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To: Education

SENATE BILL NO. 2293  
(As Passed the Senate)

1 AN ACT TO CODIFY SECTIONS 37-28-1, 37-28-3, 37-28-5, 37-28-7,  
2 37-28-9, 37-28-11, 37-28-13, 37-28-15, 37-28-17, 37-28-19 AND  
3 37-28-21, MISSISSIPPI CODE OF 1972, TO PROVIDE AUTHORIZATION FOR  
4 NEW OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS IN THE STATE OF  
5 MISSISSIPPI, TO PROVIDE AUTHORIZATION FOR CONVERSION CHARTER  
6 SCHOOLS UNDER WHICH EXISTING PUBLIC SCHOOLS MEETING CERTAIN  
7 CRITERIA MAY CONVERT TO CHARTER SCHOOL STATUS, TO PROVIDE THAT  
8 SUCH OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS SHALL BE ORGANIZED AS  
9 NONPROFIT TAX EXEMPT ORGANIZATIONS, TO PROVIDE THAT THE LOCAL  
10 SCHOOL BOARD MAY APPROVE PETITIONS FOR THE ESTABLISHMENT OF OPEN  
11 ENROLLMENT PUBLIC CHARTER SCHOOLS OR PETITION MAY BE MADE DIRECTLY  
12 TO THE STATE BOARD OF EDUCATION, TO PROVIDE CRITERIA FOR ACADEMIC  
13 ACHIEVEMENTS AT THE PUBLIC CHARTER SCHOOLS, TO PROVIDE PREFERENCE  
14 FOR THE ESTABLISHMENT OF SUCH PUBLIC CHARTER SCHOOLS, TO PROVIDE  
15 THAT CERTAIN STATE FUNDS SHALL GO DIRECTLY TO THE NEWLY  
16 ESTABLISHED PUBLIC CHARTER SCHOOLS ON A PER-PUPIL EXPENDITURE  
17 BASIS, TO PROVIDE THAT SUCH PUBLIC CHARTER SCHOOLS MAY USE A  
18 WEIGHTED LOTTERY SYSTEM TO FILL ENROLLMENT SEATS, TO PROVIDE FOR  
19 THE GOVERNANCE OF SUCH PUBLIC CHARTER SCHOOLS AND TO PROVIDE THAT  
20 TEACHERS SHALL BE EMPLOYEES OF THE PUBLIC CHARTER SCHOOLS, TO  
21 PROVIDE THAT THE STATE BOARD OF EDUCATION SHALL ISSUE REGULATIONS,  
22 AND TO PROVIDE FOR REPORTING, TO PROVIDE FOR TRANSPORTATION OF  
23 STUDENTS ATTENDING PUBLIC CHARTER SCHOOLS, AND TO PROVIDE FOR  
24 PROBATION AND REVOCATION OF PUBLIC CHARTER SCHOOLS BY THE STATE  
25 SUPERINTENDENT OF EDUCATION; TO REPEAL SECTIONS 37-28-1 THROUGH  
26 37-28-21, MISSISSIPPI CODE OF 1972, EFFECTIVE JULY 1, 2020; AND  
27 FOR RELATED PURPOSES.

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

29 **SECTION 1.** The following shall be codified as Section  
30 37-28-1, Mississippi Code of 1972:

31 37-28-1. It is the intent of the Legislature that this  
32 chapter provide a means whereby local public schools or public  
33 charter schools may choose to substitute a binding academic or  
34 vocational, or both, performance-based contract approved by the  
35 State Board of Education, called a "charter," for rules,  
36 regulations, policies and procedures of the State Board of  
37 Education and the local school district and, except as otherwise



38 provided, the provisions of Title 37 of the Mississippi Code of  
39 1972 which are applicable to schools and school districts and  
40 their employees and students.

41 **SECTION 2.** The following shall be codified as Section  
42 37-28-3, Mississippi Code of 1972:

43 37-28-3. For purposes of this chapter, the following words  
44 and phrases shall have the meanings respectively ascribed in this  
45 section unless the context clearly indicates otherwise:

46 (a) "Charter" means an academic or vocational, or both,  
47 performance-based contract between a public charter school and its  
48 authorizer which exempts the school from rules, regulations,  
49 policies and procedures of the State Board of Education and the  
50 local school district and, except as otherwise provided, the  
51 provisions of Title 37 of the Mississippi Code of 1972 which are  
52 applicable to schools and school districts and their employees and  
53 students.

54 (b) "Conversion charter school" means a public school  
55 that has converted to operating under the terms of a charter  
56 granted by the State Board of Education and the local school  
57 board.

58 (c) "Public charter school" means a school that is  
59 operating under the terms of a charter granted by the State Board  
60 of Education, or an open-enrollment public charter school  
61 established after July 1, 2010.

62 (d) "Local school" means a public school in Mississippi  
63 which is under the management and control of the school board of  
64 the school district in which the school is located.

