families, this act provides
58 assistance to disadvantaged school-age children in this state who
59 would otherwise attend persistently lowest achieving schools.

60 (i) Many disadvantaged school-age children in this
61 state enjoy comparatively fewer educational opportunities or
62 options than school-age children who possess greater economic
63 means.

64 (j) The programs of educational choice provided in this
65 act are elements of an overall program of providing funds to
66 increase the availability of educational opportunities for
67 school-age children in this state.

68 (k) A comparatively far greater proportion of public
69 funds are and, upon implementation of an educational choice
70 program, will continue to be devoted to the benefit of children
71 enrolled in the public schools of this state. Therefore, an
72 Opportunity Scholarship Program that offers assistance to parents
73 who choose to enroll their children in participating nonpublic
74 schools should be viewed as an integral part of the state's
75 overall program of educational funding and not as an isolated
76 individual program.



77 (1) A program of financial assistance to enhance
78 educational choice in this state, as one (1) element of the
79 state's plan for the funding of diverse educational opportunities
80 for the citizens of this state, will better prepare Mississippi
81 citizens to compete for employment opportunities, will foster
82 development of a more capable and better-educated workforce and
83 will better enable the state to fulfill its obligation of
84 providing children with the opportunity to receive a quality
85 education.

86 **SECTION 3. Definitions.** The following words and phrases
87 when used in this act shall have the meanings given to them in
88 this section unless the context clearly indicates otherwise:

89 (a) "Assessment" means the Mississippi Department of
90 Education System of School Assessment Test, an equivalent local
91 assessment or another test established by the State Board of
92 Education to meet accreditation requirements and required under
93 the No Child Left Behind Act of 2001 (Public Law 107-110, 115
94 Stat. 1425) or its successor federal statute or required to
95 achieve other standards established by the department for the
96 public school or school district under Section 37-17-6, (relating
97 to a single accountability system). "Assessment" shall not
98 include any test or assessment developed by the Partnership for
99 Assessment of Readiness for College and Careers (PARCC) or any
100 other assessment adopted pursuant to the Common Core Standards
101 Initiative.



102 (b) "Average daily attendance" means a school
103 district's average daily attendance as defined in the Adequate
104 Education Program.

105 (c) "Board" means the Education Opportunity Board
106 established under this act.

107 (d) "Department" means the State Department of
108 Education.

109 (e) "Excess Scholarship Fund" or "fund" means the
110 Excess Scholarship Fund established in this act.

111 (f) "Federal poverty line" means the official federal
112 poverty line as defined in Section 673(2) of Subtitle B of the
113 Community Services Block Grant Act (Public Law 97-35, 95 Stat.
114 511), as adjusted from time to time.

115 (g) "Household income" means income as used for the
116 purposes of determining eligibility for a free lunch under the
117 Richard B. Russell National School Lunch Act (60 Stat. 230, 1751
118 et seq.).

119 (h) "Kindergarten" means a one-year formal kindergarten
120 program that occurs during the school year immediately prior to
121 First Grade.

122 (i) "Local scholarship" means a scholarship that is
123 both:

124 (i) Funded by the local revenues of a low-income
125 child's resident school district in an amount equal to at least



126 thirty-five percent (35%) of the school district's share of its
127 total revenue per average daily membership; and

128 (ii) Applied toward the low-income child's tuition
129 to attend a nonresident public school or participating nonpublic
130 school.

131 (j) "Low-income child" means a school-age child with a
132 household income that does not exceed one and three tenths (1.3)
133 times the federal poverty line for the school year preceding the
134 school year for which an opportunity scholarship is to be
135 distributed.

136 (k) "Middle-income child" means a school-age child with
137 a household income that does not exceed three (3) times the
138 federal poverty level for the school year immediately preceding
139 the school year for which an opportunity scholarship is to be
140 distributed.

141 (l) "Middle-income scholarship" means a middle-income
142 scholarship awarded to a middle-income child under this act to pay
143 tuition for the child to attend a nonresident public school or a
144 participating nonpublic school.

145 (m) "Middle-income scholarship recipient" means a
146 middle-income child who is awarded a middle-income scholarship
147 under this act.

148 (n) "Nonpublic school" means a school, other than a
149 public school, located within this state where a Mississippi
150 resident may legally fulfill the compulsory school attendance



151 requirements of Section 37-13-91, and that meets the applicable
152 requirements of Title VI of the Civil Rights Act of 1964 (Public
153 Law 88-352, 78 Stat. 241). The term also includes a full-time or
154 part-time kindergarten program operated by a nonpublic school.

155 (o) "Nonresident public school" means a public school
156 outside a child's resident school district.

157 (p) "Nonresident school district" means a school
158 district other than the school district in which a school-age
159 child resides.

160 (q) "Nonresident student" means a school-age child
161 attending a public school outside the child's resident school
162 district.

163 (r) "Opportunity scholarship" means an opportunity
164 scholarship awarded to a low-income child under this act to pay
165 tuition for the child to attend a nonresident public school or a
166 participating nonpublic school.

167 (s) "Opportunity Scholarship Program" or "program"
168 means the Opportunity Scholarship Program established under this
169 act.

170 (t) "Opportunity scholarship recipient" means a
171 low-income child who is awarded an opportunity scholarship under
172 this act.

173 (u) "Parent" means a Mississippi resident who is a
174 parent or guardian of a compulsory-school-age child.



