

By: Senator(s) Watson, McDaniel, Flowers,
Clarke, Hewes, Ward, Jackson (15th),
Fillingane, Yancey, Burton

To: Education

SENATE BILL NO. 2774

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 CONVERSION CHARTER SCHOOLS UNDER WHICH EXISTING PUBLIC SCHOOLS
5 MEETING CERTAIN CRITERIA MAY CONVERT TO CHARTER SCHOOL STATUS, TO
6 PROVIDE AUTHORIZATION FOR NEW OPEN-ENROLLMENT PUBLIC CHARTER
7 SCHOOLS IN THE STATE OF MISSISSIPPI, TO PROVIDE THAT SUCH
8 OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS SHALL BE ORGANIZED AS
9 NONPROFIT TAX-EXEMPT ORGANIZATIONS, TO PROVIDE CRITERIA FOR
10 ACADEMIC ACHIEVEMENTS AT THE PUBLIC CHARTER SCHOOLS, TO PROVIDE
11 THAT CERTAIN STATE FUNDS SHALL GO DIRECTLY TO THE NEWLY
12 ESTABLISHED PUBLIC CHARTER SCHOOLS ON A PER-PUPIL EXPENDITURE
13 BASIS, TO PROVIDE THAT SUCH PUBLIC CHARTER SCHOOLS MAY USE A
14 WEIGHTED LOTTERY SYSTEM TO FILL ENROLLMENT SEATS, TO PROVIDE FOR
15 THE GOVERNANCE OF SUCH PUBLIC CHARTER SCHOOLS AND TO PROVIDE THAT
16 TEACHERS SHALL BE EMPLOYEES OF THE PUBLIC CHARTER SCHOOLS, TO
17 PROVIDE THAT THE STATE BOARD OF EDUCATION SHALL ISSUE REGULATIONS,
18 AND TO PROVIDE FOR REPORTING, TO PROVIDE FOR TRANSPORTATION OF
19 STUDENTS ATTENDING PUBLIC CHARTER SCHOOLS, AND TO PROVIDE FOR
20 PROBATION AND REVOCATION OF PUBLIC CHARTER SCHOOLS BY THE STATE
21 SUPERINTENDENT OF EDUCATION; TO REPEAL SECTIONS 37-28-1 THROUGH
22 37-28-21, MISSISSIPPI CODE OF 1972, EFFECTIVE JULY 1, 2020; TO
23 REPEAL SECTIONS 37-165-1 THROUGH 37-165-27, MISSISSIPPI CODE OF
24 1972, WHICH IS THE "CONVERSION CHARTER SCHOOL ACT OF 2010"; AND
25 FOR RELATED PURPOSES.

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

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

29 37-28-1. It is the intent of the Legislature that this
30 chapter provide a means whereby local public schools or public
31 charter schools may choose to substitute a binding academic or
32 vocational, or both, performance-based contract approved by the
33 State Board of Education, called a "charter," for rules,
34 regulations, policies and procedures of the State Board of
35 Education and the local school district and, except as otherwise
36 provided, the provisions of Title 37 of the Mississippi Code of



37 1972 which are applicable to schools and school districts and
38 their employees and students.

39 **SECTION 2.** The following shall be codified as Section
40 37-28-3, Mississippi Code of 1972:

41 37-28-3. For purposes of this chapter, the following words
42 and phrases shall have the meanings respectively ascribed in this
43 section unless the context clearly indicates otherwise:

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

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

56 (c) "Public charter school" means a school that is
57 operating under the terms of a charter granted by the State Board
58 of Education, or an open-enrollment public charter school
59 established after July 1, 2011.

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

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

67 (f) "Eligible entity" means a public institution of
68 higher learning, a private nonsectarian institution of higher
69 learning, a governmental entity, or an organization that is



70 nonsectarian in its program, admission policies, employment
71 practices, and operations and is exempt from taxation under
72 Section 501(c) (3) of the Internal Revenue Code of 1986.

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

77 (h) "Authorizer" means an entity that reviews
78 applications, decides whether to approve or reject applications,
79 enters into contracts with applicants, oversees and monitors
80 public charter schools, and decides whether to renew, not renew,
81 or revoke contracts. The State Board of Education, universities
82 and local school boards are the only eligible authorizers.

