

By: Representatives Moore, Espy

To: Education

HOUSE BILL NO. 888

1 AN ACT ENTITLED THE "MISSISSIPPI PUBLIC CHARTER SCHOOLS ACT
2 OF 2012"; TO DECLARE THE LEGISLATIVE PURPOSE OF THE PUBLIC CHARTER
3 SCHOOLS ACT; TO PROHIBIT CONVERSION OF PRIVATE OR PAROCHIAL SCHOOL
4 TO PUBLIC CHARTER SCHOOLS; TO PROVIDE DEFINITIONS; TO PROVIDE OPEN
5 ENROLLMENT AND LOTTERY REQUIREMENTS FOR PUBLIC CHARTER SCHOOLS; TO
6 PROVIDE PREFERENCES FOR STUDENT ENROLLMENT IN THE CASE OF A
7 CONVERSION CHARTER SCHOOL AND FOR SCHOOLS SERVING SPECIAL
8 POPULATIONS; TO REQUIRE ALL SCHOOLS IN THE STATE TO ACCEPT
9 TRANSFER CREDITS FROM PUBLIC CHARTER SCHOOLS; TO DEFINE THE
10 ELIGIBLE AUTHORIZER FOR PUBLIC CHARTER SCHOOLS; TO ESTABLISH THE
11 MISSISSIPPI PUBLIC CHARTER SCHOOLS AUTHORIZER BOARD AND PRESCRIBE
12 ITS MEMBERSHIP; TO PROVIDE FOR AN EXECUTIVE DIRECTOR OF THE
13 MISSISSIPPI PUBLIC CHARTER SCHOOLS AUTHORIZER BOARD; TO PRESCRIBE
14 AUTHORIZER POWERS AND DUTIES; TO PROVIDE STANDARDS FOR AUTHORIZING
15 PUBLIC CHARTER SCHOOLS WHICH SHALL BE POLICIES EQUAL TO NATIONALLY
16 ESTABLISHED BEST PRACTICES; TO PROVIDE FOR AUTHORIZER FUNDING AND
17 CONFLICT OF INTEREST; TO AUTHORIZE SERVICES TO BE PURCHASED FROM
18 THE AUTHORIZER; TO PRESCRIBE THE APPLICATION PROCESS FOR ALL TYPES
19 OF CHARTER SCHOOLS AND A DECISION-MAKING PROCESS; TO ESTABLISH AN
20 INITIAL CHARTER TERM; TO PROVIDE GUIDELINES FOR EXECUTING CHARTER
21 CONTRACTS; TO PROVIDE ACHIEVEMENT AND OPERATIONAL STANDARDS FOR
22 CHARTER SCHOOL OVERSIGHT AND CORRECTIVE ACTIONS; TO PROVIDE FOR
23 RENEWALS AND REVOCATIONS OF CHARTER SCHOOL CONTRACTS; TO PROVIDE
24 PROCEDURES FOR CHARTER SCHOOL CLOSURE AND DISSOLUTION; TO
25 PRESCRIBE THE LEGAL STATUS OF CHARTER SCHOOLS; TO EMPOWER CHARTER
26 SCHOOLS WITH FINANCIAL AUTHORITY TO IMPLEMENT ITS CONTRACT AND TO
27 PROHIBIT DISCRIMINATION AND THE CHARGING OF TUITION; TO PRESCRIBE
28 THE QUALIFICATIONS OF EMPLOYEES OF CHARTER SCHOOLS AND REQUIRE
29 CRIMINAL BACKGROUND CHECKS FOR SUCH EMPLOYEES; TO AUTHORIZE EQUAL
30 TRANSPORTATION FUNDING UNDER THE ADEQUATE EDUCATION PROGRAM FOR
31 PUBLIC CHARTER SCHOOLS; TO AUTHORIZE LOCAL FUNDING FOR PUBLIC
32 CHARTER SCHOOLS; TO AUTHORIZE CHARTER SCHOOLS TO ACCEPT GIFTS,
33 DONATIONS AND GRANTS; TO AUTHORIZE CHARTER SCHOOLS EQUAL ACCESS TO
34 EXISTING STATE FACILITIES PROGRAMS FOR PUBLIC SCHOOLS; TO
35 AUTHORIZE CHARTER SCHOOLS THE RIGHT OF FIRST REFUSAL TO VACANT
36 SCHOOL FACILITIES AND PROPERTY AND THE USE OF DONATED SPACE UNDER
37 PREEXISTING ZONING REGULATIONS; TO AMEND SECTION 37-3-2,
38 MISSISSIPPI CODE OF 1972, TO EXEMPT TEACHERS, INSTRUCTIONAL STAFF
39 AND ADMINISTRATORS OF PUBLIC CHARTER SCHOOLS FROM THE LICENSURE
40 REQUIREMENTS OF TRADITIONAL PUBLIC SCHOOL TEACHERS AND
41 ADMINISTRATORS; TO AMEND SECTION 37-9-17, MISSISSIPPI CODE OF
42 1972, TO REQUIRE EMPLOYEES AND ADMINISTRATORS OF PUBLIC CHARTER
43 SCHOOLS TO SUBMIT TO CRIMINAL BACKGROUND CHECKS AND
44 FINGERPRINTING; TO AMEND SECTION 37-9-103, MISSISSIPPI CODE OF
45 1972, TO PROVIDE THAT THE EDUCATION EMPLOYMENT PROCEDURES LAW
46 SHALL NOT APPLY TO TEACHERS OR ADMINISTRATORS AT PUBLIC CHARTER
47 SCHOOLS; TO REPEAL SECTIONS 37-165-1 THROUGH 37-165-25,
48 MISSISSIPPI CODE OF 1972, WHICH ARE THE "CONVERSION CHARTER SCHOOL
49 ACT OF 2010"; TO AMEND SECTION 37-165-27, MISSISSIPPI CODE OF
50 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; TO BRING FORWARD
51 SECTIONS 37-151-7 AND 37-57-107, MISSISSIPPI CODE OF 1972, FOR
52 PURPOSES OF POSSIBLE AMENDMENTS; AND FOR RELATED PURPOSES.



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

54 **SECTION 1.** This act shall be known and may be cited as the
55 "Mississippi Public Charter Schools Act of 2012."

56 **SECTION 2.** (1) The Legislature finds and declares that the
57 purposes of the state's public charter schools as a whole are:

58 (a) To improve student learning by creating
59 high-quality schools with high standards for student performance;

60 (b) To close achievement gaps between high-performing
61 and low-performing groups of public school students;

62 (c) To increase high-quality educational opportunities
63 within the public education system for all students, especially
64 those at risk of academic failure;

65 (d) To create new professional opportunities for
66 teachers, school administrators and other school personnel that
67 allow them to have a direct voice in the operation of their
68 schools;

69 (e) To encourage the use of different, high-quality
70 models of teaching, governing, scheduling or other aspects of
71 schooling that meet a variety of student needs;

72 (f) To allow public schools freedom and flexibility in
73 exchange for exceptional levels of result driven accountability;

74 (g) To provide students, parents, community members and
75 local entities with expanded opportunities for involvement in the
76 public education system; and

77 (h) To encourage the replication of successful public
78 charter schools.