175 (v) "Participating nonpublic school" means a nonpublic
176 school located in this state and offering a program of instruction
177 for Kindergarten through 12th Grade, or a combination of grades,
178 that certifies to the board under Section 6 of this act that it
179 meets the following criteria:

180 (i) The nonpublic school is a nonprofit entity
181 that is exempt from federal taxation under Section 501(c)(3) of
182 the Internal Revenue Code of 1986 (Public Law 99-514, 26 USC
183 Section 1 et seq.);

184 (ii) The nonpublic school does not discriminate in
185 its admission policies or practices for opportunity scholarship
186 applicants on the basis of measures of achievement or aptitude or
187 status as a handicapped person; provided, however, that an
188 applicant may be required to meet established eligibility criteria
189 for participation in magnet schools or in schools with specialized
190 academic missions; and

191 (iii) The nonpublic school is in full compliance
192 with all federal and state laws applicable to nonpublic schools on
193 the date prior to the effective date of this act.

194 (w) "Persistently lowest achieving school" means a
195 public elementary or secondary school within this state that is
196 among the lowest performing twenty percent (20%) of schools. To
197 determine the lowest performing twenty percent (20%) of schools,
198 the State Department of Education shall:



199 (i) Consider all public schools in this state,
200 with the exception of charter schools, area vocational-technical
201 schools, schools that do not draw their student body from a
202 particular attendance boundary, and schools with specialized
203 academic programs with specific admissions criteria;

204 (ii) Exclude schools that have made adequate
205 yearly progress or were determined to be making progress for at
206 least one (1) of the two (2) most recent school years or that have
207 not been measured for adequate yearly progress in one (1) of the
208 two (2) most recent school years;

209 (iii) Rank all remaining schools based upon their
210 performance on the most recent assessment for which data is posted
211 on the department's publicly accessible internet website; and

212 (iv) Include the lowest performing ten (10)
213 schools ranked under subparagraph (iii) of this paragraph on a
214 list of persistently lowest achieving schools.

215 (x) "Resident school district" means the school
216 district in which a school-age child resides.

217 (y) "School-age child" means a compulsory-school-age
218 child enrolling in Grades 1 through 12 pursuant to Section
219 37-13-91.

220 (z) "Student with a disability" means a school-age
221 child who has been identified, in accordance with special
222 education services and programs, as a "child with a disability,"



223 as defined in 34 CFR Section 300.8 (relating to a child with a
224 disability).

225 (aa) "Total revenue per average daily attendance" means
226 a school district's total revenue per average daily attendance
227 minus the amount of reimbursement to the school district from the
228 Adequate Education Program for pupil transportation.

229 **SECTION 4. Opportunity Scholarship Program.** (1)

230 **Establishment.** Beginning with the 2014-2015 school year, the
231 Opportunity Scholarship Program shall be established to provide
232 scholarships to help low-income children pay tuition to attend a
233 nonresident public school or a participating nonpublic school.

234 (2) **Phase-in.** The Opportunity Scholarship Program shall be
235 phased in as follows:

236 (a) During the 2014-2015 school year, the Opportunity
237 Scholarship Program shall be available to low-income children who
238 satisfy both of the following:

239 (i) Either attended a persistently lowest
240 achieving school during the 2013-2014 school year or will be a
241 kindergarten student during the 2014-2015 school year; and

242 (ii) Will reside within the attendance boundary of
243 a persistently lowest achieving school as of the first day of
244 classes of the 2014-2015 school year; or

245 (iii) Student has a documented disability under
246 the federal IDEA law and requires services that are available in a



247 nonresident or nonpublic special purpose school, as determined by
248 the State Department of Education.

249 (b) During the 2015-2016 school year, the Opportunity
250 Scholarship Program shall be available to children who qualified
251 for the program for the 2014-2015 school year under paragraph (a)
252 of this subsection and to low-income children who will reside
253 within the attendance boundary of a persistently lowest achieving
254 school as of the first day of classes of the 2015-2016 school
255 year.

256 (c) (i) During the 2016-2017 school year and each
257 school year thereafter, the Opportunity Scholarship Program shall
258 be available to all low-income children residing in this state,
259 provided that the aggregate amount of all opportunity scholarships
260 awarded for the 2016-2017 school year and for each school year
261 thereafter to low-income children who do not reside within the
262 attendance boundary of a persistently lowest achieving school as
263 of the first day of classes of the school year shall not exceed
264 Twenty-five Million Dollars (\$25,000,000.00).

265 (ii) Nothing in this paragraph shall be construed
266 to limit the amount of opportunity scholarships awarded to
267 low-income children who were eligible for opportunity scholarships
268 in the 2014-2015 and 2015-2016 school years or who reside within
269 the attendance boundary of a persistently lowest achieving school
270 as of the first day of classes of a school year.



271 (3) **List of persistently lowest achieving schools to be**
272 **published.** By July 1, 2014, and by February 1 of each year
273 thereafter, the department shall publish on the department's
274 publicly accessible Internet website a list of persistently lowest
275 achieving schools that will be in effect for purposes of this act
276 for the following school year. The department shall publish the
277 list based upon the most recent school year for which data is
278 available.

279 (4) **Notice.** (a) For each school year, by a date
280 established by the board, each school district in this state shall
281 post on its publicly accessible Internet website notice of the
282 following:

283 (i) A description of the Opportunity Scholarship
284 Program.

285 (ii) Instructions for applying for an opportunity
286 scholarship.

287 (iii) Instructions for applying for a local
288 scholarship where the school district has elected to provide a
289 local scholarship under Section 5 of this act.

290 (iv) A statement as to whether any schools in the
291 school district have been designated by the department as
292 persistently lowest achieving schools.