65 (e) "Petition" means a proposal to enter into an  
66 academic or vocational, or both, performance-based contract  
67 between the State Board of Education and a local school whereby  
68 the local school obtains charter school status.

69 (f) "Eligible entity" means a public institution of  
70 higher learning, a private nonsectarian institution of higher



71 learning, a governmental entity, or an organization that is  
72 nonsectarian in its program, admission policies, employment  
73 practices, and operations and is exempt from taxation under  
74 Section 501(c) (3) of the Internal Revenue Code of 1986.

75 (g) "Open-enrollment public charter school" means a  
76 public school that is operating under the terms of a charter  
77 granted by the authorizer and may draw its students from across  
78 public school district boundaries.

79 (h) "Authorizer" means an entity that reviews  
80 applications, decides whether to approve or reject applications,  
81 enters into contracts with applicants, oversees and monitors  
82 public charter schools, and decides whether to renew, not renew,  
83 or revoke contracts. The State Board of Education is the only  
84 eligible authorizer.

85 **SECTION 3.** The following shall be codified as Section  
86 37-28-5, Mississippi Code of 1972:

87 37-28-5. (1) The provisions of this subsection (1) shall be  
88 applicable to any conversion charter school and the State Board of  
89 Education shall establish rules and regulations for the submission  
90 of petitions for charter school status and criteria and procedures  
91 for the operation of charter schools applicable to such conversion  
92 charter schools. The board shall receive and review petitions for  
93 conversion charter school status from local public schools and may  
94 approve petitions and grant charter school status. At least three  
95 (3) local public schools that are granted conversion charter  
96 school status shall, at the time the school submits its initial  
97 petition for charter school status: (a) be rated as Under  
98 Academic Watch, Low-Performing, At Risk of Failing or Failing; (b)  
99 be in a school district rated as Under Academic Watch,  
100 Low-Performing, At Risk of Failing or Failing; or (c) be under  
101 conservatorship or under the Recovery School District operated by  
102 the State Department of Education. In order to be approved, a



103 petition for charter school status, in the opinion of the State  
104 Board of Education, must adequately include:

105 (a) A plan for improvement at the school level for  
106 improving student learning and for meeting state education goals;

107 (b) A set of academic or vocational, or both,  
108 performance-based objectives and student achievement-based  
109 objectives for the term of the charter and the means for measuring  
110 those objectives on no less than an annual basis;

111 (c) An agreement to provide a yearly report to parents,  
112 the school board of the school district in which the charter  
113 school is located, and the State Board of Education which  
114 indicates the progress made by the charter school in the previous  
115 year in meeting the academic or vocational, or both, performance  
116 objectives; and

117 (d) A proposal to directly and substantially involve  
118 the parents of students enrolled in the school as well as the  
119 faculty, instructional staff and the broader community in the  
120 process of modifying the petition, if necessary for approval, and  
121 carrying out the terms of the charter.

122 (2) Any local school may submit a petition to the State  
123 Board of Education requesting conversion charter school status.  
124 The petition must:

125 (a) Be approved by the school board of the school  
126 district in which the school is located;

127 (b) Be agreed to freely by a majority of the faculty  
128 and instructional staff members, by secret ballot, at the school  
129 initiating the petition;

130 (c) Be agreed to by a majority of the parents of  
131 students enrolled in the school who are present at a meeting  
132 called for the specific purpose of deciding whether or not to  
133 initiate the petition;



134 (d) Describe a plan for school improvement that  
135 addresses how the school proposes to work toward improving student  
136 learning and meeting state education goals;

137 (e) Outline proposed academic or vocational, or both,  
138 performance criteria that will be used during the initial period  
139 of the charter to measure progress of the school in improving  
140 student learning and in meeting state education goals:

141 (i) Academic performance criteria must include  
142 specific and measureable benchmarks of academic performance on  
143 state assessments. Such benchmarks must require that after three  
144 (3) years of enrollment, the charter school students outperform to  
145 a statistically significant degree similar students in the local  
146 district in which the charter is located;

147 (ii) Academic performance criteria must also  
148 include a requirement that charter schools not miss adequate  
149 yearly progress for any two (2) consecutive years, as defined by  
150 the No Child Left Behind Act of 2001, or other future federal  
151 school accountability requirements;

152 (f) Describe how the faculty, instructional staff and  
153 parents of students enrolled in the school have been involved in  
154 developing the petition and will be involved in developing and  
155 implementing the improvement plan and identifying academic or  
156 vocational, or both, performance criteria;

157 (g) Describe how the concerns of faculty, instructional  
158 staff and parents of students enrolled in the school will be  
159 solicited and addressed in evaluating the effectiveness of the  
160 improvement plan;

161 (h) Include a provision to exempt the conversion  
162 charter school from any rules, regulations, policies and  
163 procedures of the State Board of Education and the local school  
164 board and from the provisions of the Mississippi Code of 1972  
165 relating to the elementary and secondary education of students.