79 (2) All public charter schools in the state established
80 under this act are public schools and are part of the state's
81 public education system.

82 (3) No provision of this act shall be interpreted to allow
83 the conversion of private schools into public charter schools.



84 **SECTION 3.** For purposes of this act, the following words and
85 phrases have the meanings ascribed in this section unless the
86 context clearly indicates otherwise:

87 (a) "Applicant" means any person or group that develops
88 and submits an application for a public charter school to an
89 authorizer.

90 (b) "Application" means a proposal from an applicant to
91 an authorizer to enter into a charter contract whereby the
92 proposed school obtains public charter school status.

93 (c) "At-risk student" means a student who has an
94 economic or academic disadvantage that requires special services
95 and assistance to succeed in educational programs. The term
96 includes, but is not necessarily limited to, students who are
97 members of economically disadvantaged families, students who are
98 identified as having special educational needs, students who are
99 limited in English proficiency, students who are at risk of
100 dropping out of high school and students who do not meet minimum
101 standards of academic proficiency.

102 (d) "Authorizer" means an entity authorized under this
103 act to review applications, decide whether to approve or reject
104 applications, enter into charter contracts with applicants,
105 oversee public charter schools and decide whether to renew, not
106 renew or revoke charter contracts.

107 (e) "Charter contract" means a fixed-term, renewable
108 contract between a public charter school and an authorizer that
109 outlines the roles, powers, responsibilities and performance
110 expectations for each party to the contract.

111 (f) "Conversion public charter school" means a charter
112 school that existed as a noncharter public school before becoming
113 a public charter school.

114 (g) "Education service provider" means a charter
115 management organization, school design provider or any other
116 partner entity with which a public charter school intends to



117 contract for educational design, implementation or comprehensive
118 management.

119 (h) "Governing board" means the independent board of a
120 public charter school that is party to the charter contract with
121 the authorizer and whose members have been elected or selected
122 pursuant to the school's application.

123 (i) "Local school board" means a school board
124 exercising management and control of a local school district
125 pursuant to the State Constitution and state statutes.

126 (j) "Local school district" means a public agency that
127 establishes and supervises one or more public schools within its
128 geographical limits pursuant to the State Constitution and state
129 statutes.

130 (k) "Noncharter public school" means a public school
131 that is under the direct management, governance and control of a
132 local school board or the state.

133 (l) "Parent" means a parent, guardian or other person
134 or entity having legal custody of a child.

135 (m) "Public charter school" means a public school that:

136 (i) Has autonomy over decisions including, but not
137 limited to, matters concerning finance, personnel, scheduling,
138 curriculum and instruction;

139 (ii) Is governed by an independent governing
140 board;

141 (iii) Is established and operating under the terms
142 of a charter contract between the school's board and its
143 authorizer;

144 (iv) Is a school to which parents choose to send
145 their children;

146 (v) Is a school that admits students on the basis
147 of a lottery if more students apply for admission than can be
148 accommodated;



149 (vi) Provides a program of education that includes
150 any single grade or multiple grades from kindergarten through
151 Grade 12;

152 (vii) Operates in pursuit of a specific set of
153 educational objectives as defined in its charter contract; and

154 (viii) Operates under the oversight of its
155 authorizer in accordance with its charter contract.

156 (n) "Start-up public charter school" means a public
157 charter school that did not exist as a noncharter public school
158 prior to becoming a public charter school.

159 (o) "Student" means any child who is eligible for
160 attendance in public schools in the state.

161 (p) "Virtual public charter school" means a public
162 charter school that offers educational services predominantly
163 through an online program. A virtual charter school may be
164 authorized by any eligible authorizer.

165 **SECTION 4.** (1) A public charter school shall be open to any
166 student residing in the state.

167 (2) A school district shall not require any student enrolled
168 in the school district to attend a public charter school.

169 (3) A public charter school shall not limit admission based
170 on ethnicity, national origin, religion, gender, income level,
171 disabling condition, proficiency in the English language or
172 academic or athletic ability, except as provided in Section 5(4).

173 (4) A public charter school may limit admission to students
174 within a given age group or grade level and may be organized
175 around a special emphasis, theme or concept as stated in the
176 school's application.

177 (5) (a) The at-risk composition of the charter school
178 enrollment shall reflect that of students in similar grades for
179 school-aged children for the school district in which the charter
180 school is located, to be defined for the purposes of this chapter



181 as differing by no more than twenty-five percent (25%) from that
182 population.

183 (b) In the event that the at-risk composition of an
184 applicant's or charter school's enrollment differs from the
185 enrollment of students in similar grades for the school district
186 in which the charter school is located by more than twenty-five
187 percent (25%), despite its best efforts, the authorizer from which
188 the applicant is seeking sponsorship shall consider the
189 applicant's or the charter school's recruitment efforts and
190 at-risk composition of the applicant pool in determining whether
191 the applicant or charter school is operating in a
192 nondiscriminatory manner. A finding by the authorizer that the
193 applicant is not operating in a discriminatory manner justifies
194 approval of the charter without regard to the at-risk percentage
195 requirement if the application is acceptable in all other aspects.
196 A finding by the authorizer that the applicant or charter school
197 is operating in a discriminatory manner justifies the denial of a
198 charter school application or the revocation of a charter, as may
199 be applicable.

200 (6) A public charter school shall enroll all students who
201 wish to attend the school, unless the number of students exceeds
202 the capacity of a program, class, grade level or building.

203 (7) If capacity is insufficient to enroll all students who
204 wish to attend the school, the public charter school shall select
205 students through a lottery.

206 **SECTION 5.** (1) Any noncharter public school converting
207 partially or entirely to a public charter school shall adopt and
208 maintain a policy giving enrollment preference to students who
209 reside within the former attendance area of that public school.
210 If the charter school has excess capacity after enrolling students
211 residing within the former attendance area of the school, students
212 outside of the former attendance area of the school shall be
213 eligible for enrollment. If the number of these additional



214 students exceeds the capacity of a program, class, grade level or
215 building, the students will be entered into a lottery.

216 (2) A public charter school shall give enrollment preference
217 to students enrolled in the public charter school the previous
218 school year and to siblings of students already enrolled in the
219 public charter school. An enrollment preference for returning
220 students excludes those students from entering into a lottery.

221 (3) A public charter school may give enrollment preference
222 to children of a public charter school's founders, governing board
223 members and full-time employees, so long as they constitute no
224 more than ten percent (10%) of the school's total student
225 population.

226 (4) This section does not preclude the formation of a public
227 charter school whose mission is focused on serving students with
228 disabilities, students of the same gender, students who pose such
229 severe disciplinary problems that they warrant a specific
230 educational program or students who are at risk of academic
231 failure. If capacity is insufficient to enroll all students who
232 wish to attend such school, the public charter school shall select
233 students through a lottery.

234 **SECTION 6.** If a student who was previously enrolled in a
235 public charter school enrolls in another public school in this
236 state, the student's new school shall accept credits earned by the
237 student in courses or instructional programs at the public charter
238 school in a uniform and consistent manner and according to the
239 same criteria that are used to accept academic credits from other
240 public schools.