83 **SECTION 3.** The following shall be codified as Section
84 37-28-5, Mississippi Code of 1972:

85 37-28-5. (1) The provisions of this subsection (1) shall be
86 applicable to any conversion charter school and the State Board of
87 Education shall establish rules and regulations for the submission
88 of petitions for charter school status and criteria and procedures
89 for the operation of charter schools applicable to such conversion
90 charter schools. The board shall receive and review petitions for
91 conversion charter school status from local public schools and may
92 approve petitions and grant charter school status. At least five
93 (5) local public schools that are granted conversion charter
94 school status shall, at the time the school submits its initial
95 petition for charter school status: (a) be rated as Under
96 Academic Watch, Low-Performing, At Risk of Failing or Failing; (b)
97 be in a school district rated as Under Academic Watch,
98 Low-Performing, At Risk of Failing or Failing; or (c) be under
99 conservatorship or under the Recovery School District operated by
100 the State Department of Education. In order to be approved, a
101 petition for charter school status, in the opinion of the
102 authorizer, must adequately include:



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

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

109 (c) A proposal to directly and substantially involve
110 the parents of students enrolled in the school as well as the
111 faculty, instructional staff and the broader community in the
112 process of modifying the petition, if necessary for approval, and
113 carrying out the terms of the charter.

114 (2) Any local school may submit a petition to the authorizer
115 requesting conversion charter school status. The petition must:

116 (a) Be agreed to by a majority of the parents of
117 students enrolled in the school at a meeting called for the
118 specific purpose of deciding whether or not to initiate the
119 petition;

120 (b) Describe a plan for school improvement that
121 addresses how the school proposes to work toward improving student
122 learning and meeting state education goals;

123 (c) Outline proposed academic or vocational, or both,
124 performance criteria that will be used during the initial period
125 of the charter to measure progress of the school in improving
126 student learning and in meeting state education goals:

127 (i) Academic performance criteria must include
128 specific and measureable benchmarks of academic performance on
129 state assessments. Such benchmarks must require that after three
130 (3) years of enrollment, the charter school students outperform
131 similar students in the local district in which the charter is
132 located;

133 (ii) Academic performance criteria must also
134 include a requirement that charter schools not miss adequate
135 yearly progress for any two (2) consecutive years, as defined by



136 the No Child Left Behind Act of 2001, or other future federal
137 school accountability requirements;

138 (e) Describe how the faculty, instructional staff and
139 parents of students enrolled in the school have been involved in
140 developing the petition and will be involved in developing and
141 implementing the improvement plan and identifying academic or
142 vocational, or both, performance criteria;

143 (f) Describe how the concerns of faculty, instructional
144 staff and parents of students enrolled in the school will be
145 solicited and addressed in evaluating the effectiveness of the
146 improvement plan;

147 (g) (i) Describe the facility to be used for the
148 conversion charter school and state the facility's current use and
149 the facility's use for the immediately preceding three (3) years;

150 (ii) If the facility to be used for a conversion
151 charter school is a public school district facility, the
152 conversion charter school must operate in the facility in
153 accordance with the terms established by the local school board of
154 the public school district in an agreement governing the
155 relationship between the conversion charter school and the public
156 school district;

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

161 (iv) Any public school facility that is offered
162 for sale shall first be offered to any conversion charter school
163 located in that school district;

164 (h) Include a detailed budget, a governance plan for
165 the operation of the conversion charter school, and a clear
166 business plan;

167 (i) Include a proposal to directly and substantially
168 involve the parents of students to be enrolled in the conversion



169 charter school, the certified employees, and the broader community
170 in carrying out the terms of the conversion charter;

171 (j) Include an agreement to provide an annual academic
172 achievement report to parents, the local school board of any
173 school district from which the conversion charter school draws
174 students, and the State Board of Education which indicates the
175 progress made by the conversion charter school during the previous
176 year in meeting its academic or vocational performance objectives.
177 The report shall include, but not be limited to, the following
178 information:

179 (i) Student progress concerning academic
180 achievement;

181 (ii) Student attendance;

182 (iii) Student grades and scores on assessment
183 instruments;

184 (iv) Incidents involving student discipline;

185 (v) Socioeconomic data on students' families;

186 (vi) Parent satisfaction with the schools; and

187 (vii) Student satisfaction with the schools;

188 (k) Include an agreement to provide a yearly financial
189 report to parents, the local school board of any school district
190 from which the conversion charter school draws students, and the
191 State Board of Education which discloses all public and private
192 funds received by the conversion charter school, and how those
193 funds were spent;

194 (l) Specify methods for admission, enrollment criteria,
195 student recruitment and selection processes;

196 (m) As requested by the petitioning conversion charter
197 school proponents, the authorizer shall review the petition for a
198 conversion charter school and shall approve any petition that
199 satisfactorily provides the information required;

200 (n) If the authorizer disapproves an application for a
201 conversion charter school, the authorizer shall notify the



202 petitioners in writing of the reasons for such disapproval within
203 forty-five (45) days;

204 (o) The authorizer shall allow the petitioners for a
205 conversion charter school to resubmit their petition if the
206 original petition was found to be deficient by the original
207 authorizer, after the petitioner has corrected any deficiencies
208 found in the initial notice of disapproval;

209 (p) The Department of Education may provide technical
210 assistance to the petitioners for a conversion charter school in
211 the creation or modification of these petitions;

212 (q) All pupils attending a conversion charter school
213 when application is made for conversion school status shall be
214 deemed to be enrolled when the conversion charter is approved by
215 the State Board of Education. One (1) year after the initial
216 conversion charter is approved, a conversion charter school shall
217 enroll an eligible pupil who submits a timely application, unless
218 the number of applications exceeds the capacity of a program,
219 class, grade level or building. In this case, new pupils must be
220 accepted by a lottery. A conversion charter school may not limit
221 admission to pupils on the basis of race, intellectual ability,
222 measures of achievement or aptitude, or athletic ability. A
223 conversion charter school is subject to any desegregated court
224 orders in effect in the school district in which the conversion
225 charter school is located;

226 (r) A certified teacher employed by a public school
227 district in the school year immediately preceding the effective
228 date of a charter for a conversion charter school operated at a
229 public school facility may not be transferred to or be employed by
230 the conversion charter school over the certified teacher's
231 objections; and

232 (s) A conversion charter shall include a mechanism for
233 declaring the charter null and void if, at any time, the school



234 operating under conversion charter status fails to fulfill the
235 terms of the charter.

236 (t) Conversion charter schools are exempt from the
237 rules, regulations, policies and procedures of the State Board of
238 Education and the local school board and from the provisions of
239 the Mississippi Code of 1972 relating to the elementary and
240 secondary education of students, with the exception of the
241 following statutes:

242 (i) Section 37-9-75, which relates to teacher
243 strikes;

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

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

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

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

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

255 (vii) Applicable State Department of Health
256 regulations; and

257 (viii) Applicable federal No Child Left Behind
258 requirements.

259 (4) Initial conversion charters issued by the authorizer
260 shall be for a term of three (3) years. Thereafter, the
261 authorizer may renew charters on a one-year or multiyear basis,
262 not to exceed three (3) years, if the renewal is approved by a
263 vote of a majority of the faculty, instructional staff and parents
264 of students enrolled in the school who are present at a meeting
265 called for the specific purpose of deciding whether or not to
266 renew the charter.



267 **SECTION 4.** The following shall be codified as Section
268 37-28-7, Mississippi Code of 1972:

269 37-28-7. (1) The provisions of this subsection (1) shall be
270 applicable to open-enrollment public charter schools established
271 after July 1, 2011. No open-enrollment public charter school
272 established after July 1, 2011, may enroll or accept students
273 prior to August 1, 2012.

274 (2) A charter for an open-enrollment public charter school
275 shall be in the form of a written contract between the authorizer
276 and the school, satisfy the requirements of this chapter, and
277 ensure that the information required under Section 37-28-7(2) is
278 consistent with the information provided in the application and
279 any modification which the State Board of Education may require.

