

By: Senator(s) Nunnelee

To: Education;  
Appropriations

SENATE BILL NO. 2951

1 AN ACT TO CREATE A NEW PROCESS FOR ESTABLISHING CHARTER  
2 SCHOOLS; TO AUTHORIZE A CHARTER SCHOOL TO BE FORMED BY CREATING A  
3 NEW SCHOOL OR BY CONVERSION OF A PUBLIC SCHOOL TO CHARTER STATUS  
4 BY THE LOCAL SCHOOL DISTRICT; TO PRESCRIBE CERTAIN REQUIREMENTS  
5 FOR CHARTER SCHOOLS; TO ESTABLISH ADMISSION REQUIREMENTS AND  
6 POWERS AND DUTIES OF CHARTER SCHOOLS; TO SPECIFY THE TERMS  
7 REQUIRED TO BE INCLUDED IN A SCHOOL'S CHARTER; TO ESTABLISH THE  
8 PROCESS FOR APPLYING FOR CHARTER SCHOOL STATUS; TO REQUIRE THE  
9 AUTOMATIC RENEWAL OF CHARTERS; TO PROVIDE THAT CHARTER SCHOOLS ARE  
10 EXEMPT FROM ALL EDUCATION STATUTES, UNLESS STATED OTHERWISE, AND  
11 RULES AND REGULATIONS OF THE STATE BOARD OF EDUCATION AND LOCAL  
12 SCHOOL DISTRICTS; TO PROVIDE FOR THE EMPLOYMENT OF TEACHERS BY  
13 CHARTER SCHOOLS; TO PROHIBIT UNLAWFUL REPRISALS AGAINST SCHOOL  
14 DISTRICT EMPLOYEES WHO ARE INVOLVED IN AN APPLICATION FOR CHARTER  
15 SCHOOL STATUS; TO PROVIDE FOR STATE AND LOCAL FUNDING OF CHARTER  
16 SCHOOLS; TO AUTHORIZE SCHOOL DISTRICTS TO LEASE SPACE TO CHARTER  
17 SCHOOLS; TO REQUIRE CHARTER SCHOOLS TO HAVE A TRANSPORTATION PLAN;  
18 TO ESTABLISH THE CHARTER SCHOOLS STIMULUS REVOLVING LOAN FUND IN  
19 THE STATE TREASURY TO PROVIDE SUPPORT TO CHARTER SCHOOLS FOR  
20 START-UP COSTS; TO PROVIDE FOR THE ELECTION OF THE BOARD OF  
21 DIRECTORS OF A CHARTER SCHOOL; TO REQUIRE THE STATE DEPARTMENT OF  
22 EDUCATION TO DISSEMINATE INFORMATION ON HOW TO CREATE AND HOW TO  
23 ENROLL STUDENTS IN CHARTER SCHOOLS; TO PROHIBIT CHARTER SCHOOLS  
24 FROM LEVYING TAXES OR ISSUING BONDS SECURED BY TAX REVENUES; AND  
25 FOR RELATED PURPOSES.

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

27 SECTION 1. The Legislature declares that the following are  
28 the purposes of this act:

29 (a) To provide increased opportunities in the public  
30 school system for students to learn in an educational environment  
31 that best meets their needs;

32 (b) To provide new forms of accountability for schools;

33 (c) To encourage increased involvement of parents and  
34 teachers in the operation and decision-making of a local public  
35 school;

36 (d) To encourage innovative and effective teaching  
37 methods; and

38 (e) To create new professional opportunities for  
39 teachers.

40 SECTION 2. For purposes of this act, the term "charter  
41 school" means a school that is operating under the terms of a  
42 charter granted by a local school district or the State Board of  
43 Education.

44 SECTION 3. (1) A charter school may be formed in one (1) of  
45 the following manners:

46 (a) By creating a new school, upon application for a  
47 new charter school made by any person, group of persons,  
48 organization or public institution; or

49 (b) By a local school board, on its own motion,  
50 converting one or more of its schools to charter status.