166 Conversion charter schools may not be exempted from the following  
167 statutes:

168 (i) Section 37-9-75, which relates to teacher  
169 strikes;

170 (ii) Section 37-11-20, which prohibits acts of  
171 intimidation intended to keep a student from attending school;

172 (iii) Section 37-11-21, which prohibits parental  
173 abuse of school staff;

174 (iv) Section 37-11-23, which prohibits the willful  
175 disruption of school and school meetings;

176 (v) Sections 37-11-29 and 37-11-31, which relate  
177 to reporting requirements regarding unlawful or violent acts on  
178 school property;

179 (vi) Section 37-19-53, which prohibits false  
180 reporting of student counts by school officials;

181 (vii) Applicable State Department of Health  
182 regulations; and

183 (viii) Applicable federal No Child Left Behind  
184 requirements;

185 (i) (i) Describe the facility to be used for the  
186 conversion charter school and state the facility's current use and  
187 the facility's use for the immediately preceding three (3) years;

188 (ii) If the facility to be used for a conversion  
189 charter school is a public school district facility, the  
190 conversion charter school must operate in the facility in  
191 accordance with the terms established by the local school board of  
192 the public school district in an agreement governing the  
193 relationship between the conversion charter school and the public  
194 school district;

195 (iii) If the facility that will be used for the  
196 conversion charter school is owned by or leased from a sectarian  
197 organization, the terms of the facility agreement must be  
198 disclosed to the state board; and



199 (iv) Any public school facility that is offered  
200 for sale shall first be offered to any conversion charter school  
201 located in that school district;

202 (j) Include a detailed budget, a governance plan for  
203 the operation of the conversion charter school, and a clear  
204 business plan;

205 (k) Include a proposal to directly and substantially  
206 involve the parents of students to be enrolled in the conversion  
207 charter school, the certified employees, and the broader community  
208 in carrying out the terms of the conversion charter;

209 (l) Include an agreement to provide an annual academic  
210 achievement report to parents, the local school board of any  
211 school district from which the conversion charter school draws  
212 students, and the State Board of Education which indicates the  
213 progress made by the conversion charter school during the previous  
214 year in meeting its academic or vocational performance objectives.  
215 The report shall include, but not be limited to, the following  
216 information:

217 (i) Student progress concerning academic  
218 achievement;

219 (ii) Student attendance;

220 (iii) Student grades and scores on assessment  
221 instruments;

222 (iv) Incidents involving student discipline;

223 (v) Socioeconomic data on students' families;

224 (vi) Parent satisfaction with the schools; and

225 (vii) Student satisfaction with the schools;

226 (m) Include an agreement to provide a yearly financial  
227 report to parents, the local school board of any school district  
228 from which the conversion charter school draws students, and the  
229 State Board of Education which discloses all public and private  
230 funds received by the conversion charter school, and how those  
231 funds were spent;



232 (n) Specify methods for admission, enrollment criteria,  
233 student recruitment and selection processes;

234 (o) As requested by the petitioning conversion charter  
235 school proponents, the State Board of Education shall review the  
236 petition for a conversion charter school and may approve any  
237 petition that satisfactorily provides the information required;

238 (p) The State Board of Education may approve or deny an  
239 application based on criteria adopted by the state board, which  
240 shall include criteria relating to improving student performance  
241 and encouraging innovative programs;

242 (q) If the State Board of Education disapproves an  
243 application for a conversion charter school, the state board shall  
244 notify the petitioners in writing of the reasons for such  
245 disapproval within forty-five (45) days;

246 (r) The state board shall allow the petitioners for a  
247 conversion charter school to resubmit their petition if the  
248 original petition was found to be deficient by the state board,  
249 after the petitioner has corrected any deficiencies found in the  
250 initial notice of disapproval;

251 (s) The Department of Education may provide technical  
252 assistance to the petitioners for a conversion charter school in  
253 the creation or modification of these petitions;

254 (t) All pupils attending a conversion charter school  
255 when application is made for conversion school status shall be  
256 deemed to be enrolled when the conversion charter is approved by  
257 the State Board of Education. One (1) year after the initial  
258 conversion charter is approved, a conversion charter school shall  
259 enroll an eligible pupil who submits a timely application, unless  
260 the number of applications exceeds the capacity of a program,  
261 class, grade level or building. In this case, pupils must be  
262 accepted by a lottery. A conversion charter school may not limit  
263 admission to pupils on the basis of race, intellectual ability,  
264 measures of achievement or aptitude, or athletic ability. A





265 conversion charter school is subject to any desegregated court  
266 orders in effect in the school district in which the conversion  
267 charter school is located;

268 (u) A certified teacher employed by a public school  
269 district in the school year immediately preceding the effective  
270 date of a charter for a conversion charter school operated at a  
271 public school facility may not be transferred to or be employed by  
272 the conversion charter school over the certified teacher's  
273 objections; and

274 (v) A conversion charter shall include a mechanism for  
275 declaring the charter null and void if, at any time, the school  
276 operating under conversion charter status fails to fulfill the  
277 terms of the charter.