241 **SECTION 7.** A school district shall provide or publicize to
242 parents and the general public information about public charter
243 schools as an enrollment option within the district to the same
244 extent and through the same means that the district provides and
245 publicizes information about noncharter public schools in the
246 district.



247 **SECTION 8.** (1) The State Board of Education, hereinafter
248 state board, may authorize conversion public charter schools in
249 any school district in the state.

250 (2) The Mississippi Public Charter School Board created
251 under Section 9 of this act may authorize start-up public charter
252 schools in any school district in the state.

253 (3) A local school board may authorize public charter
254 schools within the boundaries of the school district overseen by
255 the local school board.

256 **SECTION 9.** (1) There is established, the Mississippi Public
257 Charter School Board which is an independent state agency with
258 statewide chartering jurisdiction as described in Section 8(2).

259 (2) The mission of the Mississippi Public Charter School
260 Board shall be to authorize high-quality public charter schools
261 throughout the state, particularly schools designed to expand
262 opportunities for at-risk students, consistent with the purposes
263 of this act.

264 (3) The Mississippi Public Charter School Board shall
265 consist of five (5) members. Three (3) members shall be appointed
266 by the Governor and two (2) members shall be appointed by the
267 Lieutenant Governor. In making the appointments, the Governor and
268 Lieutenant Governor shall ensure statewide geographic and racial
269 diversity among Mississippi Public Charter School Board members.

270 (4) Members appointed to the Mississippi Public Charter
271 School Board shall collectively possess strong experience and
272 expertise in public and nonprofit governance, private sector
273 business management, finance, K-12 school leadership, assessment
274 and curriculum and instruction and public education law. All
275 members of the Mississippi Public Charter School Board shall have
276 demonstrated understanding of and commitment to charter schooling
277 as a strategy for strengthening public education and expanding
278 school choice.



279 (5) To establish staggered terms of office, the initial term
280 of office for the two (2) members of the board appointed by the
281 Governor shall be four (4) years and thereafter shall be three (3)
282 years. The initial term of office for the two (2) members of the
283 board appointed by the Lieutenant Governor shall be three (3)
284 years and thereafter shall be three (3) years. The initial term
285 of office for the at large member appointed by the Governor shall
286 be two (2) years and thereafter shall be three (3) years. No
287 member shall serve more than seven (7) consecutive years. The
288 initial appointments shall be made no later than September 1,
289 2012.

290 (6) A member of the Mississippi Public Charter School Board
291 may be removed for any cause that renders the member incapable or
292 unfit to discharge the duties of the office. Whenever a vacancy
293 on the Mississippi Public Charter School Board exists, the
294 original appointing authority shall appoint a member for the
295 remaining portion of the term.

296 (7) The Mississippi Public Charter School Board is
297 authorized to receive and expend gifts, grants, appropriations and
298 donations of any kind from any public or private entity to carry
299 out the purposes of this act, subject to the terms and conditions
300 under which they are given, provided that all such terms and
301 conditions are permissible under law.

302 (8) The Mississippi Public Charter School Board shall
303 operate with dedicated resources and staff qualified to execute
304 the day-to-day responsibilities of public charter school
305 authorizing in accordance with this act.

306 **SECTION 10.** (1) There is established an Office of Charter
307 Schools within the State Department of Education. The office
308 shall be vested with implementing the state board's decisions that
309 relate to conversion charter schools.



310 (2) The mission of the Office of Charter Schools shall be to
311 support the state board in executing the powers and duties
312 detailed in Section 11.

313 (3) The office is authorized to receive and expend gifts,
314 grants, appropriations and donations of any kind from any public
315 or private entity to carry out the purposes of this act, subject
316 to the terms and conditions under which they are given, provided
317 that all such terms and conditions are permissible under law.

318 **SECTION 11.** (1) Authorizers are responsible for executing,
319 in accordance with this act, the following essential powers and
320 duties:

321 (i) Soliciting and evaluating charter
322 applications;

323 (ii) Approving quality charter applications that
324 meet identified educational needs and promote a diversity of
325 educational choices;

326 (iii) Declining to approve weak or inadequate
327 charter applications;

328 (iv) Negotiating and executing sound charter
329 contracts;

330 (v) Monitoring, in accordance with charter
331 contract terms, the performance and legal compliance of public
332 charter schools;

333 (vi) Minimizing the administrative burdens and
334 costs faced by public charter schools; and

335 (vii) Determining whether each charter contract
336 merits renewal, nonrenewal or revocation.

337 (2) An authorizing entity may delegate its duties to
338 offices, employees and contractors.

339 (3) Regulation by authorizers shall be limited to these
340 powers and duties and consistent with the purpose and intent of
341 this act.



342 (4) An authorizing entity, members of the board of an
343 authorizer in their official capacity and employees of an
344 authorizer in their official capacity are immune from civil and
345 criminal liability with respect to all activities related to a
346 public charter school they authorize.

347 **SECTION 12.** (1) (a) All authorizers shall be required to
348 develop and maintain chartering policies and practices consistent
349 with nationally recognized principles and standards for quality
350 charter authorizing in all major areas of authorizing
351 responsibility including:

352 (i) Organizational capacity and infrastructure;

353 (ii) Soliciting and evaluating charter
354 applications;

355 (iii) Performance contracting;

356 (iv) Ongoing public charter school oversight and
357 evaluation; and

358 (v) Charter renewal decision-making.

359 (b) Authorizers shall carry out all their duties under this
360 act in a manner consistent with such nationally recognized
361 principles and standards and with the purpose and intent of this
362 act. Evidence of material or persistent failure to do so shall
363 constitute grounds for losing charter authorizing powers.

364 (2) Every authorizer shall be required to submit to the
365 Joint Committee on Performance Evaluation and Expenditure Review
366 an annual report summarizing:

367 (a) The authorizer's strategic vision for chartering
368 and progress toward achieving that vision;

369 (b) The academic and financial performance of all
370 operating public charter schools overseen by the authorizer,
371 according to the performance expectations for public charter
372 schools set forth in this act;



373 (c) The status of the authorizer's public charter
374 school portfolio, identifying all public charter schools in each
375 of the following categories:

- 376 (i) Approved, but not yet open;
- 377 (ii) Operating;
- 378 (iii) Renewed;
- 379 (iv) Transferred;
- 380 (v) Revoked;
- 381 (vi) Not renewed;
- 382 (vii) Voluntarily closed; or
- 383 (viii) Never opened;

384 (d) The authorizing functions provided by the
385 authorizer to the public charter schools under its purview,
386 including the authorizer's operating costs and expenses detailed
387 in annual audited financial statements that conform with Generally
388 Accepted Accounting Principles; and

389 (e) The services purchased from the authorizer by the
390 public charter schools under its purview, including an itemized
391 accounting of the actual costs of these services, as required in
392 Section 15.

393 **SECTION 13.** (1) To cover costs for overseeing public
394 charter schools in accordance with this act, an authorizer shall
395 receive three percent (3%) of annual per-pupil allocations
396 received by each public charter school it authorizes. These funds
397 must be used exclusively to cover the costs for an authorizer to
398 oversee its public charter schools.