293 (v) Notice that a parent must contact directly the
294 nonresident public school or participating nonpublic school in



295 which the parent's child seeks to enroll for application
296 instructions.

297 (b) The notice shall be in a form provided by the
298 board.

299 **SECTION 5. Opportunity scholarship to attend a nonresident**
300 **public school or a participating nonpublic school. (1)**

301 **Eligibility.** A low-income child who is eligible to participate in
302 the Opportunity Scholarship Program may receive an opportunity
303 scholarship to pay tuition to attend a nonresident public school
304 or a participating nonpublic school that accepts a child's
305 enrollment application under subsection (4) of this section.

306 (2) **Local scholarship.** A school district may elect to
307 provide a local scholarship to low-income children residing within
308 the school district to pay tuition to attend a nonresident public
309 school or a participating nonpublic school that accepts a child's
310 enrollment application under subsection (4) of this section. A
311 school district that elects to provide a local scholarship shall:

312 (a) By a date established by the board, notify all
313 residents of the school district of the availability and amount of
314 the local scholarship for the following school year and the
315 process by which a low-income child may apply to the board to
316 receive the opportunity and local scholarships. The school
317 district shall post the notice on the school district's publicly
318 accessible Internet website. The notice may be incorporated into



319 the notice the school district is required to provide under
320 Section 4 of this act.

321 (b) By a date established by the board, notify the
322 board of the availability and amount of the local scholarship for
323 the following school year.

324 (c) When directed to do so by the board, pay to the
325 board the local scholarship for each low-income child residing in
326 the district who the board determines to be eligible for the local
327 scholarship and who the board confirms has enrolled in a
328 nonresident public school or a participating nonpublic school.

329 (d) Comply with all guidelines developed by the board
330 under Section 10 of this act.

331 (3) **Application for opportunity and local scholarships.** (a)
332 By a date established by the board and pursuant to guidelines
333 developed by the board under Section 10 of this act, the parent of
334 a low-income child may apply to the board:

335 (i) For an opportunity scholarship for the
336 following school year.

337 (ii) For a local scholarship for the following
338 school year, where the low-income child's resident school district
339 has elected to provide a local scholarship under subsection (2) of
340 this section.

341 (b) By a date established by the board, the board shall
342 notify parents whether the scholarships for which the student
343 applied will be awarded for the following school year.



344 (4) **Application for enrollment in a nonresident public**
345 **school or a participating nonpublic school.** (a) By a date
346 established by the board, the parent of a low-income child who has
347 been awarded a scholarship under subsection (3) of this section
348 may apply to one or more nonresident public schools or a
349 participating nonpublic school for enrollment of the child for the
350 following school year. The application shall be on a form
351 provided by the nonresident school district.

352 (b) (i) By a date established by the board, the
353 nonresident school district shall provide written notice to the
354 parent and the board as to whether the child will be offered
355 enrollment in the requested nonresident public school for the
356 following school year.

357 (ii) By a date established by the board, the
358 parent must provide written notice to the board, the resident
359 school district and the nonresident school district whether the
360 offer of enrollment will be accepted.

361 (iii) By a date established by the board, the
362 board shall provide the resident school district and the
363 nonresident school district with written confirmation of the
364 opportunity scholarship recipient's enrollment in the nonresident
365 school district.

366 (iv) If the child is not enrolled in a nonresident
367 public school or a participating nonpublic school, the child's



368 resident school district shall determine the public school within
369 the resident school district to which the child will be assigned.

370 (c) Each school district shall develop guidelines
371 setting forth the terms and conditions under which it will enroll
372 nonresident students receiving opportunity and local scholarships
373 and shall develop an enrollment application form and process. If
374 a school district determines to enroll nonresident students
375 receiving opportunity and local scholarships, the school district
376 must enroll such nonresident students on a random basis from a
377 pool of applicants who meet the application deadline established
378 by the board, provided that:

379 (i) The nonresident student's enrollment in the
380 nonresident school district would not place either the nonresident
381 school district or the resident school district in violation of a
382 valid and binding desegregation order;

383 (ii) The nonresident student has not been expelled
384 nor is the nonresident student in the process of being expelled
385 under applicable regulations of the State Board of Education;

386 (iii) The nonresident student has not been
387 recruited by the school district or its representatives for
388 athletic purposes; or

389 (iv) The nonresident student meets the established
390 eligibility criteria for participation in a magnet school or in a
391 public school with a specialized academic mission.



392 (d) A nonresident school district may give priority in
393 enrollment to a nonresident student who has been awarded a local
394 scholarship.

395 (5) **State payments.** The state shall make payment pursuant
396 to the schedule contained in Section 7 of this act to each school
397 district or area vocational-technical school that accepts a
398 nonresident student under the provisions of this act subject to
399 the following terms and conditions:

400 (a) The state shall pay to each school district or area
401 vocational-technical school that accepts a nonresident student, on
402 a tuition basis, the amount determined under Section 7 of this
403 act.

404 (b) (i) For a nonresident student who is an
405 opportunity scholarship recipient and defined as a "student with a
406 disability," services provided to the opportunity scholarship
407 recipient shall be charged against the state's special education
408 payments to the resident school district, provided that the
409 resident school district shall not be charged more for services
410 provided to the opportunity scholarship recipient by the
411 nonresident school district than the difference between the
412 current year cost of the services had the opportunity scholarship
413 recipient remained in the resident school district and the sum of
414 the opportunity scholarship, the local scholarship and the
415 per-pupil special education funding following the opportunity
416 scholarship recipient.