278 (4) Initial conversion charters issued by the State Board of  
279 Education shall be for a term of three (3) years. Thereafter, the  
280 State Board of Education may renew charters on a one-year or  
281 multiyear basis, not to exceed three (3) years, for local schools,  
282 if all parties to the original charter approve the renewal with a  
283 vote of a majority of the faculty, instructional staff and parents  
284 of students enrolled in the school who are present at a meeting  
285 called for the specific purpose of deciding whether or not to  
286 renew the charter.

287 **SECTION 4.** The following shall be codified as Section  
288 37-28-7, Mississippi Code of 1972:

289 37-28-7. (1) The provisions of this subsection (1) shall be  
290 applicable to open-enrollment public charter schools established  
291 after July 1, 2010. No open-enrollment public charter school  
292 established after July 1, 2010, may enroll or accept students  
293 prior to August 1, 2011.

294 (2) A charter for an open-enrollment public charter school  
295 shall be in the form of a written contract between the authorizer  
296 and the school, satisfy the requirements of this chapter without  
297 the necessity of approval by the local school board, and ensure



298 that the information required under Section 37-28-7(2) is  
299 consistent with the information provided in the application and  
300 any modification which the State Board of Education may require.

301 (a) The State Board of Education shall adopt:

302 (i) An application form, a schedule and a  
303 procedure that must be used to apply for an open-enrollment public  
304 charter school; and

305 (ii) Criteria to use in evaluating a charter  
306 petition.

307 (b) As part of the application procedure, the state  
308 board may require a petition supporting a charter for an  
309 open-enrollment public charter school signed by interested parents  
310 or guardians of school-age children residing in the area in which  
311 an open-enrollment public charter school is proposed, or it may  
312 hold a public hearing to determine parental support for the  
313 school.

314 (c) Pursuant to the provisions of this chapter, an  
315 eligible entity may petition the State Board of Education to grant  
316 a charter for an open-enrollment public charter school to operate  
317 in a facility of a commercial or nonprofit entity or a public  
318 school district.

319 (d) The petition to the state board for an  
320 open-enrollment public charter school shall be made in accordance  
321 with a schedule approved by the state board.

322 (e) The petition shall:

323 (i) Describe the results of public hearings, if  
324 any, called by the petitioner for the purpose of assessing support  
325 of a petition for public charter school status:

326 1. Notice of the public hearing shall be  
327 published once a week for three (3) consecutive weeks in a  
328 newspaper having general circulation in each school district from  
329 which the charter school is likely to draw students for the  
330 purpose of enrollment:



331 a. The last publication of notice shall  
332 be no less than seven (7) days prior to the public meeting;

333 b. The notice shall not be published in  
334 the classified or legal notice section of the newspaper;

335 c. The notice shall be published in no  
336 less than ten (10) point size and shall be no less than  
337 two-by-four inches (2" X 4") or four-by-two inches (4" X 2");

338 2. Within seven (7) calendar days following  
339 the first publication of notice required under paragraph (e) (i)1  
340 of this section, letters announcing the public hearing shall be  
341 sent to the superintendents and school board members of each of  
342 the school districts from which the public charter school is  
343 likely to draw students for the purpose of enrollment and the  
344 superintendents and school board members of any district that is  
345 contiguous to the district in which the open-enrollment public  
346 charter school will be located;

347 3. The letters to the school board members  
348 required in paragraph (e) (i)2 shall only be required for each  
349 school board member whose name and mailing address is provided by  
350 the superintendent of an affected school district upon the request  
351 of the petitioner;

352 (ii) Describe a plan for academic achievement that  
353 addresses how the open-enrollment public charter school will  
354 improve student learning and meet the state education goals;

355 (iii) Outline the proposed performance criteria  
356 that will be used during the initial five-year period of the  
357 open-enrollment public charter school operation to measure its  
358 progress in improving student learning and meeting or exceeding  
359 the state education goals:

360 1. Academic performance criteria must include  
361 specific and measurable benchmarks of academic performance on  
362 state assessments. Such benchmarks must require that after five  
363 (5) years of enrollment, the charter school students outperform to



364 a statistically significant degree similar students in the local  
365 district in which the charter is located;

366                   2. Academic performance criteria must also  
367 include a requirement that charter schools not miss adequate  
368 yearly progress for any two (2) consecutive years, as defined by  
369 the No Child Left Behind Act of 2001, or other future federal  
370 school accountability requirements;

371                   (iv) Include a provision to exempt the  
372 open-enrollment public charter school from any rules, regulations,  
373 policies and procedures of the State Board of Education and the  
374 local school board and from the provisions of the Mississippi Code  
375 of 1972 relating to the elementary and secondary education of  
376 students. Public charter schools may not be exempted from the  
377 following statutes:

378                   1. Section 37-9-75, which relates to teacher  
379 strikes;

380                   2. Section 37-11-20, which prohibits acts of  
381 intimidation intended to keep a student from attending school;

382                   3. Section 37-11-21, which prohibits parental  
383 abuse of school staff;