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

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

284 (ii) Criteria to use in evaluating a charter
285 petition.

286 (b) As part of the application procedure, the
287 authorizer may require a petition supporting a charter for an
288 open-enrollment public charter school signed by interested parents
289 or guardians of school-age children residing in the area in which
290 an open-enrollment public charter school is proposed, or it may
291 hold a public hearing to determine parental support for the
292 school.

293 (c) Pursuant to the provisions of this chapter, an
294 eligible entity may petition the authorizer to grant a charter for
295 an open-enrollment public charter school to operate in a facility
296 of a commercial or nonprofit entity or a public school district.

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



300 (e) The petition shall:

301 (i) Describe the results of public hearings, if

302 any, called by the petitioner for the purpose of assessing support

303 of a petition for public charter school status:

304 1. Notice of the public hearing shall be

305 published once a week for three (3) consecutive weeks in a

306 newspaper having general circulation in each school district from

307 which the charter school is likely to draw students for the

308 purpose of enrollment:

309 a. The last publication of notice shall

310 be no less than seven (7) days prior to the public meeting;

311 b. The notice shall not be published in

312 the classified or legal notice section of the newspaper;

313 c. The notice shall be published in no

314 less than ten (10) point size and shall be no less than

315 two-by-four inches (2" X 4") or four-by-two inches (4" X 2");

316 2. Within seven (7) calendar days following

317 the first publication of notice required under paragraph (e) (i)1

318 of this section, letters announcing the public hearing shall be

319 sent to the superintendents and school board members of each of

320 the school districts from which the public charter school is

321 likely to draw students for the purpose of enrollment and the

322 superintendents and school board members of any district that is

323 contiguous to the district in which the open-enrollment public

324 charter school will be located;

325 3. The letters to the school board members

326 required in paragraph (e) (i)2 shall only be required for each

327 school board member whose name and mailing address is provided by

328 the superintendent of an affected school district upon the request

329 of the petitioner;

330 (ii) Describe a plan for academic achievement that

331 addresses how the open-enrollment public charter school will

332 improve student learning and meet the state education goals;



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

338 1. Academic performance criteria must include
339 specific and measurable benchmarks of academic performance on
340 state assessments. Such benchmarks must require that after five
341 (5) years of enrollment, the charter school students outperform
342 similar students in the local district in which the charter is
343 located;

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

349 (iv) Open-enrollment public charter schools are
350 exempt from rules, regulations, policies and procedures of the
351 State Board of Education and the local school board and from the
352 provisions of the Mississippi Code of 1972 relating to the
353 elementary and secondary education of students, with the exception
354 of the following statutes:

355 1. Section 37-9-75, which relates to teacher
356 strikes;

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

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

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

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



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

368 7. Applicable State Department of Health
369 regulations; and

370 8. Applicable federal No Child Left Behind
371 requirements;

372 (v) 1. Describe the facility to be used for the
373 open-enrollment public charter school and state the facility's
374 current use and the facility's use for the immediately preceding
375 three (3) years;

376 2. If the facility to be used for an
377 open-enrollment public charter school is a public school district
378 facility, the open-enrollment charter school must operate in the
379 facility in accordance with the terms established by the school
380 board of the public school district in an agreement governing the
381 relationship between the open-enrollment public charter school and
382 the public school district;

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

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

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

393 (vii) Include a proposal to directly and
394 substantially involve the parents of students to be enrolled in
395 the open-enrollment public charter school, the certified
396 employees, and the broader community in carrying out the terms of
397 the open-enrollment charter;



398 (viii) Include an agreement to provide an annual
399 academic achievement report to parents, the local school board of
400 any school district from which the charter school draws students,
401 and the State Board of Education which indicates the progress made
402 by the open-enrollment public charter school during the previous
403 year in meeting its academic or vocational performance objectives.
404 The report shall include, but not be limited to, the following
405 information:

- 406 1. Student progress concerning academic
407 achievement;
- 408 2. Student attendance;
- 409 3. Student grades and scores on assessment
410 instruments;
- 411 4. Incidents involving student discipline;
- 412 5. Socioeconomic data on students' families;
- 413 6. Parent satisfaction with the schools; and
- 414 7. Student satisfaction with the schools;