417 (ii) The resident school district shall provide
418 the board with documentation of the prior year's cost of services
419 provided to the opportunity scholarship recipient and an estimate
420 of the cost of providing those services in the current year had
421 the opportunity scholarship recipient remained in the resident
422 school district. Any cost not covered by this funding shall be
423 paid by the nonresident school district enrolling the opportunity
424 scholarship recipient.

425 (c) An opportunity scholarship recipient shall be
426 included in the average daily attendance of the opportunity
427 scholarship recipient's resident school district.

428 (d) In the event an opportunity scholarship recipient
429 withdraws from a nonresident school district prior to the
430 completion of the school year, the following shall apply:

431 (i) The nonresident school district shall, within
432 fifteen (15) days of the opportunity scholarship recipient's
433 withdrawal from the nonresident school district, provide the board
434 with written notice of the opportunity scholarship recipient's
435 withdrawal from the nonresident school district.

436 (ii) The resident school district, nonresident
437 school district or participating nonpublic school in which the
438 opportunity scholarship recipient subsequently enrolls shall
439 notify the board within five (5) days of the opportunity
440 scholarship recipient's enrollment.



441 (iii) Within thirty (30) days after receiving the
442 notice required under subparagraph (ii) of this paragraph, the
443 board shall do the following:

444 1. If the opportunity scholarship recipient
445 enrolls in the resident school district or a nonresident school
446 district, pay the resident school district or nonresident school
447 district the full amount of the opportunity scholarship payment
448 reduced on a pro rata basis for the portion of the school year in
449 which the opportunity scholarship recipient was enrolled in
450 another school.

451 2. If the opportunity scholarship recipient
452 enrolls in a participating nonpublic school, pay the opportunity
453 scholarship recipient's parent the full amount of the opportunity
454 scholarship payment reduced on a pro rata basis for the portion of
455 the school year in which the opportunity scholarship recipient was
456 enrolled in another school. Such payment shall be made to the
457 parents of the opportunity scholarship recipient pursuant to the
458 provisions of Section 6(2)(c)(i)1 of this act.

459 (6) **Limitation.** The tuition charged by a nonresident school
460 district to an opportunity scholarship recipient under this
461 section shall not exceed the sum of the opportunity scholarship
462 and the local scholarship, if applicable, awarded to the
463 opportunity scholarship recipient.

464 (7) **Transportation.** (a) Notwithstanding any provisions of
465 Section 37-41-1 to the contrary, a school district that provides



466 its resident public school pupils with transportation to and from
467 the resident public schools or to and from any points within or
468 without this state in order to provide field trips shall provide a
469 student who resides within the school district but regularly
470 attends a nonresident public school, including a charter school,
471 that is located not more than ten (10) miles from the student's
472 resident school district by the nearest public highway, with
473 transportation to and from such nonresident public school or to
474 and from any points within or without this state in order to
475 provide field trips.

476 (b) Transportation of a student under this subsection
477 shall be subject to reimbursement.

478 **SECTION 6. Opportunity scholarship to attend a participating**
479 **nonpublic school.** (1) **Eligibility.** The parent of a low-income
480 child who is eligible to receive an opportunity scholarship under
481 Section 4 of this act and desires to apply for an opportunity
482 scholarship to attend a participating nonpublic school must:

483 (a) By a date established by the board, apply to the
484 board for an opportunity scholarship for the following school year
485 pursuant to guidelines developed by the board under Section 10 of
486 this act. By a date established by the board, the board shall
487 notify parents whether the opportunity scholarship will be awarded
488 for the following school year.

489 (b) Apply for enrollment directly to the participating
490 nonpublic school pursuant to application procedures developed by



491 the participating nonpublic school. By a date established by the
492 board, a participating nonpublic school shall provide written
493 confirmation to the board of each opportunity scholarship
494 recipient whose application for enrollment has been accepted for
495 the following school year. By a date established by the board,
496 the board shall provide the opportunity scholarship recipient's
497 resident school district with written confirmation of the
498 opportunity scholarship recipient's enrollment in the
499 participating nonpublic school.

500 (2) **Payment of opportunity scholarship awards.** The state
501 shall provide payment of an opportunity scholarship to the parents
502 of each opportunity scholarship recipient who is enrolled in a
503 participating nonpublic school under the provisions of this
504 section subject to the following terms and conditions:

505 (a) Opportunity scholarships shall be awarded only for
506 the payment of costs of tuition at a participating nonpublic
507 school within this state. Opportunity scholarships shall not be
508 awarded for enrollment in a home education program defined under
509 Section 37-13-91.

510 (b) Opportunity scholarships shall be paid to the
511 parents of an opportunity scholarship recipient upon the board's
512 receipt of written confirmation of enrollment from the
513 participating nonpublic school selected by the recipient. The
514 opportunity scholarship award shall be paid by check which may be
515 endorsed by the parents only for payment of tuition at the



516 participating nonpublic school at which the opportunity
517 scholarship recipient's enrollment has been confirmed.

518 (c) In the event an opportunity scholarship recipient
519 withdraws from a participating nonpublic school prior to the
520 completion of the school year, the following shall apply:

521 (i) The participating nonpublic school shall,
522 within fifteen (15) days of the opportunity scholarship
523 recipient's withdrawal from the participating nonpublic school:

524 1. Provide the board with written notice of
525 the opportunity scholarship recipient's withdrawal from the
526 participating nonpublic school; and

527 2. Return to the board the full amount of the
528 opportunity scholarship payment reduced on a pro rata basis by the
529 tuition for the portion of the school year in which the
530 opportunity scholarship recipient was enrolled.