51 (2) The organizers of a proposed charter school may apply  
52 to, and the school may be sponsored by, the school board of the  
53 school district in which the proposed charter school is to be  
54 located or the State Board of Education.

55 SECTION 4. In order for a school to be granted and to  
56 maintain charter status, the school must satisfy the following  
57 requirements:

58 (a) The school may not charge tuition;

59 (b) The school may not discriminate on the basis of  
60 ethnicity, national origin, gender, income level, disabling  
61 condition, proficiency in the English language or athletic  
62 ability;

63 (c) The school must meet all applicable health, safety  
64 and civil rights requirements;

65 (d) The school must be subject to financial audits in  
66 the same manner as public school districts;

67 (e) The school must be nonsectarian in its programs,  
68 admission policies, employment practices and all other operations;

69 (f) The school must be accountable to public authority  
70 for performance as required under this act; and

71 (g) The school must issue annual reports to parents and  
72 the sponsor of the charter school and must make the reports  
73 available to the public. These reports must include a financial  
74 statement, a description of the school's progress in reaching  
75 academic goals and a measure of parental satisfaction. The school  
76 shall submit a copy of the annual report to the State Department  
77 of Education.

78 SECTION 5. (1) A charter school sponsored by a local school  
79 district must be open to admission to all students residing in  
80 that district. Students from outside the school district may be  
81 admitted if the sponsoring district and the charter school agree  
82 to and establish a procedure for the enrollment and admission of  
83 such students in the school's charter. If a student from outside  
84 the school district enrolls in the charter school, the school  
85 district from which the student comes may submit an amount equal  
86 to that student's pro rata share of the school district's local  
87 funds to the charter school.

88 (2) A charter school sponsored by the State Board of  
89 Education must be open to any student residing in the state.

90 (3) A charter school is subject to any desegregation court  
91 orders in effect in the school district in which the charter  
92 school is located.

93 (4) A charter school must enroll an eligible student who  
94 submits a timely application for enrollment unless the number of  
95 applications for enrollment exceeds the capacity of a program,  
96 class, grade level or school building. If an excess number of  
97 applications are received by the charter school, all applicants  
98 must have an equal chance of being admitted under the following  
99 guidelines:

100 (a) The school may not limit admission to students on  
101 the basis of intellectual ability, measure of achievement or

102 aptitude or athletic ability. However, the school may screen  
103 students in areas such as academic aptitude, academic achievement  
104 or need if the screening is related to the school's academic  
105 mission.

106 (b) The school may give preference in enrollment in the  
107 school's first year of operation to children of the founders and  
108 teachers of the charter school. In subsequent years, preference  
109 may be given to children of teachers and siblings of students  
110 enrolled at the school during the previous year and who will be  
111 enrolled in the current school year.

112 (c) The number of students given preference in  
113 enrollment may not exceed fifty percent (50%) of the enrollment  
114 capacity of a program, class, grade level or school building.

115 (d) Charter schools may determine enrollment by a  
116 random selection method. An applicant for enrollment in a  
117 preference category is eligible for inclusion in the general  
118 selection process if the applicant is not selected from the  
119 preference category before the enrollment capacity is met.

120 (5) School districts may not assign students to a charter  
121 school.

122 SECTION 6. (1) A charter school must organize as a  
123 nonprofit corporation. In addition, before the organizers of a  
124 proposed charter school submit an application for a charter, the  
125 organizers must have begun the process of applying for tax-exempt  
126 status under 501(c)(3) of the Internal Revenue Code.

127 (2) A charter school may sue and be sued.