399 (2) An authorizer may expend its resources, seek grant funds
400 and establish partnerships to support its public charter school
401 authorizing activities.

402 **SECTION 14.** (1) No employee, trustee, agent or
403 representative of an authorizer may simultaneously serve as an
404 employee, trustee, agent, representative, vendor or contractor of
405 a public charter school authorized by that entity.



406 (2) No governmental or other entity, other than those
407 expressly granted chartering authority as set forth in this act,
408 may assume any charter authorizing function or duty in any form,
409 unless expressly allowed by law.

410 **SECTION 15.** (1) With the exception of oversight services as
411 required by Section 13(1), no public charter school shall be
412 required to purchase services from its authorizer as a condition
413 of charter approval or of executing a charter contract, nor may
414 any such condition be implied.

415 (2) A public charter school may, at its discretion, choose
416 to purchase services from its authorizer. In such event, the
417 public charter school and authorizer shall execute an annual
418 service contract, separate from the charter contract, stating the
419 parties' mutual agreement concerning any services to be provided
420 by the authorizer and any service fees to be charged to the public
421 charter school. An authorizer may not charge more than market
422 rates for services provided to a public charter school.

423 **SECTION 16.** (1) To solicit, encourage and guide the
424 development of quality public charter school applications, every
425 authorizer operating under this act shall issue and broadly
426 publicize a request for proposals by September 1, except in the
427 authorizer's first year of operation in which the authorizer shall
428 issue and broadly publicize a request for proposals by November 1.
429 The content and dissemination of the request for proposals shall
430 be consistent with the purposes and requirements of this act.

431 (2) The authorizer shall annually establish and disseminate
432 a timeline for charter approval or denial decisions.

433 (3) Each authorizer's request for proposals shall include a
434 clear statement of any preferences the authorizer wishes to grant
435 to applications that help at-risk students.

436 (4) The request for proposals shall include or otherwise
437 direct applicants to the performance framework that the authorizer



438 has developed for public charter school oversight and evaluation
439 in accordance with Section 21(1) of this act.

440 (5) The request for proposals shall include the criteria
441 that will guide the authorizer's decision to approve or deny a
442 charter application.

443 (6) The request for proposals shall state clear,
444 appropriately detailed criteria as well as guidelines concerning
445 the format and content essential for applicants to demonstrate the
446 capacities necessary to establish and operate a successful public
447 charter school.

448 (7) The request for proposals shall require charter
449 applications to provide or describe thoroughly and each charter
450 application shall provide or describe thoroughly, all of the
451 following essential elements of the proposed school plan:

452 (a) An executive summary;

453 (b) The mission and vision of the proposed public
454 charter school, including identification of the targeted student
455 population and the community the school hopes to serve;

456 (c) The location or geographic area proposed for the
457 school;

458 (d) The grades to be served each year for the full term
459 of the charter contract;

460 (e) Minimum, planned and maximum enrollment per grade
461 per year for the term of the charter contract;

462 (f) Evidence of need and parental support for the
463 proposed public charter school;

464 (g) Background information on the proposed founding
465 governing board members and, if identified, the proposed school
466 leadership and management team;

467 (h) The school's proposed calendar and sample daily
468 schedule;

469 (i) A description of the academic program aligned with
470 state standards;



471 (j) A description of the school's instructional design,
472 including the type of learning environment, such as
473 classroom-based or independent study, class size and structure,
474 curriculum overview and teaching methods;

475 (k) The school's plan for using internal and external
476 assessments to measure and report student progress on the
477 performance framework developed by the authorizer in accordance
478 with Section 21(1) of this act;

479 (l) The school's plans for identifying and successfully
480 serving students with disabilities, students who are English
481 language learners, students who are academically behind and gifted
482 students, including, but not limited to, compliance with
483 applicable laws and regulations;

484 (m) A description of cocurricular or extracurricular
485 programs and how they will be funded and delivered;

486 (n) Plans and timelines for student recruitment and
487 enrollment, including lottery policies and procedures that ensure
488 that every student has an equal opportunity to be considered in
489 the lottery and that are equitable, randomized, transparent and
490 impartial to ensure students are admitted to charter schools
491 without regard to disability, income level, race, religion or
492 national origin;

493 (o) The school's student discipline policies, including
494 those for special education students;

495 (p) An organization chart that clearly presents the
496 school's organizational structure, including lines of authority
497 and reporting between the governing board, staff, any related
498 bodies (such as advisory bodies or parent and teacher councils)
499 and any external organizations that will play a role in managing
500 the school;

501 (q) A clear description of the roles and
502 responsibilities for the governing board, the school's leadership



503 and management team and any other entities shown in the
504 organization chart;

505 (r) A staffing chart for the school's first year and a
506 staffing plan for the term of the charter;

507 (s) Plans for recruiting and developing school
508 leadership and staff;

509 (t) The school's leadership and teacher employment
510 policies, including performance evaluation plans;

511 (u) Proposed governing bylaws;

512 (v) Explanations of any partnerships or contractual
513 relationships central to the school's operations or mission;

514 (w) The school's plans for providing transportation,
515 food service and all other significant operational or ancillary
516 services;

517 (x) Opportunities and expectations for parent
518 involvement;

519 (y) A detailed school start-up plan, identifying tasks,
520 timelines and responsible individuals;

521 (z) Description of the school's financial plan and
522 policies, including financial controls and audit requirements;

523 (aa) A description of the insurance coverage the school
524 will obtain;

525 (bb) Start-up and five-year budgets with clearly stated
526 assumptions;

527 (cc) Start-up and first-year cash-flow projections with
528 clearly stated assumptions;

529 (dd) Evidence of anticipated fund raising
530 contributions, if claimed in the application; and,

531 (ee) A sound facilities plan, including backup or
532 contingency plans if appropriate.

533 (8) In the case of an application to establish a public
534 charter school by converting an existing noncharter public school
535 to public charter school status, the request for proposals shall



536 additionally require the applicants to demonstrate support for the
537 proposed public charter school conversion by providing one (1) of
538 the following:

539 (a) A petition signed by a majority of teachers in the
540 existing noncharter public school;

541 (b) A petition signed by a majority of parents of
542 students in the existing noncharter public school;

543 (c) A majority vote of the local school board; or

544 (d) In the case of schools in districts under state
545 conservatorship, the State Board of Education.

546 (9) In the case of a proposal to establish a virtual public
547 charter school, the request for proposals shall additionally
548 require the applicants to describe the proposed school's system of
549 course credits and how the school will:

550 (a) Monitor and verify full-time student enrollment,
551 student participation in a full course load, credit accrual and
552 course completion;

553 (b) Monitor and verify student progress and performance
554 in each course through regular, proctored assessments and
555 submissions of coursework;

556 (c) Conduct parent-teacher conferences; and

557 (d) Administer state-required assessments to all
558 students in a proctored setting.