531 (ii) If the participating nonpublic school fails
532 to submit to the board the amount required to be paid under
533 subparagraph (i) of this paragraph, the board shall impose
534 interest on the unpaid amount, calculated from the due date at the
535 rate determined by the Commissioner of Revenue for interest
536 payments on overdue taxes or the refund of taxes.

537 (iii) If the opportunity scholarship recipient
538 enrolls in another participating nonpublic school within the
539 school year for which the opportunity scholarship was awarded, the
540 board shall pay the parent of the opportunity scholarship



541 recipient the opportunity scholarship award prorated for the
542 remaining portion of the school year.

543 (d) In the event an opportunity scholarship recipient
544 is expelled from a participating nonpublic school prior to the
545 completion of the school year and the opportunity scholarship
546 recipient subsequently enrolls in his resident school district,
547 the board shall pay the resident school district the opportunity
548 scholarship award prorated for the remaining portion of the school
549 year. The resident school district shall apply this amount toward
550 providing educational services for the opportunity scholarship
551 recipient, which may include, but shall not be limited to, an
552 alternative assignment or alternative education services.

553 (e) **Penalties.** (i) Each opportunity scholarship check
554 issued under this section shall contain the following statement:

555 "FAILURE TO ENDORSE THIS CHECK AS DIRECTED BY THE BOARD
556 MAY SUBJECT THE ENDORSER TO CIVIL PENALTIES AND CRIMINAL
557 PROSECUTION."

558 (ii) A parent's endorsement or use of an
559 opportunity scholarship check in a manner other than as directed
560 by the department may subject the parent to the following
561 penalties:

562 1. A civil penalty equal to three hundred
563 percent (300%) of the full amount of the annual opportunity
564 scholarship award made to the parent.



565 2. Disqualification from future eligibility
566 for an opportunity scholarship.

567 3. Criminal prosecution.

568 (3) **Enrollment requirements.** The following shall apply to a
569 participating nonpublic school which admits an opportunity
570 scholarship recipient:

571 (a) The participating nonpublic school shall not
572 discriminate on any basis that is illegal under federal or state
573 laws applicable to nonpublic schools on the date prior to the
574 effective date of this act.

575 (b) The participating nonpublic school shall prohibit
576 discrimination in enrollment on the basis of race or color.

577 (c) The participating nonpublic school may not recruit
578 any public school student to enroll for athletic purposes.

579 (d) For each school year, by a date established by the
580 board, a nonpublic school that desires to enroll opportunity
581 scholarship recipients under this act shall certify to the board
582 that it satisfies the definition of "participating nonpublic
583 school" in Section 3 of this act. Such certification shall be on
584 a form developed by the board.

585 (4) **Policies.** Upon request, a participating nonpublic
586 school shall make available for review by the parents of any
587 opportunity scholarship recipient seeking enrollment, its written
588 school policies and procedures related to tuition charges,
589 admissions, academic offerings and requirements, discipline,



590 religious instruction, parent involvement, standardized testing,
591 the release of results of standardized tests administered by the
592 participating nonpublic school, and extracurricular activities,
593 and suspension and expulsion of students, including educational
594 accommodations and counseling offered to students and parents.

595 (5) **Assessments.** (a) (i) Each participating nonpublic
596 school shall administer annually an assessment or a nationally
597 normed standardized achievement test in reading/language arts and
598 mathematics to each opportunity scholarship recipient attending
599 the participating nonpublic school in Grades 3, 5, 8 and 11.

600 (ii) To comply with this paragraph, a
601 participating nonpublic school may either administer an assessment
602 or administer a nationally normed standardized achievement test
603 chosen by the participating nonpublic school from a list
604 established under paragraph (b) of this subsection.

605 (b) The board shall establish a list of at least eight
606 (8) nationally normed standardized achievement tests from which
607 the participating nonpublic school shall select a test to be
608 administered if the participating nonpublic school does not choose
609 to administer an assessment.

610 (c) Each participating nonpublic school shall:

611 (i) release each opportunity scholarship
612 recipient's individual results on the assessment or nationally
613 normed standardized achievement test administered to opportunity



614 scholarship recipients under paragraph (a) of this subsection to
615 the parent of the opportunity scholarship recipient.

616 (ii) If the participating nonpublic school has a
617 publicly accessible Internet website, post on the website the
618 participating nonpublic school's aggregate results on the
619 assessment or nationally normed standardized achievement test
620 administered to opportunity scholarship recipients under paragraph
621 (a) of this subsection, provided that the participating nonpublic
622 school shall not post results that reveal the identity of any
623 individual student.

624 (d) The participating nonpublic school shall bear the
625 cost of the testing administered under this subsection and shall
626 not impose an assessment or testing fee on an opportunity
627 scholarship recipient.

628 (6) **Construction.** Nothing in this section shall be
629 construed to:

630 (a) Prohibit a participating nonpublic school from
631 limiting admission to a particular grade level, a single gender or
632 to areas of concentration of the participating nonpublic school,
633 including, but not limited to, mathematics, science and the arts.

634 (b) Empower the state or any of its agencies or
635 officers or political subdivisions to impose any additional
636 requirements on any participating nonpublic school which are not
637 otherwise authorized under the laws of this state or to require
638 any participating nonpublic school to enroll any opportunity



639 scholarship recipient if the participating nonpublic school does
640 not offer appropriate programs or is not structured or equipped
641 with the necessary facilities to meet the special needs of the
642 opportunity scholarship recipient or does not offer a particular
643 program requested.