128 (3) A charter school may borrow funds and invest funds.  
129 Funds received and earnings from investments on gifts from  
130 nongovernmental entities may be accounted for separately. If a  
131 charter school closes, all unspent government funds, unspent  
132 earnings from those funds and assets purchased with government  
133 funds will revert to the state. Unspent funds from  
134 nongovernmental sources, unspent earnings from those funds, assets

135 purchased with those funds and debts of the school (unless  
136 otherwise provided for in the charter or debt instrument) shall  
137 revert to the nonprofit entity created to operate the school and  
138 may be disposed of according to applicable laws for nonprofit  
139 corporations. A government entity shall not be liable for any  
140 debt of the charter school unless that entity explicitly  
141 authorized the debt and agreed to be liable for nonpayment of the  
142 debt. A sponsor's approval of a charter school budget that  
143 includes debt does not constitute the sponsor's liability for that  
144 debt.

145 (4) Members of a local school board or the State Board of  
146 Education are immune from civil or criminal liability with respect  
147 to all activities of a charter school approved or sponsored by the  
148 local school board or State Board of Education. The local school  
149 board or the State Board of Education, in its official capacity as  
150 sponsor of a charter school, may be held liable only for matters  
151 with which the respective board has been involved directly.

152 SECTION 7. (1) The term of an initial charter shall be five  
153 (5) school years. A charter may be renewed for a term not  
154 exceeding five (5) school years.

155 (2) The terms of a charter must include the following:

156 (a) Assurances that:

157 (i) The school will not charge tuition or other  
158 fees except in those instances when tuition or fees are allowed by  
159 law to be charged by public school districts;

160 (ii) The school will comply with federal, state  
161 and local rules, regulations and statutes relating to safety,  
162 civil rights and insurance. The State Department of Education  
163 shall publish a list of relevant rules, regulations and statutes  
164 to notify charter schools of their responsibilities under this  
165 item;

166 (iii) The school will be nonsectarian in programs,  
167 admission policies, employment practices and all other operations;

168 (iv) The school will comply with the same audit  
169 requirements as public school districts and will cooperate fully  
170 in audits conducted under the direction of the State Auditor; and

171 (v) The school will comply with all federal and  
172 state laws relating to the education of children with disabilities  
173 in the same manner as public school districts;

174 (b) A description of the governing body that is  
175 responsible for the policy and operational decisions of the  
176 charter school, including the names of that body's initial members  
177 and a description of the method by which subsequent members will  
178 be elected and the method by which fairness and objectivity of  
179 those elections will be assured;

180 (c) A description of the objective method or methods  
181 that will be used to measure student progress. Assessment tests  
182 required by the State Board of Education in the public schools  
183 will be at least one (1) component of the measurement of student  
184 progress;

185 (d) A description of the school's plan for the  
186 transportation of students;

187 (e) A description of the school's plan for handling  
188 disruptive students;

189 (f) A description of the school's plan to publicize the  
190 existence, nature and application requirements of the charter  
191 school to as many of the citizens, as reasonably possible, of the  
192 school district in which the school will be located. This  
193 publicity must include at least one (1) informational meeting to  
194 which the public is invited;

195 (g) Any other matters required by this act to be  
196 included in a charter; and

197 (h) Any other matters that the sponsor and charter  
198 school agree to include. Failure to agree on such additional  
199 matters shall not constitute grounds for rejection of a charter  
200 application.

201 (3) The charter must include the following attachments:

202 (a) A description of the program of instruction. A  
203 charter school must provide a comprehensive program of instruction  
204 for at least one (1) complete grade level of kindergarten,  
205 elementary or secondary education. A school may offer this  
206 program of instruction with an emphasis on a specific learning  
207 philosophy, style or certain subject area. If the school is a  
208 high school, the program of instruction must ensure that in order  
209 to be eligible for graduation, a student must have earned the  
210 minimum number of units required for graduation from public high  
211 schools by the State Board of Education. A school may add grade  
212 levels during any year of the charter, if notice of the additional  
213 grade levels is submitted to the sponsor of the charter school at  
214 least six (6) months before the beginning of the school year in  
215 which those grade levels will be offered; and

216 (b) A budget encompassing all necessary items for  
217 operating the school, based on one or more projections of the  
218 number of students the school anticipates serving in the year for  
219 which the budget is prepared.