559 (10) In the case of a proposed public charter school that
560 intends to contract with an education service provider for
561 substantial educational services, management services or both
562 types of services, the request for proposals shall additionally
563 require the applicants to:

564 (a) Provide evidence of the education service
565 provider's ability to serve student populations similar to the
566 targeted population, including demonstrated academic achievement
567 as well as successful management of nonacademic school functions
568 if applicable;



569 (b) Provide a term sheet setting forth the proposed
570 duration of the service contract;

571 (c) Provide a description of the roles and
572 responsibilities of the governing board, the school staff and the
573 service provider;

574 (d) Provide the scope of services and resources to be
575 provided by the service provider;

576 (e) Provide performance evaluation measures and
577 timelines; compensation structure, including clear identification
578 of all fees to be paid to the service provider;

579 (f) Provide methods of contract oversight and
580 enforcement and investment disclosure;

581 (g) Provide conditions for renewal and termination of
582 the contract; and

583 (h) Disclose and explain any existing or potential
584 conflicts of interest between the school governing board and
585 proposed service provider or any affiliated business entities.

586 (11) In the case of a public charter school proposal from an
587 applicant that currently operates one or more schools in any
588 state, the request for proposals shall additionally require the
589 applicant to provide evidence of past performance and current
590 capacity for growth.

591 (12) The request for proposals shall require each charter
592 school applicant to provide evidence that they sent a copy of
593 their application to the local school board in the district in
594 which the charter school is proposed.

595 **SECTION 17.** (1) In reviewing and evaluating charter
596 applications, authorizers shall employ procedures, practices and
597 criteria consistent with nationally recognized principles and
598 standards for quality charter authorizing. The application review
599 process shall include thorough evaluation of each written charter
600 application, an in-person interview with the applicant group and



601 an opportunity in a public forum for local residents to learn
602 about and provide input on each application.

603 (2) In deciding whether to approve charter applications,
604 authorizers shall:

605 (a) Grant charters only to applicants that have
606 provided evidence of competence in each element of the
607 authorizer's published approval criteria and are likely to open
608 and operate a successful public charter school;

609 (b) Base decisions on documented evidence collected
610 through the application review process;

611 (c) Follow charter-granting policies and practices that
612 are transparent, based on merit and avoid conflicts of interest or
613 any appearance thereof.

614 (3) No later than one hundred twenty (120) days after the
615 filing of a charter application, the authorizer shall decide to
616 approve or deny the charter application. The authorizer shall
617 adopt by resolution all charter approval or denial decisions in an
618 open meeting of the authorizer's governing board.

619 (4) An approval decision may include, if appropriate,
620 reasonable conditions that the charter applicant must meet before
621 a charter contract may be executed pursuant to Section 20(5) of
622 this act.

623 (5) For any charter denial, the authorizer shall clearly
624 state, for public record, its reasons for denial. A denied
625 applicant may subsequently reapply to that or another authorizer.

626 (6) Within ten (10) days of taking action to approve or deny
627 a charter application, the authorizer shall provide a report to
628 the charter applicant. The report shall include a copy of the
629 authorizer's resolution setting forth the action taken and reasons
630 for the decision and assurances as to compliance with all of the
631 procedural requirements and application elements set forth in
632 Sections 16 through 20 of this act.



633 **SECTION 18.** The purposes of the charter application are to
634 present the proposed public charter school's academic and
635 operational vision and plans, demonstrate the applicant's
636 capacities to execute the proposed vision and plans and provide
637 the authorizer a clear basis for assessing the applicant's plans
638 and capacities. An approved charter application shall not serve
639 as the school's charter contract.

640 **SECTION 19.** An initial charter shall be granted for a term
641 of five (5) operating years. The charter term shall commence on
642 the public charter school's first day of operation. An approved
643 public charter school may delay its opening for one (1) school
644 year in order to plan and prepare for the school's opening. If
645 the school requires an opening delay of more than one (1) school
646 year, the school must request an extension from its authorizer.
647 The authorizer may grant or deny the extension depending on the
648 particular school's circumstances.

649 **SECTION 20.** (1) At the same time that a charter application
650 is approved, the authorizer and the governing board of the
651 approved public charter school shall execute a charter contract
652 that clearly sets forth the academic and operational performance
653 expectations and measures by which the public charter school will
654 be judged and the administrative relationship between the
655 authorizer and public charter school, including each party's
656 rights and duties. The performance expectations and measures set
657 forth in the charter contract shall include, but need not be
658 limited to, applicable federal and state accountability
659 requirements. The performance provisions may be refined or
660 amended by mutual agreement after the public charter school is
661 operating and has collected baseline achievement data for its
662 enrolled students.

663 (2) The charter contract for a virtual public charter school
664 shall include description and agreement regarding the methods by
665 which the school will:



666 (a) Monitor and verify full-time student enrollment,
667 student participation in a full course load, credit accrual and
668 course completion;

669 (b) Monitor and verify student progress and performance
670 in each course through regular, proctored assessments and
671 submissions of coursework;

672 (c) Conduct parent-teacher conferences; and

673 (d) Administer state-required assessments to all
674 students in a proctored setting.

675 (3) The charter contract shall be signed by the president of
676 the authorizer's governing board and the president of the public
677 charter school's governing body.

678 (4) No public charter school may commence operations without
679 a charter contract executed in accordance with this provision and
680 approved in an open meeting of the authorizer's governing board.

681 (5) Authorizers may establish reasonable preopening
682 requirements or conditions to monitor the start-up progress of
683 newly approved public charter schools and ensure that they are
684 prepared to open smoothly on the date agreed and to ensure that
685 each school meets all building, health, safety, insurance and
686 other legal requirements for school opening.

687 **SECTION 21.** (1) (a) The performance provisions within the
688 charter contract shall be based on a performance framework that
689 clearly sets forth the academic and operational performance
690 indicators, measures and metrics that will guide the authorizer's
691 evaluations of each public charter school. The performance
692 framework shall include indicators, measures and metrics for, at a
693 minimum:

694 (i) Student academic proficiency;

695 (ii) Student academic growth;

696 (iii) Achievement gaps in both proficiency and
697 growth between major student subgroups;

698 (iv) Attendance;



699 (v) Recurrent enrollment from year to year;
700 (vi) In-school and out-of-school suspension rates
701 and expulsion rates;
702 (vii) Postsecondary readiness, including the
703 percentage of graduates submitting applications to postsecondary
704 institutions, high school completion, postsecondary admission and
705 postsecondary enrollment or employment;
706 (viii) Financial performance and sustainability;
707 and
708 (ix) Board performance and stewardship, including
709 compliance with all applicable laws, regulations and terms of the
710 charter contract.

711 (b) Annual performance targets shall be set by each
712 public charter school in conjunction with its authorizer and shall
713 be designed to help each school meet applicable federal, state and
714 authorizer expectations.

715 (c) The performance framework shall allow the inclusion
716 of additional rigorous, valid and reliable indicators proposed by
717 a public charter school to augment external evaluations of its
718 performance, provided that the authorizer approves the quality and
719 rigor of such school-proposed indicators and they are consistent
720 with the purposes of this act.

721 (d) The performance framework shall require the
722 disaggregation of all student performance data by major student
723 subgroups to the same extent as required of noncharter public
724 schools.