644 **SECTION 7. Amount of opportunity scholarship.** (1)

645 **Calculation.** (a) The amount of the opportunity scholarship shall
646 equal one hundred percent (100%) of the state's share of the
647 resident school district's total revenue per average daily
648 attendance of the prior school year.

649 (b) In no case shall the combined amount of the
650 opportunity scholarship award and any additional financial
651 assistance provided by a participating nonpublic school exceed the
652 tuition rate for the participating nonpublic school.

653 (2) **Limitation.** No nonresident public school or
654 participating nonpublic school may charge an opportunity
655 scholarship recipient a higher tuition rate than the rate the
656 nonresident public school or participating nonpublic school would
657 have charged to a student who had not received an opportunity
658 scholarship.

659 (3) **Excess Scholarship Fund.** (a) The Excess Scholarship
660 Fund is established in the State Treasury and shall be funded by
661 the amount of the opportunity scholarship awarded to an
662 opportunity scholarship recipient under this section in excess of



663 the amount of tuition charged to the opportunity scholarship
664 recipient.

665 (b) The fund shall be administered by the board and
666 applied as follows:

667 (i) During the 2015-2016 school year and each
668 school year thereafter, money in the fund shall be applied toward
669 the costs of the Opportunity Scholarship Program, subject to
670 subparagraph (ii) of this paragraph.

671 (ii) During the 2017-2018 school year and each
672 school year thereafter, one-half (1/2) of the money in the fund
673 shall be applied toward costs of the following programs:

674 1. One-half (1/2) of the money under this
675 subparagraph shall be applied to the public school demonstration
676 grant program. Any unused grant funding shall be added to the
677 total amount of funds available for the middle-income scholarship
678 program.

679 2. One-half (1/2) of the money under this
680 subparagraph shall be applied toward the costs of the
681 middle-income scholarship program.

682 (4) **Annual appropriations.** (a) Opportunity scholarships
683 authorized under this section shall be made from annual
684 appropriations made by the Legislature to the department and
685 monies available in the fund for that purpose.

686 (b) In the event that insufficient monies are available
687 in any fiscal year to provide opportunity scholarships to all



688 eligible opportunity scholarship recipients in the amount
689 authorized, the board shall make pro rata reductions in the amount
690 of the opportunity scholarship provided to each opportunity
691 scholarship recipient.

692 (c) The total amount of opportunity scholarships
693 provided in any fiscal year shall be limited to the amount of
694 money appropriated for that fiscal year and monies in the fund.

695 (5) **Nontaxable.** Opportunity scholarship funds received by a
696 parent pursuant to this section shall not be considered taxable
697 income for purposes of Mississippi income tax provisions, nor
698 shall such opportunity scholarships constitute financial
699 assistance or appropriations to the participating nonpublic school
700 attended by the opportunity scholarship recipient.

701 (6) **Continued eligibility.** (a) Subject to subsection (4)
702 of this section, a child enrolled in a nonresident public school
703 or a participating nonpublic school who received an opportunity
704 scholarship under this section in the prior school year shall
705 receive an opportunity scholarship in each school year of
706 enrollment under the Opportunity Scholarship Program, provided
707 that the child remains eligible.

708 (b) (i) If a child who received an opportunity
709 scholarship under this section in the prior school year ceases to
710 qualify as a low-income child, the child shall continue to receive
711 a partial scholarship until completing the eighth grade, provided



712 that the child continues to meet all other eligibility
713 requirements.

714 (ii) In calculating the amount of the partial
715 scholarship, the board shall make a pro rata reduction in the
716 child's opportunity scholarship award based upon the child's
717 household income.

718 (7) **Penalties.** Any person who fraudulently submits an
719 opportunity or local scholarship application or who knowingly
720 falsifies material information on an opportunity or local
721 scholarship application shall be subject to the following
722 penalties:

723 (a) Imposition by the board of a civil penalty of up to
724 One Thousand Dollars (\$1,000.00); and

725 (b) Disqualification from future participation in the
726 Opportunity Scholarship Program.

727 (8) **Residence in more than one (1) school district within a**
728 **school year.** Where an opportunity scholarship recipient resides
729 within more than one (1) school district during a school year, the
730 amount of the opportunity scholarship shall be charged against
731 each resident school district on a pro rata basis.

732 **SECTION 8. Guidelines.** (1) **Requirements.** Within thirty
733 (30) days of the effective date of this act, the board shall
734 establish guidelines that provide the following:



735 (a) Forms to apply for opportunity and local
736 scholarships, including application and approval processes and
737 deadlines for application and notification.

738 (b) Procedures to verify the accuracy of the
739 information provided in an opportunity or local scholarship
740 application.

741 (c) Procedures for school district, school and parent
742 notification of opportunity or local scholarship awards.

743 (d) Procedures for administration of the opportunity
744 and local scholarship programs.

745 (e) Confirmation of school enrollment by opportunity
746 scholarship recipients.

747 (f) Procedures for making payment of opportunity
748 scholarship awards, including policies and procedures to minimize
749 the likelihood of fraud or misuse of opportunity scholarship
750 funds. For an opportunity scholarship recipient enrolled in a
751 participating nonpublic school, the procedures shall include
752 restrictive endorsement of opportunity scholarship award checks to
753 the participating nonpublic school in which the opportunity
754 scholarship recipient is enrolled.