415 (ix) Include an agreement to provide a yearly
416 financial report to parents, the local school board of any school
417 district from which the public charter school draws students, and
418 the State Board of Education which discloses all public and
419 private funds received by the public charter school, and how those
420 funds were spent;

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

423 (f) The petition may be reviewed and a nonbinding
424 recommendation made to the authorizer by the local school board of
425 the school district, if it is not the original authorizer, where
426 the proposed open-enrollment public charter school will operate.

427 (g) As requested by the petitioning open-enrollment
428 public charter school proponents, the authorizer shall review the
429 petition for an open-enrollment public charter school and shall



430 approve any petition that satisfactorily provides the information
431 required under paragraph (e).

432 (h) The authorizer shall give preference in approving
433 applicants that have demonstrated performance-based success in
434 another comparable program or in a similarly designed public
435 charter school in another state that will be located in any public
436 school district:

437 (i) Where the percentage of students who qualify
438 for free or reduced price lunches is above the average for the
439 state; or

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

442 (i) If the authorizer disapproves an application for an
443 open-enrollment public charter school, the authorizer shall notify
444 the petitioners in writing of the reasons for such disapproval
445 within forty-five (45) days.

446 (j) The state board shall allow the petitioners for an
447 open-enrollment public charter school to resubmit their petition
448 if the original petition was found to be deficient by the
449 authorizer, after the petitioner has corrected any deficiencies
450 found in the initial notice of disapproval.

451 (k) The Department of Education may provide technical
452 assistance to the petitioners for an open-enrollment public
453 charter school in the creation or modification of these petitions.

454 (l) An open-enrollment public charter school shall
455 enroll an eligible pupil who submits a timely application, unless
456 the number of applications exceeds the capacity of a program,
457 class, grade level or building. In this case, the original class
458 of pupils must be accepted by a lottery. Following the initial
459 class of pupils, additional pupils may only be added when capacity
460 allows. The additional pupils must also be accepted by lottery.
461 A public charter school may not limit admission to pupils on the
462 basis of race, intellectual ability, measures of achievement or



463 aptitude, or athletic ability. A public charter school is subject
464 to any desegregated court orders in effect in the school district
465 in which the charter school is located.

466 (m) A certified teacher employed by a public school
467 district in the school year immediately preceding the effective
468 date of a charter for an open-enrollment public charter school
469 operated at a public school facility may not be transferred to or
470 be employed by the open-enrollment charter school over the
471 certified teacher's objections.

472 (n) No private or parochial elementary or secondary
473 school shall be eligible for open-enrollment public charter school
474 status.

475 (o) After a three-year period of operation, the public
476 charter schools with a demonstrated record of success are eligible
477 for fast-track authorization if they wish to operate their schools
478 in other locations in the state. The State Board of Education
479 shall issue regulations to provide for this fast-track
480 authorization, based upon its annual report provided under Section
481 32-28-19.

482 (p) A charter shall include a mechanism for declaring
483 the charter null and void if, at any time, the school operating
484 under public charter status fails to fulfill the terms of the
485 charter.

486 (q) All public charter schools shall undergo a one-year
487 planning period, with the State Board of Education defining the
488 terms of such planning period, before any students can begin
489 attending such school at the proposed public charter school.

490 (3) Initial open-enrollment public charters issued by the
491 authorizer shall be on a pilot program basis for a term of five
492 (5) years. Thereafter, the authorizer may renew charters on a
493 one-year or multiyear basis, not to exceed five (5) years. In
494 order for a charter to be granted, the operators must agree to
495 commit to the full initial five-year period, or any subsequent



496 renewal period, unless the State Department of Education or State
497 Board of Education determine the charter should be revoked for the
498 reasons stated under Section 37-28-15, Mississippi Code of 1972.