725 (e) For each public charter school it oversees, the
726 authorizer shall be responsible for collecting, analyzing and
727 reporting all data from state assessments in accordance with the
728 performance framework. Multiple schools overseen by a single
729 governing board shall be required to report their performance as
730 separate, individual schools and each school shall be held
731 independently accountable for its performance.



732 (2) (a) An authorizer shall annually monitor the
733 performance and legal compliance of the public charter schools it
734 oversees, including collecting and analyzing data to support
735 evaluation according to the charter contract. Every authorizer
736 shall have the authority to conduct or require oversight
737 activities that enable the authorizer to fulfill its
738 responsibilities under this act, including conducting appropriate
739 inquiries and investigations, so long as those activities are
740 consistent with the intent of this act, adhere to the terms of the
741 charter contract and do not unduly inhibit the autonomy granted to
742 public charter schools.

743 (b) Each authorizer shall annually publish and provide,
744 as part of its annual report to the Legislature, a performance
745 report for each public charter school it oversees, in accordance
746 with the performance framework set forth in the charter contract
747 and Section 20(5) of this act. This report shall be made
748 available to the public at the same time as it is submitted to the
749 Legislature. The authorizer may require each public charter
750 school it oversees to submit an annual report to assist the
751 authorizer in gathering complete information about each school,
752 consistent with the performance framework.

753 (c) In the event that a public charter school's
754 performance or legal compliance appears unsatisfactory, the
755 authorizer shall promptly notify the public charter school of the
756 perceived problem and provide reasonable opportunity for the
757 school to remedy the problem, unless the problem warrants
758 revocation in which case the revocation timeframes will apply.

759 (d) Every authorizer shall have the authority to take
760 appropriate corrective actions or exercise sanctions short of
761 revocation in response to apparent deficiencies in public charter
762 school performance or legal compliance. Such actions or sanctions
763 may include, if warranted, requiring a school to develop and
764 execute a corrective action plan within a specified timeframe.



765 **SECTION 22.** (1) A charter may be renewed for successive
766 five-year terms of duration. An authorizer may grant renewal with
767 specific conditions for necessary improvements to a public charter
768 school, including lessening the renewal term based on the
769 performance, demonstrated capacities and particular circumstances
770 of each public charter school.

771 (2) No later than September 30, the authorizer shall issue a
772 public charter school performance report and charter renewal
773 application guidance to any public charter school whose charter
774 will expire the following year. The performance report shall
775 summarize the public charter school's performance record to date,
776 based on the data required by this act and the charter contract
777 and shall provide notice of any weaknesses or concerns perceived
778 by the authorizer concerning the public charter school that may
779 jeopardize its position in seeking renewal if not timely
780 rectified. The public charter school shall have ninety (90) days
781 to respond to the performance report and submit any corrections or
782 clarifications for the report.

783 (3) The renewal application guidance shall, at a minimum,
784 provide an opportunity for the public charter school to:

785 (a) Present additional evidence, beyond the data
786 contained in the performance report, supporting its case for
787 charter renewal;

788 (b) Describe improvements undertaken or planned for the
789 school; and

790 (c) Detail the school's plans for the next charter
791 term.

792 (4) The renewal application guidance shall include or refer
793 explicitly to the criteria that will guide the authorizer's
794 renewal decisions, which shall be based on the performance
795 framework set forth in the charter contract and consistent with
796 this act.



797 (5) No later than February 1, the governing board of a
798 public charter school seeking renewal shall submit a renewal
799 application to the charter authorizer pursuant to the renewal
800 application guidance issued by the authorizer. The authorizer
801 shall rule by resolution on the renewal application no later than
802 ninety (90) days after the filing of the renewal application.

803 (6) In making charter renewal decisions, every authorizer
804 shall:

805 (a) Ground its decisions in evidence of the school's
806 performance over the term of the charter contract in accordance
807 with the performance framework set forth in the charter contract;

808 (b) Ensure that data used in making renewal decisions
809 are available to the school and the public; and

810 (c) Provide a public report summarizing the evidence
811 basis for each decision.

812 (7) A charter contract may be revoked at any time or not
813 renewed if the authorizer determines that the public charter
814 school did any of the following or otherwise failed to comply with
815 the provisions of this act:

816 (a) Commits a material and substantial violation of any
817 of the terms, conditions, standards or procedures required under
818 this act or the charter contract;

819 (b) Fails to meet or make sufficient progress toward
820 the performance expectations set forth in the charter contract;

821 (c) Fails to meet generally accepted standards of
822 fiscal management; or

823 (d) Substantially violates any material provision of
824 law from which the public charter school was not exempted.

825 (8) An authorizer must develop revocation and nonrenewal
826 processes that:

827 (a) Provide the charter holders with a timely
828 notification of the prospect of revocation or nonrenewal and of
829 the reasons for such possible closure;



830 (b) Allow the charter holders a reasonable amount of
831 time in which to prepare a response;

832 (c) Provide the charter holders with an opportunity to
833 submit documents and give testimony challenging the rationale for
834 closure and in support of the continuation of the school at an
835 orderly proceeding held for that purpose;

836 (d) Allow the charter holders access to representation
837 by counsel and to call witnesses on their behalf;

838 (e) Permit the recording of such proceedings; and

839 (f) After a reasonable period for deliberation, require
840 a final determination be made and conveyed in writing to the
841 charter holders.

842 (9) If an authorizer revokes or does not renew a charter,
843 the authorizer shall clearly state, in a resolution of its
844 governing board, the reasons for the revocation or nonrenewal.

845 (10) Within ten (10) days of taking action to renew, not
846 renew or revoke a charter, the authorizer shall provide a copy of
847 a report to the public charter school. The report shall include a
848 copy of the authorizer governing board's resolution setting forth
849 the action taken and reasons for the decision and assurances as to
850 compliance with all of the requirements set forth in this act.

851 **SECTION 23.** (1) Before any public charter school closure
852 decision, an authorizer shall have developed a public charter
853 school closure protocol to ensure timely notification to parents,
854 orderly transition of students and student records to new schools
855 and proper disposition of school funds, property and assets in
856 accordance with the requirements of this act. The protocol shall
857 specify tasks, timelines and responsible parties, including
858 delineating the respective duties of the school and the
859 authorizer. In the event of a public charter school closure for
860 any reason, the authorizer shall oversee and work with the closing
861 school to ensure a smooth and orderly closure and transition for
862 students and parents, as guided by the closure protocol.



863 (2) If a charter school closes, all unspent government
864 funds, unspent earnings from those funds and assets purchased with
865 government funds will revert back to the original source of these
866 funds. Unspent funds from nongovernmental sources, unspent
867 earnings from those funds, assets purchased with those funds and
868 debts of the school, unless otherwise provided for in the charter
869 or debt instrument, shall revert to the nonprofit entity created
870 to operate the school and may be disposed of according to
871 applicable laws for nonprofit corporations.