220 (4) Provisions of the charter may be amended at any time by  
221 agreement between the sponsor of the charter school and the  
222 school. The attachments must be submitted to the sponsor by the  
223 school on an annual basis and may not be revised by the sponsor  
224 unless the information in the submissions indicates a violation of  
225 this act or any other law.

226 SECTION 8. (1) An application for a charter consists of a  
227 proposed charter and all attachments required under Section 7 of  
228 this act.

229 (2) The State Board of Education or a local school board to  
230 which an application for a charter has been submitted must respond  
231 to the application within thirty (30) days after receiving the  
232 application. The response may be in the form of approval of the  
233 application as submitted, rejection, or approval of the

234 application subject to negotiation of details, which negotiation  
235 must be conducted in good faith.

236 (3) An application for a charter must be approved unless:

237 (a) The application does not contain all items required  
238 by this act;

239 (b) One or more of the application's provisions are not  
240 in compliance with applicable law; or

241 (c) The sponsor determines that the applicants are  
242 incompetent to carry out one or more of the plans described in the  
243 application, in which case the incompetence must be documented by  
244 the State Board of Education or the local school district to which  
245 the application was submitted.

246 (4) A rejection of an application for a charter must be  
247 submitted in writing to the applicants when the rejection occurs  
248 and accompanied by the reasons for the rejection.

249 (5) The rejection of an application by the State Board of  
250 Education or by a local school district to which the application  
251 was submitted does not bar submission of the same application to a  
252 different chartering authority. The State Board of Education must  
253 provide technical assistance to an applicant whose application has  
254 been rejected.

255 SECTION 9. (1) At the end of a charter school's fourth year  
256 of operation, the sponsor of the school must renew the agreement,  
257 with any modifications that are the product of a good faith  
258 negotiation, for an additional five (5) years if the following  
259 conditions have been met:

260 (a) The school substantially has met the requirements  
261 for student performance stated in the agreement; and

262 (b) The school substantially has complied with other  
263 provisions of the charter.

264 (2) A charter issued under this act may be revoked by the  
265 sponsor, and the charter school must be closed, if the sponsor  
266 determines that one or more of the following have occurred:

267 (a) Repeated or substantial failure of the charter  
268 school to maintain applicable safety standards;  
269 (b) Substantial failure of the charter school to meet  
270 auditing or other financial standards as required under this act;  
271 (c) Blatant and recurrent violations of provisions of  
272 the charter or failure to comply with provisions of the charter;  
273 or  
274 (d) The existence of one or more grounds for revocation  
275 as specified in the charter.

276 (3) If a charter is revoked, the charter school must remain  
277 open until the end of the school year in which the revocation  
278 takes effect unless the State Department of Education determines  
279 that an extreme emergency situation that jeopardizes the safety  
280 and security of the students of the school exists.

281 (4) The revocation or nonrenewal of a charter must be  
282 accompanied by a list of specific reasons for the action. The  
283 charter school may seek judicial review of the decision to revoke  
284 or not to renew a charter.

285 SECTION 10. (1) Except as otherwise provided under  
286 subsection (2) of this section, all schools chartered under this  
287 act are exempt from those statutes applicable to the public  
288 schools and the rules, regulations, policies and procedures of the  
289 State Board of Education and the local school district. However,  
290 a charter school may elect to comply with one or more statutory  
291 provisions or rules, regulations, policies and procedures of the  
292 State Board of Education and the local school district. A charter  
293 school must comply with general health and safety standards.

294 (2) Charter schools are not exempt from the following  
295 statutes:

296 (a) Section 37-9-75, which relates to teacher strikes;

297 (b) Section 37-11-20, which prohibits acts of  
298 intimidation intended to keep a student from attending school;

299 (c) Section 37-11-21, which prohibits parental abuse of  
300 school staff;

301 (d) Section 37-11-23, which prohibits the willful  
302 disruption of school and school meetings;

303 (e) Sections 37-11-29 and 37-11-31, which relate to  
304 reporting requirements regarding unlawful or violent acts on  
305 school property; and

306 (f) Section 37-19-53, which prohibits false reporting  
307 of student counts by school officials.