499 **SECTION 5.** The following shall be codified as Section
500 37-28-9, Mississippi Code of 1972:

501 37-28-9. The terms of each conversion and open-enrollment
502 public charter school shall include a transportation plan for
503 students that will be attending the charter school. Charter
504 schools shall comply with transportation regulations applicable to
505 all other school districts under Section 37-41-3. The
506 transportation must be provided by the public charter school
507 within the district in which the public charter school is located.
508 The state shall pay transportation aid to the public charter
509 school according to Section 37-151-85.

510 **SECTION 6.** The following shall be codified as Section
511 37-28-11, Mississippi Code of 1972:

512 37-28-11. (1) A conversion charter school shall receive
513 state and local funds in the same manner as other public schools
514 in the school district. Conversion charter schools may also be
515 funded by: federal grants, grants, gifts or donations from any
516 private sources; and state funds appropriated for the support of
517 the charter school; and any other funds that may be received by
518 the school district. Schools applying for charter status and
519 charter schools are encouraged to apply for federal funds
520 appropriated specifically for the support of charter schools under
521 the Omnibus Consolidated Appropriations Act, 1997 (Public Law No.
522 104-208 [H.R. 3610] (1996)).

523 (2) An open-enrollment public charter school shall receive
524 per pupil, base student cost funding equal to the amount that a
525 public school district would receive as calculated under Section
526 37-151-7(1)(b) and (c), Mississippi Code of 1972, including the
527 adjustment for at-risk pupils as calculated under Section
528 37-151-7(d), Mississippi Code of 1972. An open-enrollment public



529 charter school shall also receive other state funding that a local
530 school district is entitled to receive limited to special
531 education, gifted and vocational or technical education programs
532 under Section 37-151-7(1)(e), Mississippi Code of 1972, including
533 transportation under Section 37-151-85 if the public school
534 provides transportation under Section 32-28-14. Open-enrollment
535 public charter schools shall not be eligible to receive ad valorem
536 taxes, and therefore shall not be required to provide a local
537 contribution as calculated under Section 37-151-7(2), Mississippi
538 Code of 1972. The state shall pay the full per pupil, base
539 student cost to the public charter school as determined by average
540 daily attendance. Public charter schools shall not be able to
541 levy taxes or issue bonds secured by tax revenues. Average daily
542 attendance after the first year the open-enrollment is open shall
543 be calculated in the same way as other public schools under
544 Section 37-151-7, Mississippi Code of 1972. Funding for the first
545 year the open-enrollment public charter school is open shall be
546 determined according to the following provisions:

547 (a) The funding estimate shall be based on the
548 projected enrollment, including the projected number of pupils
549 participating in the federal free lunch program, submitted by
550 December 10 preceding the school year in which students are to
551 attend;

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

555 (c) In January of the school year that the
556 open-enrollment public charter school is in operation, funding
557 allocations will be adjusted based on the average daily attendance
558 for months two (2) and three (3) of the school year that the
559 charter school is in operation and actual number of pupils
560 participating in the federal free lunch program. Average daily
561 attendance for charter schools will be determined by multiplying



562 enrollment for months two (2) and three (3) by the statewide
563 average daily attendance percentage for months two (2) and three
564 (3). Monthly payments for the remaining portion of the
565 twelve-month funding cycle will be prorated based on the adjusted
566 funding allocation; and

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

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

572 (4) An open-enrollment public charter school may not use the
573 monies that it receives from the state for any sectarian program
574 or activity, or as collateral for debt. No indebtedness of any
575 kind incurred or created by the open-enrollment public charter
576 school shall constitute as indebtedness of the state or its
577 political subdivisions, and no indebtedness of the open-enrollment
578 public charter school shall involve or be secured by the faith,
579 credit or taxing power of the state or its political subdivisions.

580 (5) The State Board of Education may give charter schools
581 special preference when allocating grant funds other than state
582 funds for alternative school programs, classroom technology,
583 school improvement programs, mentoring programs or other grant
584 programs designed to improve local school performance.

585 (6) Nothing in this chapter prohibits charter schools from
586 offering virtual services pursuant to state law and regulations
587 defining virtual schools.

588 **SECTION 7.** The following shall be codified as Section
589 37-28-13, Mississippi Code of 1972:

590 37-28-13. (1) Employees of a conversion charter school
591 shall be considered employees of the conversion charter school.