384                   4. Section 37-11-23, which prohibits the  
385 willful disruption of school and school meetings;

386                   5. Sections 37-11-29 and 37-11-31, which  
387 relate to reporting requirements regarding unlawful or violent  
388 acts on school property;

389                   6. Section 37-19-53, which prohibits false  
390 reporting of student counts by school officials;

391                   7. Applicable State Department of Health  
392 regulations; and

393                   8. Applicable federal No Child Left Behind  
394 requirements;

395                   (v) 1. Describe the facility to be used for the  
396 open-enrollment public charter school and state the facility's



397 current use and the facility's use for the immediately preceding  
398 three (3) years;

399                   2. If the facility to be used for an  
400 open-enrollment public charter school is a public school district  
401 facility, the open-enrollment charter school must operate in the  
402 facility in accordance with the terms established by the school  
403 board of the public school district in an agreement governing the  
404 relationship between the open-enrollment public charter school and  
405 the public school district;

406                   3. If the facility that will be used for the  
407 public charter school is owned by or leased from a sectarian  
408 organization, the terms of the facility agreement must be  
409 disclosed to the state board; and

410                   4. Any public school facility that is offered  
411 for sale shall first be offered to any open-enrollment public  
412 charter school located in that school district;

413                   (vi) Include a detailed budget, a governance plan  
414 for the operation of the open-enrollment public charter school,  
415 and a clear business plan;

416                   (vii) Include a proposal to directly and  
417 substantially involve the parents of students to be enrolled in  
418 the open-enrollment public charter school, the certified  
419 employees, and the broader community in carrying out the terms of  
420 the open-enrollment charter;

421                   (viii) Include an agreement to provide an annual  
422 academic achievement report to parents, the local school board of  
423 any school district from which the charter school draws students,  
424 and the State Board of Education which indicates the progress made  
425 by the open-enrollment public charter school during the previous  
426 year in meeting its academic or vocational performance objectives.  
427 The report shall include, but not be limited to, the following  
428 information:



- 429                   1. Student progress concerning academic  
430 achievement;
- 431                   2. Student attendance;
- 432                   3. Student grades and scores on assessment  
433 instruments;
- 434                   4. Incidents involving student discipline;
- 435                   5. Socioeconomic data on students' families;
- 436                   6. Parent satisfaction with the schools; and
- 437                   7. Student satisfaction with the schools;

438                   (ix) Include an agreement to provide a yearly  
439 financial report to parents, the local school board of any school  
440 district from which the public charter school draws students, and  
441 the State Board of Education which discloses all public and  
442 private funds received by the public charter school, and how those  
443 funds were spent;

444                   (x) Specify methods for admission, enrollment  
445 criteria, student recruitment and selection processes.

446                   (f) The petition may be reviewed and a nonbinding  
447 recommendation made to the State Board of Education by the local  
448 school board of the school district where the proposed  
449 open-enrollment public charter school will operate, or the  
450 petition may be made directly to the State Board of Education for  
451 the approval of the open-enrollment public charter school.

452                   (g) As requested by the petitioning open-enrollment  
453 public charter school proponents, the authorizer shall review the  
454 petition for an open-enrollment public charter school and may  
455 approve any petition that satisfactorily provides the information  
456 required under paragraph (e).

457                   (h) The State Board of Education may approve or deny an  
458 application based on criteria adopted by the state board, which  
459 shall include criteria relating to improving student performance  
460 and encouraging innovative programs.



461           (i) The state board shall give preference in approving  
462 applicants that have demonstrated performance-based success in  
463 another comparable program or in a similarly designed public  
464 charter school in another state that will be located in any public  
465 school district:

466                   (i) Where the percentage of students who qualify  
467 for free or reduced price lunches is above the average for the  
468 state; or

469                   (ii) Where the percentage of students not reading  
470 at grade level is above the average for the state.

471           (j) If the State Board of Education disapproves an  
472 application for an open-enrollment public charter school, the  
473 state board shall notify the petitioners in writing of the reasons  
474 for such disapproval within forty-five (45) days.

475           (k) The state board shall allow the petitioners for an  
476 open-enrollment public charter school to resubmit their petition  
477 if the original petition was found to be deficient by the state  
478 board, after the petitioner has corrected any deficiencies found  
479 in the initial notice of disapproval.

480           (l) The Department of Education may provide technical  
481 assistance to the petitioners for an open-enrollment public  
482 charter school in the creation or modification of these petitions.

483           (m) An open-enrollment public charter school shall  
484 enroll an eligible pupil who submits a timely application, unless  
485 the number of applications exceeds the capacity of a program,  
486 class, grade level or building. In this case, pupils must be  
487 accepted by a lottery. A public charter school may not limit  
488 admission to pupils on the basis of race, intellectual ability,  
489 measures of achievement or aptitude, or athletic ability. A  
490 public charter school is subject to any desegregated court orders  
491 in effect in the school district in which the charter school is  
492 located.