755 (g) Procedures for participating nonpublic schools to
756 pay pro rata refunds of opportunity scholarships to the board when
757 an opportunity scholarship recipient withdraws from a
758 participating nonpublic school during the school year for which
759 the opportunity scholarship was paid.



760 (h) Development and distribution of public information
761 concerning the opportunity and local scholarship and interdistrict
762 enrollment programs.

763 (i) Procedures to determine the eligibility of homeless
764 students for opportunity scholarships under this section.

765 (j) Deadline dates for actions required to be taken by
766 the board, the department, school districts, participating
767 nonpublic schools and parents under this section.

768 (k) Such other procedures as are necessary to fully
769 implement the opportunity and local scholarship and interdistrict
770 enrollment programs.

771 (l) A list of at least eight (8) nationally normed
772 standardized achievement tests from which a participating
773 nonpublic school may select a test to be administered pursuant to
774 Section 6 of this act. The initial list developed by the board
775 shall, at a minimum, include the following: California
776 Achievement Test, Comprehensive Testing Program (CTPIV), Iowa Test
777 of Basic Skills, Metropolitan Achievement Test, Peabody
778 Achievement Individual Test Revised Version, Stanford Achievement
779 Test, Terra Nova and Woodcock Johnson Revised Tests of Achievement
780 III.

781 (2) **Publication.** The guidelines shall be published as a
782 statement of policy. The board shall post the guidelines on the
783 department's publicly accessible Internet website.



784 (3) **State Board of Education.** Notwithstanding any other
785 provision of law to the contrary, the programs, procedures and
786 guidelines authorized by this section shall not be subject to
787 review, regulation or approval by the State Board of Education.

788 **SECTION 9. Reduction in amount of school aid.**

789 Notwithstanding any other provision of law to the contrary,
790 beginning in the first school year of enrollment in a nonresident
791 public school or a participating nonpublic school by an
792 opportunity scholarship recipient who was enrolled in the
793 recipient's resident school district or in a charter school when
794 the recipient first received an opportunity scholarship under this
795 act, the amount of Mississippi Adequate Education Program funding
796 paid by the department to the resident school district shall be
797 reduced by an amount equal to (a) fifty percent (50%) of the
798 state's share of the school district's total revenue per average
799 daily attendance, and (b) one hundred percent (100%) of the
800 state's share of the school district's total revenue per average
801 daily attendance in the second consecutive year of enrollment.

802 **SECTION 10. Education Opportunity Board. (1)**

803 **Establishment.** An independent board to be known as the Education
804 Opportunity Board is established to be administratively located
805 within the department. The board shall consist of three (3)
806 members appointed by the Governor with the advice and consent of
807 the Senate.



808 (2) **Terms of members.** Members of the board shall serve a
809 term of four (4) years. Vacancies shall be filled for an
810 unexpired term in the same manner as original appointments.
811 Members shall continue to serve after the expiration of their term
812 until the Governor appoints a replacement who is confirmed by the
813 Senate. All members of the board must be residents of this state.

814 (3) **Chairperson.** The Governor shall annually select a
815 chairperson from among the membership of the board.

816 (4) **Meetings.** Meetings shall be held at the call of the
817 chairperson or upon request in writing of a majority of the board.
818 A majority shall constitute a quorum and a majority of such quorum
819 shall have the authority to act upon any matter properly before
820 the board unless otherwise specified in this act.

821 (5) **Compensation prohibited.** Members of the board shall
822 receive no compensation for their services but shall be reimbursed
823 for their actual and necessary expenses incurred in the
824 performance of their official board duties.

825 (6) **Executive director and staff.** (a) There shall be an
826 executive director of the board who shall serve as the executive
827 officer and secretary of the board. The board shall employ and
828 fix the reasonable compensation of the executive director.

829 (b) The executive director, with approval of the board,
830 may employ additional professional and clerical personnel as may
831 be necessary to carry out the duties and responsibilities of the
832 board.



833 (c) The department shall provide adequate funding,
834 space and equipment to facilitate the activities of the board.

835 (7) **Legal advice and assistance.** The Attorney General shall
836 provide such legal advice and assistance as the board may require.

837 (8) **Powers and duties.** The board shall have the following
838 powers and duties:

839 (a) Establish guidelines for the administration of the
840 opportunity and local scholarship programs as required under this
841 act.

842 (b) Administer the opportunity and local scholarship
843 application and approval processes.

844 (c) Develop the opportunity and local scholarship
845 application form and any other forms necessary to administer the
846 opportunity and local scholarship programs, including the notice
847 required to be provided by school districts under Section 4 of
848 this act.

849 (d) Review and verify the income and residence of
850 opportunity and local scholarship applicants.

851 (e) Announce the award of opportunity and local
852 scholarships for the following school year under Sections 5 and 6
853 of this act.

854 (f) Confirm the enrollment of opportunity scholarship
855 recipients in nonresident public schools and participating
856 nonpublic schools and allocate opportunity scholarship funds to
857 opportunity scholarship recipients.



858 (g) Make payment of opportunity scholarship awards as
859 provided in Sections 5 and 6 of this act.

860 (h) Notify school districts that elect to create a
861 local scholarship when payment must be made.

862 (i) Beginning after the first school year of
863 implementation of the Opportunity Scholarship Program, prepare a
864 report to be submitted to the Governor and the Legislature by
865 December 1 of each year, made available to the parents of
866 opportunity scholarship recipients and placed on the department's
867 publicly accessible Internet website that includes at least the
868 following information for the prior school year:

869 (i) The total number of opportunity scholarships
870 requested.