308 SECTION 11. (1) A charter school must select the teachers  
309 to be employed by the school, and the teachers must agree to be  
310 employed by the charter school. A school district may not assign  
311 teachers employed by the district to a charter school.

312 (2) Teachers in charter schools are employees of the school.

313 (3) The governing body of a charter school must disclose the  
314 qualifications of the teachers in the charter school to the  
315 student's parents.

316 (4) Charter school teachers are eligible for the same health  
317 and retirement benefits as other public school teachers. Charter  
318 schools may pay for all or part of a teacher's health insurance  
319 premiums, including family coverage, as part of the teacher's  
320 compensation package.

321 SECTION 12. (1) A school district, school district employee  
322 or any other person who has control over personnel actions may not  
323 take unlawful reprisal against an employee of the school district  
324 because the employee is directly or indirectly involved in an  
325 application to establish a charter school. A school district  
326 employee may not take unlawful reprisal against an educational  
327 program of the school or the school district because an  
328 application to establish a charter school proposes the conversion  
329 of all or a portion of the educational program to a charter  
330 school.

331 (2) As used in this section, the term "unlawful reprisal"  
332 means:

333 (a) With respect to a school district employee, an  
334 action that is taken by another school district employee as a  
335 direct result of a lawful application to establish a charter  
336 school and which is adverse to the employee and results in one or  
337 more of the following for the employee:

338 (i) Disciplinary or corrective action;

339 (ii) Detail, transfer or reassignment;

340 (iii) Suspension, demotion or dismissal;

341 (iv) An unfavorable performance evaluation;

342 (v) A reduction in pay, benefits or awards;

343 (vi) Elimination of the employee's position

344 without a reduction in force by reason of lack of monies or work;

345 or

346 (vii) Other significant changes in duties or

347 responsibilities which are inconsistent with the employee's salary

348 or employment classification; and

349 (b) With respect to an educational program, an action  
350 that is taken by a school district employee as a direct result of  
351 a lawful application to establish a charter school and which is  
352 adverse to the educational program and results in one or more of  
353 the following:

354 (i) Suspension or termination of the program;

355 (ii) Transfer or reassignment of the program to a  
356 less favorable department;

357 (iii) Relocation of the program to a less  
358 favorable site within the school or school district; or

359 (iv) Significant reduction or termination of  
360 funding for the program.

361 SECTION 13. (1) A charter school's funding must be based on  
362 the number of students enrolled in and in attendance at the  
363 school.

364           (2) For a school sponsored by a local district, local  
365 funding must be negotiated between the school district and the  
366 school. State funding shall be calculated by multiplying the  
367 average daily attendance at the charter school by the state's  
368 portion of the district's per-pupil expenditures two (2) school  
369 years preceding the school year being funded. Federal funds must  
370 be distributed as dictated by federal law.

371           (3) A charter school sponsored by the State Board of  
372 Education shall notify and request state, local and federal funds  
373 from each school district in which a student attending the school  
374 resides. Those school districts shall include such students in  
375 their average daily attendance reports in a manner determined by  
376 the State Board of Education. The charter school also shall send  
377 a copy of each notification and request for funding to the State  
378 Department of Education. Local and state per-pupil funding shall  
379 be equal to the local and state portion, respectively, of the  
380 per-pupil expenditures two (2) school years preceding the school  
381 year being funded in the district in which the student resides.

382           (4) The State Department of Education shall define the means  
383 by which a school district may require verification of residency  
384 and attendance at a charter school. A district must remit  
385 requested funds in a timely fashion, as defined by the State Board  
386 of Education. When contributions are not forwarded in a timely  
387 manner, the state shall assess a ten percent (10%) penalty payable  
388 to the charter school for failure to forward the contribution.

389           (5) For a new charter school, pre-enrollment or other  
390 reasonable information shall be the basis for initial funding.  
391 The State Board of Education shall define the types of information  
392 that may be used for this purpose, as well as methods of  
393 correcting any discrepancies between the original estimates on  
394 which funding is based and the actual average daily attendance.