493           (n) A certified teacher employed by a public school  
494 district in the school year immediately preceding the effective  
495 date of a charter for an open-enrollment public charter school  
496 operated at a public school facility may not be transferred to or  
497 be employed by the open-enrollment charter school over the  
498 certified teacher's objections.

499           (o) No private or parochial elementary or secondary  
500 school shall be eligible for open-enrollment public charter school  
501 status.

502           (p) After a three-year period operation, the public  
503 charter schools with a demonstrated record of success are eligible  
504 for fast-track authorization if they wish to operate their schools  
505 in other locations in the state. The State Board of Education  
506 shall issue regulations to provide for this fast-track  
507 authorization, based upon its annual report provided under Section  
508 32-28-19.

509           (q) A charter shall include a mechanism for declaring  
510 the charter null and void if, at any time, the school operating  
511 under public charter status fails to fulfill the terms of the  
512 charter.

513           (r) All public charter schools shall undergo a one-year  
514 planning period, with the State Board of Education defining the  
515 terms of such planning period, before any students can begin  
516 attending such school at the proposed public charter school.

517           (3) Initial open-enrollment public charters issued by the  
518 State Board of Education shall be on a pilot program basis for a  
519 term of five (5) years. Thereafter, the State Board of Education  
520 may renew charters on a one-year or multiyear basis, not to exceed  
521 five (5) years. In order for a charter to be granted, the  
522 operators must agree to commit to the full initial five-year  
523 period, or any subsequent renewal period, unless the State  
524 Department of Education or State Board of Education determine the





525 charter should be revoked for the reasons stated under Section  
526 37-28-15, Mississippi Code of 1972.

527         **SECTION 5.** The following shall be codified as Section  
528 37-28-9, Mississippi Code of 1972:

529         37-28-9. The terms of each conversion and open-enrollment  
530 public charter school shall include a transportation plan for  
531 students that will be attending the charter school. Charter  
532 schools shall comply with transportation regulations applicable to  
533 all other school districts under Section 37-41-3. The  
534 transportation must be provided by the public charter school  
535 within the district in which the public charter school is located.  
536 The state shall pay transportation aid to the public charter  
537 school according to Section 37-151-85.

538         **SECTION 6.** The following shall be codified as Section  
539 37-28-11, Mississippi Code of 1972:

540         37-28-11. (1) A conversion charter school shall receive  
541 state and local funds in the same manner as other public schools  
542 in the school district. Conversion charter schools may also be  
543 funded by: federal grants, grants, gifts or donations from any  
544 private sources; and state funds appropriated for the support of  
545 the charter school; and any other funds that may be received by  
546 the school district. Schools applying for charter status and  
547 charter schools are encouraged to apply for federal funds  
548 appropriated specifically for the support of charter schools under  
549 the Omnibus Consolidated Appropriations Act, 1997 (Public Law No.  
550 104-208 [H.R. 3610] (1996)).

551         (2) Subject to funds specifically appropriated for the  
552 support of public charter schools, an open-enrollment public  
553 charter school shall receive per pupil, base student cost funding  
554 equal to the amount that a public school district would receive as  
555 calculated under Section 37-151-7(1)(b) and (c), Mississippi Code  
556 of 1972, including the adjustment for at-risk pupils as calculated  
557 under Section 37-151-7(d), Mississippi Code of 1972. An



558 open-enrollment public charter school shall also receive other  
559 state funding that a local school district is entitled to receive  
560 limited to special education, gifted and vocational or technical  
561 education programs under Section 37-151-7(1)(e), Mississippi Code  
562 of 1972, including transportation under Section 37-151-85 if the  
563 public school provides transportation under Section 32-28-14.  
564 Open-enrollment public charter schools shall not be eligible to  
565 receive ad valorem taxes, and therefore shall not be required to  
566 provide a local contribution as calculated under Section  
567 37-151-7(2), Mississippi Code of 1972. The state shall pay the  
568 full per pupil, base student cost to the public charter school as  
569 determined by average daily attendance. Public charter schools  
570 shall not be able to levy taxes or issue bonds secured by tax  
571 revenues. Average daily attendance after the first year the  
572 open-enrollment is open shall be calculated in the same way as  
573 other public schools under Section 37-151-7, Mississippi Code of  
574 1972. Funding for the first year the open-enrollment public  
575 charter school is open shall be determined according to the  
576 following provisions:

577           (a) The funding estimate shall be based on the  
578 projected enrollment, including the projected number of pupils  
579 participating in the federal free lunch program, submitted by  
580 December 10 preceding the school year in which students are to  
581 attend;

582           (b) Funding for open-enrollment public charter schools  
583 shall be paid in twelve (12) installments each fiscal year as  
584 other public school districts;

585           (c) In January of the school year that the  
586 open-enrollment public charter school is in operation, funding  
587 allocations will be adjusted based on the average daily attendance  
588 for months two (2) and three (3) of the school year that the  
589 charter school is in operation and actual number of pupils  
590 participating in the federal free lunch program. Average daily



591 attendance for charter schools will be determined by multiplying  
592 enrollment for months two (2) and three (3) by the statewide  
593 average daily attendance percentage for months two (2) and three  
594 (3). Monthly payments for the remaining portion of the  
595 twelve-month funding cycle will be prorated based on the adjusted  
596 funding allocation; and

597 (d) Funding allocations for the rest of the  
598 twelve-month funding cycle will be prorated based on the actual  
599 enrollment in months two (2) and three (3) of the school year.