592 (2) Employees of an open-enrollment public charter school
593 shall be considered employees of the open-enrollment public
594 charter school.



595 (3) If a certified teacher employed by a public school
596 district in the school year immediately preceding the effective
597 date of any charter school and the charter is later revoked, the
598 certified teacher will receive a priority in hiring for the first
599 available position for which the certified teacher is qualified in
600 the public school district where the certified teacher was
601 formerly employed.

602 (4) A school district, school district employee, or any
603 other person who has control over personnel actions may not take
604 unlawful reprisal against an employee of the school district
605 because the employee is directly or indirectly involved in an
606 application to establish a charter school. The term "unlawful
607 reprisal" shall include:

- 608 (a) Disciplinary or corrective action;
- 609 (b) Detail, transfer or reassignment;
- 610 (c) Suspension, demotion or dismissal;
- 611 (d) An unfavorable performance evaluation;
- 612 (e) A reduction in pay, benefits or awards;
- 613 (f) Elimination of the employee's position without a
614 reduction in force by reason of lack of monies or work; and
- 615 (g) Other significant changes in duties or
616 responsibilities which are inconsistent with the employee's salary
617 or employment classification.

618 **SECTION 8.** The following shall be codified as Section
619 37-28-15, Mississippi Code of 1972:

620 37-28-15. (1) The State Superintendent of Education may at
621 any time place a charter school on probation if the governing
622 council of the school has failed to:

- 623 (a) Demonstrate adequate student progress, especially
624 in meeting the academic goals outlined in the school's charter;
- 625 (b) Comply with the terms of its charter or with
626 applicable laws and regulations, specifically the enrollment



627 criteria defined under Section 37-28-7, subsection (2)(g)(v),
628 Mississippi Code of 1972;

629 (c) Maintain its nonsectarian status; and

630 (d) Demonstrate financial solvency or the ability to
631 provide effective oversight in the operation of the charter
632 school, including the prudent and legal management of public
633 funds.

634 (2) If a charter school is placed on probation, the State
635 Superintendent of Education shall provide written notice to the
636 public charter school of the reasons for such action no later than
637 ten (10) working days after the determination and shall require
638 the charter school to file and implement a corrective action plan
639 according to an implementation schedule approved by the State
640 Department of Education. Whenever a charter school is placed on
641 probationary status, the governing council shall be required to
642 notify the parents or guardians of students attending the school
643 by letter of the probationary status and the reasons for such
644 status.

645 (3) The authorizer may revoke or not renew the charter of a
646 charter school if the governing council of the school has failed
647 to:

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

651 (b) Demonstrate satisfactory student progress in
652 meeting the academic goals outlined in a school's charter after at
653 least one (1) year of probation, or, at the end of the charter
654 period, demonstrate achievement of the academic goals outlined in
655 a school's charter;

656 (c) Comply with the terms of its charter or applicable
657 laws and regulations, specifically enrollment criteria defined
658 under Sections 37-28-9(2)(g)(vii) and 37-28-9(2)(m), Mississippi
659 Code of 1972;



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 (4) Unless an emergency exists, prior to revoking the
665 charter, the State Board of Education shall provide the governing
666 council of the charter school with a written notice of the reasons
667 for revocation within ten (10) working days of the determination
668 that revocation is necessary, including the identification of
669 specific incidents of noncompliance with the law, regulation or
670 charter or other matters warranting revocation of the charter.
671 The State Board of Education shall also hold a hearing within
672 thirty-five (35) working days after written notice concerning the
673 reasons for revocation is received in which all interested parties
674 can present evidence refuting or defending the reasons revocation
675 of the charter was deemed necessary.

676 (5) In the event an emergency exists in a charter school
677 which jeopardizes the safety, security or educational interests of
678 the children enrolled in such charter school and such emergency
679 situation is believed to be related to a serious violation or
680 violations of accreditation standards or state and federal law,
681 the State Board of Education may immediately revoke the charter of
682 the school, provided written notice concerning the reasons for the
683 revocation is sent to the governing council not later than ten
684 (10) working days after the date of revocation.