872 **SECTION 24.** On or before September 30 of each year beginning
873 in the first year after the state will have had a public charter
874 school operating for a full school year, the Joint Committee on
875 Performance Evaluation and Expenditure Review shall issue to the
876 Governor, the Legislature, the Public Charter School Board, the
877 State Board of Education and the public at large, an annual report
878 on the state's public charter schools, drawing from the annual
879 reports submitted by every authorizer to the Joint Committee on
880 Performance Evaluation and Expenditure Review, as well as any
881 additional relevant data compiled by the Office of Charter
882 Schools, for the school year ending in the preceding calendar
883 year. The annual report shall include a comparison of the
884 performance of public charter school students with the performance
885 of academically, racially and economically comparable groups of
886 students in noncharter public schools. In addition, the annual
887 report shall include the Joint Committee on Performance Evaluation
888 and Expenditure Review's assessment of the successes, challenges
889 and areas for improvement in meeting the purposes of this act,
890 including the Joint Committee on Performance Evaluation and
891 Expenditure Review's assessment of the sufficiency of funding for
892 public charter schools, the efficiency and efficacy of authorizer
893 funding and any suggested changes in state law or policy necessary
894 to strengthen the state's public charter schools. The report
895 shall also assess whether the creation of public charter schools



896 is sufficient to meet demand, as calculated according to
897 admissions data and the number of students denied enrollment as
898 based on lottery results.

899 **SECTION 25.** (1) (a) A public charter school shall be a
900 nonprofit education organization.

901 (b) A public charter school shall be subject to all
902 federal laws and authorities enumerated herein or arranged by
903 charter contract with the school's authorizer, where such
904 contracting is consistent with applicable laws, rules and
905 regulations.

906 (c) Except as provided in this act, a public charter
907 school shall not be subject to the state's education statutes or
908 any state or local rule, regulation, policy or procedure relating
909 to noncharter public schools within an applicable local school
910 district regardless of whether such rule, regulation, policy or
911 procedure is established by the local school board, the State
912 Board of Education or the State Department of Education.

913 (d) A charter contract may consist of one or more
914 schools, to the extent approved by the authorizer and consistent
915 with applicable law. Each public charter school that is part of a
916 charter contract shall be separate and distinct from any others.

917 (e) A single governing board may hold one or more
918 charter contracts. Each public charter school that is part of a
919 charter contract shall be separate and distinct from any others.

920 (2) (a) Except for public charter schools authorized by
921 local school boards, the public charter school functions for all
922 purposes as a local educational agency. Local educational agency
923 status does not preclude a public charter school from developing
924 links to local school districts for services, resources and
925 programs, by mutual agreement or by formal contract.

926 (b) To the extent permitted by federal, state or local
927 laws, the public charter school is responsible for meeting the
928 requirements of local educational agencies under applicable



929 federal, state and local laws, including those relating to special
930 education, receipt of funds and compliance with funding
931 requirements.

932 (c) To the extent permitted by federal, state or local
933 laws, the public charter school has primary responsibility for
934 special education at the school, including identification and
935 provision of service and is responsible for meeting the needs of
936 enrolled students with disabilities.

937 (3) Public charter schools are not exempt from the following
938 statutes:

939 (a) Section 37-7-301.1, which relates to collective
940 bargaining agreements;

941 (b) Section 37-9-49, which relates to withholding of
942 union dues;

943 (c) Section 37-9-75, which relates to teacher strikes;

944 (d) Section 37-11-20, which prohibits acts of
945 intimidation intended to keep a student from attending school;

946 (e) Section 37-11-21, which prohibits parental abuse of
947 school staff;

948 (f) Section 37-11-23, which prohibits the willful
949 disruption of school and school meetings;

950 (g) Sections 37-11-29 and 37-11-31, which relate to
951 reporting requirements regarding unlawful or violent acts on
952 school property; and

953 (h) Section 37-19-53, which prohibits false reporting
954 of student counts by school officials.

955 **SECTION 26.** (1) A public charter school shall have all the
956 powers necessary for carrying out the terms of its charter
957 contract including the following powers:

958 (a) To receive and disburse funds for school purposes;

959 (b) To secure appropriate insurance and to enter into
960 contracts and leases, free from prevailing wage laws;



961 (c) To contract with an education service provider for
962 the management and operation of the public charter school so long
963 as the school's governing board retains oversight authority over
964 the school;

965 (d) To incur debt in reasonable anticipation of the
966 receipt of public or private funds;

967 (e) To pledge, assign or encumber its assets to be used
968 as collateral for loans or extensions of credit;

969 (f) To solicit and accept any gifts or grants for
970 school purposes subject to applicable laws and the terms of its
971 charter contract;

972 (g) To acquire real property for use as its facility or
973 facilities, from public or private sources; and

974 (h) To sue and be sued in its own name.

975 (2) A public charter school shall not discriminate against
976 any person on the basis of race, creed, color, sex, disability or
977 national origin or any other category that would be unlawful if
978 done by a noncharter public school.

979 (3) No public charter school may engage in any sectarian
980 practices in its educational program, admissions or employment
981 policies or operations.

982 (4) A public charter school shall not discriminate against
983 any student on the basis of national origin, minority status or
984 limited proficiency in English. Consistent with federal civil
985 rights laws, public charter schools shall provide limited English
986 proficient students with appropriate services designed to teach
987 them English and the general curriculum.

988 (5) A public charter school shall not charge tuition and
989 shall abide by Section 37-7-335 in the establishment and waiver of
990 fees.

991 (6) The terms of each public charter school contract shall
992 include a transportation plan for students that will be attending
993 the charter school. Charter schools shall comply with



994 transportation regulations applicable to all other school
995 districts under Section 37-41-3. The transportation must be
996 provided by the public charter school within the district in which
997 the public charter school is located.

998 (7) The powers, obligations and responsibilities set forth
999 in the charter contract cannot be delegated or assigned by either
1000 party, except as identified in the charter contract.

1001 **SECTION 27.** (1) Public charter schools shall be subject to
1002 the same civil rights, health and safety requirements applicable
1003 to other public schools in the state, except as otherwise
1004 specifically provided in this act.

1005 (2) Public charter schools shall be subject to the student
1006 assessment and accountability requirements applicable to other
1007 public schools in the state, but nothing herein shall preclude a
1008 public charter school from establishing additional student
1009 assessment measures that go beyond state requirements if the
1010 school's authorizer approves such measures.

1011 (3) Public charter school governing boards shall be subject
1012 to and comply with state open meetings and freedom of information
1013 laws.

1014 **SECTION 28.** (1) Public charter schools shall comply with
1015 applicable federal laws, rules and regulations regarding the
1016 qualification of teachers and other instructional staff. Teachers
1017 in a public charter school may be exempt from state teacher
1018 certification requirements under Section 37-3-2. Administrators
1019 of public charter schools may be exempt from state administrator
1020 certification requirements under Section 37-3-2.

1021 (2) Employees in public charter schools are eligible for
1022 participation in retirement and other benefits programs of the
1023 state, to the extent allowable by law, if the public charter
1024 school chooses to participate.

1025 (3) Teachers and other school personnel, as well as
1026 governing board trustees, shall be subject to criminal history



1027 record checks and fingerprinting requirements applicable to other
1028 public schools as required under Section 37-9-17.