600 (3) An open-enrollment public charter school may receive  
601 federal monies, federal grants, grants, gifts or donations.

602 (4) An open-enrollment public charter school may not use the  
603 monies that it receives from the state for any sectarian program  
604 or activity, or as collateral for debt. No indebtedness of any  
605 kind incurred or created by the open-enrollment public charter  
606 school shall constitute as indebtedness of the state or its  
607 political subdivisions, and no indebtedness of the open-enrollment  
608 public charter school shall involve or be secured by the faith,  
609 credit or taxing power of the state or its political subdivisions.

610 (5) The State Board of Education may give charter schools  
611 special preference when allocating grant funds other than state  
612 funds for alternative school programs, classroom technology,  
613 school improvement programs, mentoring programs or other grant  
614 programs designed to improve local school performance.

615 (6) Nothing in this chapter prohibits charter schools from  
616 offering virtual services pursuant to state law and regulations  
617 defining virtual schools.

618 **SECTION 7.** The following shall be codified as Section  
619 37-28-13, Mississippi Code of 1972:

620 37-28-13. (1) Employees of a conversion charter school  
621 shall be considered employees of the conversion charter school.



622 (2) Employees of an open-enrollment public charter school  
623 shall be considered employees of the open-enrollment public  
624 charter school.

625 (3) If a certified teacher employed by a public school  
626 district in the school year immediately preceding the effective  
627 date of any charter school and the charter is later revoked, the  
628 certified teacher will receive a priority in hiring for the first  
629 available position for which the certified teacher is qualified in  
630 the public school district where the certified teacher was  
631 formerly employed.

632 (4) A school district, school district employee, or any  
633 other person who has control over personnel actions may not take  
634 unlawful reprisal against an employee of the school district  
635 because the employee is directly or indirectly involved in an  
636 application to establish a charter school. The term "unlawful  
637 reprisal" shall include:

- 638 (a) Disciplinary or corrective action;
- 639 (b) Detail, transfer or reassignment;
- 640 (c) Suspension, demotion or dismissal;
- 641 (d) An unfavorable performance evaluation;
- 642 (e) A reduction in pay, benefits or awards;
- 643 (f) Elimination of the employee's position without a  
644 reduction in force by reason of lack of monies or work; and
- 645 (g) Other significant changes in duties or  
646 responsibilities which are inconsistent with the employee's salary  
647 or employment classification.

648 **SECTION 8.** The following shall be codified as Section  
649 37-28-15, Mississippi Code of 1972:

650 37-28-15. (1) The State Superintendent of Education may at  
651 any time place a charter school on probation if the governing  
652 council of the school has failed to:

- 653 (a) Demonstrate adequate student progress, especially  
654 in meeting the academic goals outlined in the school's charter;



655 (b) Comply with the terms of its charter or with  
656 applicable laws and regulations, specifically the enrollment  
657 criteria defined under Section 37-28-7, subsection (2)(g)(v),  
658 Mississippi Code of 1972;

659 (c) Maintain its nonsectarian status; and

660 (d) Demonstrate financial solvency or the ability to  
661 provide effective oversight in the operation of the charter  
662 school, including the prudent and legal management of public  
663 funds.

664 (2) If a charter school is placed on probation, the State  
665 Superintendent of Education shall provide written notice to the  
666 public charter school of the reasons for such action no later than  
667 ten (10) working days after the determination and shall require  
668 the charter school to file and implement a corrective action plan  
669 according to an implementation schedule approved by the State  
670 Department of Education. Whenever a charter school is placed on  
671 probationary status, the governing council shall be required to  
672 notify the parents or guardians of students attending the school  
673 by letter of the probationary status and the reasons for such  
674 status.

675 (3) The State Board of Education may revoke or not renew the  
676 charter of a charter school if the governing council of the school  
677 has failed to:

678 (a) Comply with the terms of probation in subsections  
679 (1) and (2) of this section, including failure to file and  
680 implement a corrective action plan;

681 (b) Demonstrate satisfactory student progress in  
682 meeting the academic goals outlined in a school's charter after at  
683 least one (1) year of probation, or, at the end of the charter  
684 period, demonstrate achievement of the academic goals outlined in  
685 a school's charter;

686 (c) Comply with the terms of its charter or applicable  
687 laws and regulations, specifically enrollment criteria defined



688 under Sections 37-28-9(2) (g) (vii) and 37-28-9(2) (m), Mississippi  
689 Code of 1972;

690 (d) Demonstrate financial solvency or the ability to  
691 provide effective oversight in the operation of the charter  
692 school, including the prudent and legal management of public  
693 funds.