395           (6) The charter school may receive gifts and grants from any  
396 public or private sources.

397           SECTION 14. (1) A school district may lease space or sell  
398 services to a charter school. A school district must make unused  
399 buildings available to a charter school and must bargain in good  
400 faith over the terms of the lease.

401           (2) A charter school may lease space or secure services from  
402 another public body, nonprofit organization or private  
403 organization or individual.

404           SECTION 15. The charter school must include a transportation  
405 plan for its students as part of the charter. The state will  
406 provide transportation funds to the charter school at the same  
407 rate as provided for other public school students.

408           SECTION 16. (1) A sponsor may issue a charter to a charter  
409 school applicant before the applicant has secured space, equipment  
410 and personnel if the applicant indicates authorization is  
411 necessary for the school to raise working capital.

412           (2) There is established in the State Treasury a fund to be  
413 known as the "Charter Schools Stimulus Revolving Loan Fund." The  
414 purpose of the fund is to provide financial support to charter  
415 school applicants and charter schools for start-up costs and costs  
416 associated with renovating or remodeling existing buildings and  
417 structures. The fund shall consist of monies appropriated by the  
418 Legislature, repaid loans from borrowers and grants, gifts,  
419 devises and donations from any public or private source. The  
420 State Department of Education shall administer the fund.

421           (3) The State Board of Education shall adopt rules and  
422 regulations necessary for the implementation of this section,  
423 including application and notification requirements. If  
424 sufficient funds are available for this purpose, monies from the  
425 Charter Schools Stimulus Revolving Loan Fund shall be distributed  
426 to qualifying charter school applicants and charter schools in the  
427 following manner:

428           (a) Each qualifying charter school applicant or charter  
429 school shall be awarded an initial loan of not more than Fifty

430 Thousand Dollars (\$50,000.00) before or during the first year of  
431 the charter school's operation. This loan must be repaid over a  
432 period of no more than five (5) years. If any applicant for a  
433 charter school receives an initial loan pursuant to this paragraph  
434 and fails to begin operating a charter school within the following  
435 eighteen (18) months, the applicant shall reimburse the State  
436 Board of Education for the amount of the initial loan plus  
437 interest calculated at a rate of ten percent (10%) per year.

438 (b) Applicants for charter schools and charter schools  
439 that receive initial loans pursuant to paragraph (a) of this  
440 subsection may apply for an additional loan of not more than Fifty  
441 Thousand Dollars (\$50,000.00). If an applicant for a charter  
442 school receives an additional loan pursuant to this paragraph and  
443 fails to begin operating a charter school within the following  
444 eighteen (18) months, the applicant shall reimburse the State  
445 Board of Education for the amount of the additional loan, plus  
446 interest calculated at a rate of ten percent (10%) per year. A  
447 reimbursement required by this paragraph is in addition to any  
448 reimbursement required under paragraph (a).

449 SECTION 17. (1) The initial board of directors of a charter  
450 school must be designated by the applicants who have been granted  
451 the charter. This initial board shall govern the school's first  
452 year of operation.

453 (2) Not less than six (6) months before the beginning of the  
454 charter school's second school year, the school shall hold an  
455 election for members of the school's board of directors. The term  
456 of office for this board shall be set according to the charter.

457 (3) Administrative and instructional personnel of the  
458 charter school and all parents of children enrolled in the school  
459 shall be eligible to participate in any election of members of the  
460 board of directors.

461           (4) Meetings of the charter school's board of directors will  
462 be subject to Sections 25-41-1 through 25-41-17 governing open  
463 meetings.

464           SECTION 18. The State Department of Education must  
465 disseminate information to the public, directly and through  
466 sponsors, on how to form and operate a charter school and how  
467 students can enroll in charter schools once they are created.

468           SECTION 19. A charter school may not levy taxes or issue  
469 bonds secured by tax revenues.

470           SECTION 20. This act shall take effect and be in force from  
471 and after July 1, 2001.