685 (6) All public funds received by a conversion or
686 open-enrollment charter school are subject to audit by the State
687 Auditor. The administrative head of any charter school shall be
688 civilly liable for all amounts of public funds which are
689 illegally, unlawfully or wrongfully expended or paid out by virtue
690 of or pursuant to a false report, list or record. Any suit to
691 recover such funds illegally, unlawfully or wrongfully expended or
692 paid out may be brought in the name of the State of Mississippi by



693 the Attorney General or by the proper district attorney, and in
694 the event suit be brought against a person who is under bond, the
695 sureties upon such bond shall likewise be liable for such amount
696 illegally, unlawfully or wrongfully expended or paid out.

697 **SECTION 9.** The following shall be codified as Section
698 37-28-17, Mississippi Code of 1972:

699 37-28-17. Before January 1, 2014, and each year thereafter,
700 the State Board of Education shall submit a report to the
701 Legislature on the status of the charter school program. This
702 report minimally shall include: (a) a review and compilation of
703 comprehensive reports and evaluations issued by local school
704 boards concerning successes or failures of charter schools and
705 formulated recommendations; (b) a comparison of the academic
706 performance of charter school students with the performance of
707 ethnically and economically comparable groups of students in other
708 public schools who are enrolled in academically comparable
709 courses; (c) the current and projected impact of charter schools
710 on the delivery of services by the public schools; (d) an
711 assessment of the students' academic progress in the charter
712 school as measured, where available, against the academic year
713 immediately preceding the first year of the charter school's
714 operation; (e) the best practices resulting from charter school
715 operations; and (f) an evaluation of open-enrollment public
716 charter schools shall include, but not be limited to,
717 consideration of:

- 718 (i) Student progress concerning academic
719 achievement;
- 720 (ii) Student attendance;
- 721 (iii) Student grades and scores on assessment
722 instruments;
- 723 (iv) Incidents involving student discipline;
- 724 (v) Socioeconomic data on students' families;
- 725 (vi) Parent satisfaction with the schools; and



726 (vii) Student satisfaction with the schools.

727 **SECTION 10.** The following shall be codified as Section
728 37-28-19, Mississippi Code of 1972:

729 37-28-19. Conversion charter schools and new open-enrollment
730 charter schools authorized and organized under the provisions of
731 this chapter may apply for federal funding under the federal "Race
732 to the Top" program. It is the intent of the Legislature that
733 pursuant to the conditions of federal funding under the Race to
734 the Top program, public charter schools in Mississippi are
735 authorized to operate innovative and autonomous public school
736 programs that are high-performing and that state law shall not
737 prohibit the number of high-performing charter schools in the
738 state as measured by the percentage of total schools in the state
739 that are allowed to organize as charter schools or to otherwise
740 restrict student enrollment in these public charter schools. It
741 is further the intent of the Legislature that public charter
742 schools receive equitable state and federal funding compared to
743 traditional public schools, as required by the "Race to the Top"
744 federal program, and that the state shall not impose any school
745 facility-related requirements on public charter schools that are
746 more restrictive than those applied to traditional public schools.

747 **SECTION 11.** The following shall be codified as Section
748 37-28-21, Mississippi Code of 1972:

749 37-28-21. Sections 37-28-1, 37-28-3, 37-28-5, 37-28-7,
750 37-28-9, 37-28-11, 37-28-13, 37-28-15, 37-28-17, 37-28-19 and
751 37-28-21, Mississippi Code of 1972, which authorize
752 open-enrollment or conversion charter schools, shall stand
753 repealed from and after July 1, 2020.

754 **SECTION 12.** Sections 37-165-1, 37-165-3, 37-165-5, 37-165-7,
755 37-165-9, 37-165-11, 37-165-13, 37-165-15, 37-165-17, 37-165-19,
756 37-165-21, 37-165-23, 37-165-25 and 37-165-27, Mississippi Code of
757 1972, which is the "Conversion Charter School Act of 2010," are
758 hereby repealed.



759 **SECTION 13.** This act shall take effect and be in force from
760 and after July 1, 2011.