694 (4) Unless an emergency exists, prior to revoking the  
695 charter, the State Board of Education shall provide the governing  
696 council of the charter school with a written notice of the reasons  
697 for revocation within ten (10) working days of the determination  
698 that revocation is necessary, including the identification of  
699 specific incidents of noncompliance with the law, regulation or  
700 charter or other matters warranting revocation of the charter.  
701 The State Board of Education shall also hold a hearing within  
702 thirty-five (35) working days after written notice concerning the  
703 reasons for revocation is received in which all interested parties  
704 can present evidence refuting or defending the reasons revocation  
705 of the charter was deemed necessary.

706 (5) In the event an emergency exists in a charter school  
707 which jeopardizes the safety, security or educational interests of  
708 the children enrolled in such charter school and such emergency  
709 situation is believed to be related to a serious violation or  
710 violations of accreditation standards or state and federal law,  
711 the State Board of Education may immediately revoke the charter of  
712 the school, provided written notice concerning the reasons for the  
713 revocation is sent to the governing council not later than ten  
714 (10) working days after the date of revocation.

715 (6) All public funds received by a conversion or  
716 open-enrollment charter school are subject to audit by the State  
717 Auditor. The administrative head of any charter school shall be  
718 civilly liable for all amounts of public funds which are  
719 illegally, unlawfully or wrongfully expended or paid out by virtue  
720 of or pursuant to a false report, list or record. Any suit to



721 recover such funds illegally, unlawfully or wrongfully expended or  
722 paid out may be brought in the name of the State of Mississippi by  
723 the Attorney General or by the proper district attorney, and in  
724 the event suit be brought against a person who is under bond, the  
725 sureties upon such bond shall likewise be liable for such amount  
726 illegally, unlawfully or wrongfully expended or paid out.

727         **SECTION 9.** The following shall be codified as Section  
728 37-28-17, Mississippi Code of 1972:

729         37-28-17. Before January 1, 2012, and each year thereafter,  
730 the State Board of Education shall submit a report to the  
731 Legislature on the status of the charter school program. This  
732 report minimally shall include: (a) a review and compilation of  
733 comprehensive reports and evaluations issued by local school  
734 boards concerning successes or failures of charter schools and  
735 formulated recommendations; (b) a comparison of the academic  
736 performance of charter school students with the performance of  
737 ethnically and economically comparable groups of students in other  
738 public schools who are enrolled in academically comparable  
739 courses; (c) the current and projected impact of charter schools  
740 on the delivery of services by the public schools; (d) an  
741 assessment of the students' academic progress in the charter  
742 school as measured, where available, against the academic year  
743 immediately preceding the first year of the charter school's  
744 operation; (e) the best practices resulting from charter school  
745 operations; and (f) an evaluation of open-enrollment public  
746 charter schools shall include, but not be limited to,  
747 consideration of:

- 748                   (i) Student progress concerning academic  
749 achievement;
- 750                   (ii) Student attendance;
- 751                   (iii) Student grades and scores on assessment  
752 instruments;
- 753                   (iv) Incidents involving student discipline;



- 754 (v) Socioeconomic data on students' families;  
755 (vi) Parent satisfaction with the schools; and  
756 (vii) Student satisfaction with the schools.

757 **SECTION 10.** The following shall be codified as Section  
758 37-28-19, Mississippi Code of 1972:

759 37-28-19. Conversion charter schools and new open-enrollment  
760 charter schools authorized and organized under the provisions of  
761 this chapter may apply for federal funding under the federal "Race  
762 to the Top" program. It is the intent of the Legislature that  
763 pursuant to the conditions of federal funding under the Race to  
764 the Top program, public charter schools in Mississippi are  
765 authorized to operate innovative and autonomous public school  
766 programs that are high-performing and that state law shall not  
767 prohibit the number of high-performing charter schools in the  
768 state as measured by the percentage of total schools in the state  
769 that are allowed to organize as charter schools or to otherwise  
770 restrict student enrollment in these public charter schools. It  
771 is further the intent of the Legislature that public charter  
772 schools receive equitable state and federal funding compared to  
773 traditional public schools, as required by the "Race to the Top"  
774 federal program, and that the state shall not impose any school  
775 facility-related requirements on public charter schools that are  
776 more restrictive than those applied to traditional public schools.

777 **SECTION 11.** The following shall be codified as Section  
778 37-28-21, Mississippi Code of 1972:

779 37-28-21. Sections 37-28-1, 37-28-3, 37-28-5, 37-28-7,  
780 37-28-9, 37-28-11, 37-28-13, 37-28-15, 37-28-17, 37-28-19 and  
781 37-28-21, Mississippi Code of 1972, which authorize  
782 open-enrollment or conversion charter schools, shall stand  
783 repealed from and after July 1, 2020.

784 **SECTION 12.** This act shall take effect and be in force from  
785 and after July 1, 2010.