871 (ii) The total number and total dollar amount of
872 opportunity scholarships awarded, in total and disaggregated by:

873 1. Whether the opportunity scholarship
874 recipient attends a nonresident public school or a participating
875 nonpublic school.

876 2. Grade level of the opportunity scholarship
877 recipient.

878 3. Whether the opportunity scholarship
879 recipient resides in a school district with at least one (1)
880 persistently lowest achieving school.

881 (iii) The administrative costs of the Opportunity
882 Scholarship Program.



883 (iv) A listing of nonresident public schools to
884 which opportunity scholarship funds were disbursed on behalf of
885 opportunity scholarship recipients and the amount disbursed to
886 each nonresident public school.

887 (v) A listing of participating nonpublic schools
888 in which opportunity scholarship recipients enrolled and the
889 number of opportunity scholarship recipients who enrolled in each
890 participating nonpublic school.

891 (vi) The total number and total dollar amount of
892 local scholarships awarded, disaggregated by the resident school
893 districts that made the local scholarship awards.

894 (j) For the 2017-2018 school year and each school year
895 thereafter, administer and announce the award of public school
896 choice demonstration grants to eligible school districts as
897 provided under Section 12 of this act, and annually redistribute
898 any remaining funds from the public school choice demonstration
899 grants program to the middle-income scholarship program.

900 (k) For the 2016-2017 school year and each school year
901 thereafter, administer the middle-income scholarship program.

902 (l) **Study.** Following the 2016-2017 school year, the
903 board shall conduct a study of the effectiveness of the
904 Opportunity Scholarship Program and shall deliver a written report
905 of its findings, including any recommendations for changes to the
906 program, to the Governor, the Chairman of the Education Committee



907 of the Senate and the Chairman of the Education Committee of the
908 House of Representatives by December 31, 2016.

909 **SECTION 11. Optional local tuition grant program.** A school
910 district may, out of funds received from the state for educational
911 purposes, establish a program of tuition grants to provide for the
912 education of resident students who wish to attend a nonresident
913 public school or a participating nonpublic school on a tuition
914 basis. A student who receives a tuition grant under this section
915 shall be included in the average daily attendance of the student's
916 resident school district for the purpose of providing adequate
917 education funding and special education funding.

918 **SECTION 12. Public school choice demonstration grant**
919 **program.** (1) **Establishment.** A school district may, out of funds
920 received by the board under Section 7 of this act and available
921 state and local funds, establish a program of tuition grants to
922 provide for the education of resident students who wish to attend
923 a nonresident public school.

924 (2) **Limit.** No grant award issued by the board to a school
925 district under this section shall exceed Five Hundred Thousand
926 Dollars (\$500,000.00).

927 (3) **Procedure.** Grant applications shall only be received,
928 reviewed and allocated by the board during an annual two-week
929 grant review process to begin on July 1 and end on July 15 of each
930 calendar year.



931 (4) **Eligibility.** To be eligible for grants under this
932 program, the school district shall:

933 (a) Submit an application to the board at a date to be
934 determined by the board requesting a public school choice
935 demonstration grant.

936 (b) Submit a statement of the amount of the grant
937 sought, including the estimated number of tuition grants to be
938 distributed.

939 (c) Demonstrate a commitment of funds received from
940 both local sources and the state for educational purposes of at
941 least Three Dollars (\$3.00) for every One Dollar (\$1.00) of grant
942 funds issued under Section 7 of this act.

943 (d) Meet any other requirements as set by the board.

944 (5) **Average daily attendance.** A student who receives a
945 tuition grant under this section shall be included in the average
946 daily attendance of the student's resident school district for the
947 purpose of providing adequate education funding and special
948 education funding.

949 **SECTION 13. Middle-income scholarship program.** (1)

950 **Establishment.** Beginning with the 2016-2017 school year, the
951 board shall establish a middle-income scholarship program to
952 provide scholarships to help middle-income children in this state
953 pay tuition to attend a nonresident public school or participating
954 nonpublic school. The board shall make annual middle-income



955 scholarship awards on a pro rata basis from the funding provided
956 under Section 7 of this act.

957 (2) **Notice.** (a) By a date determined by the board, each
958 school district in this state shall provide all residents of the
959 school district with notice of the following:

960 (i) A description of the middle-income scholarship
961 program.

962 (ii) Instructions for applying for a middle-income
963 scholarship.

964 (iii) Notice that a parent must contact directly
965 the nonresident public school or participating nonpublic school in
966 which the parent's child seeks to enroll for application
967 instructions.

968 (b) The school district shall provide the notice to all
969 residents of the school district by notice posted on the school
970 district's publicly accessible Internet website. The notice shall
971 be in a form provided by the board.

972 (3) **Regulations.** In promulgating regulations for the
973 administration of the middle-income scholarship, the board shall
974 develop application and enrollment processes and procedures
975 substantively similar to Sections 5 and 6 of this act.

976 (4) **Limitation.** (a) No nonresident public school or
977 participating nonpublic school may charge a middle-income
978 scholarship recipient a higher tuition rate than the rate the
979 nonresident public school or participating nonpublic school would



980 have charged to a student who had not received a middle-income
981 scholarship.

982 (b) The combined amount of the middle-income
983 scholarship award and any additional financial assistance provided
984 by the participating nonpublic school shall not exceed the tuition
985 rate for the participating nonpublic school.

986 (5) **Applicability.** The provisions of Sections 5 and 6 of
987 this act shall apply to the middle-income scholarship program
988 established under this section.

989 **SECTION 14.** This act shall take effect and be in force from
990 and after July 1, 2014.