1029 **SECTION 29.** (1) A public charter school shall be eligible
1030 for state-sponsored or district-sponsored interscholastic leagues,
1031 competitions, awards, scholarships and recognition programs for
1032 students, educators, administrators and schools to the same extent
1033 as noncharter public schools.

1034 (2) A public charter school student is eligible to
1035 participate in extracurricular activities not offered by the
1036 student's school at:

1037 (a) The school within whose attendance boundaries the
1038 student's custodial parent or legal guardian resides; or

1039 (b) The noncharter public school from which the student
1040 withdrew for the purpose of attending a public charter school.

1041 (3) A public charter school student is eligible for
1042 extracurricular activities at a noncharter public school
1043 consistent with eligibility standards as applied to full-time
1044 students of the noncharter public school.

1045 (4) A school district or noncharter public school may not
1046 impose additional requirements on a public charter school student
1047 to participate in extracurricular activities that are not imposed
1048 on full-time students of the noncharter public school.

1049 (5) When selection to participate in an extracurricular
1050 activity at a noncharter public school is made on a competitive
1051 basis, a public charter school student is eligible to try out for
1052 and participate in the activity as provided in this section.

1053 (6) The State Board of Education shall make rules
1054 establishing fees for public charter school students'
1055 participation in extracurricular activities at noncharter public
1056 schools. The rules shall provide that:

1057 (a) Public charter school students pay the same fees as
1058 other students to participate in extracurricular activities;



1059 (b) Public charter school students are eligible for fee
1060 waivers similar to other students;

1061 (c) For each public charter school student who
1062 participates in an extracurricular activity at a noncharter public
1063 school, the public charter school shall pay a share of the
1064 noncharter public school's costs for the extracurricular activity;
1065 and

1066 (d) A public charter school's share of the costs of
1067 having one or more students participate in an extracurricular
1068 activity at noncharter public schools shall reflect state and
1069 local tax revenues expended, except capital facilities
1070 expenditures, for such extracurricular activities in a noncharter
1071 public school divided by total student enrollment of the
1072 noncharter public school.

1073 **SECTION 30.** (1) (a) Each public charter school shall
1074 certify to the State Department of Education its student
1075 enrollment, average daily attendance and student participation in
1076 the national school lunch program in the same manner as school
1077 districts.

1078 (b) Each public charter school shall certify to the tax
1079 collector in the county in which the charter school is located the
1080 average daily attendance of public charter school students
1081 residing in each school district in the county.

1082 (2) (a) The State Department of Education shall withhold
1083 payments for each school district with students residing in the
1084 school district and attending the public charter school an amount
1085 equal to one hundred percent (100%) of the amount calculated
1086 pursuant to the state's funding formula less the relevant local
1087 contribution for each student in the resident school district
1088 multiplied by the number of students enrolled in the public
1089 charter school from the resident school district. The State
1090 Department of Education shall send the sum of these withholdings



1091 to the public charter school, notwithstanding the reductions
1092 pursuant to Section 13 of this act.

1093 (b) The tax collector in the county of residence for
1094 the public charter school shall pay directly to the public charter
1095 school for each student enrolled in the public charter school who
1096 resides in each school district in the county an amount for that
1097 student equal to one hundred percent (100%) of the amount of the
1098 relevant local district maintenance per pupil.

1099 (c) Any monies received by a public charter school from
1100 any source and remaining in the public charter school's accounts
1101 at the end of any budget year shall remain in the public charter
1102 school's accounts for use by the public charter school during
1103 subsequent budget years.

1104 (3) Payments made under the authority of this section shall
1105 be made by the state in twelve (12) substantially equal
1106 installments each year beginning on the first business day of July
1107 and every month thereafter. Amounts payable under this section
1108 shall be determined by the State Department of Education. Amounts
1109 payable to a public charter school in its first year of operation
1110 shall be based on the projections of initial-year enrollment set
1111 forth in the charter contract. Such projections shall be
1112 reconciled with the actual enrollment at the end of the school's
1113 first year of operation and any necessary adjustments shall be
1114 made to payments during the school's second year of operation.

1115 (4) (a) The state shall direct the proportionate share of
1116 monies generated under federal and state categorical aid programs,
1117 including special education, to public charter schools serving
1118 students eligible for such aid. The state shall ensure that
1119 public charter schools with rapidly expanding enrollments are
1120 treated equitably in the calculation and disbursement of all
1121 federal and state categorical aid program dollars. Each public
1122 charter school that serves students who may be eligible to receive



1123 services provided through such programs shall comply with all
1124 reporting requirements to receive the aid.

1125 (b) A public charter school shall pay to a local school
1126 district any federal or state aid attributable to a student with a
1127 disability attending a public charter school in proportion to the
1128 level of services for such student that the local school district
1129 provides directly or indirectly.

1130 (c) At either party's request, a public charter school
1131 and a local school district may negotiate and include in the
1132 charter contract alternate arrangements for the provision of and
1133 payment for special education services, including, but not
1134 necessarily limited to, a reasonable reserve not to exceed five
1135 percent (5%) of the local school district's total budget for
1136 providing special education services. The reserve shall only be
1137 used by the local school district to offset excess costs of
1138 providing services to students with disabilities enrolled in one
1139 (1) of the public charter schools that has paid into it.

1140 **SECTION 31.** (1) A public charter school shall adhere to
1141 generally accepted accounting principles.

1142 (2) A public charter school shall annually engage an
1143 external auditor to do an independent audit of the school's
1144 finances. A public charter school shall send a copy of each audit
1145 report and accompanying management letter to its authorizer by
1146 July 30.

1147 **SECTION 32.** (1) The State Department of Education shall
1148 disburse state transportation funding to a public charter school
1149 on the same basis and in the same manner as it is paid to school
1150 districts.

1151 (2) A public charter school may enter into a contract with a
1152 school district or private provider to provide transportation to
1153 the school's students.

1154 **SECTION 33.** Nothing in this act shall be construed to
1155 prohibit any person or organization from providing funding or



1156 other assistance to the establishment or operation of a public
1157 charter school. The governing board of a public charter school is
1158 authorized to accept gifts, donations and grants of any kind made
1159 to the public charter school and to expend or use such gifts,
1160 donations and grants in accordance with the conditions prescribed
1161 by the donor. However, that no gift, donation or grant may be
1162 accepted if subject to a condition that is contrary to any
1163 provision of law or term of the charter contract.

1164 **SECTION 34.** (1) Public charter schools shall have equal
1165 access to all of the existing state facilities programs for
1166 traditional public schools in a state.

1167 (2) A public charter school shall have a right of first
1168 refusal to purchase or lease at or below fair market value a
1169 closed public school facility or property or unused portions of a
1170 public school facility or property located in a school district
1171 from which it draws its students if the school district decides to
1172 sell or lease the public school facility or property.

1173 (3) A public charter school may negotiate and contract at or
1174 below fair market value with a school district, the governing body
1175 of a state college or university or public community college or
1176 any other public or for-profit or nonprofit private entity for the
1177 use of facility for a school building.

1178 (4) Library, community service, museum, performing arts,
1179 theatre, cinema, church, community college, college and university
1180 facilities may provide space to public charter schools within
1181 their facilities under their preexisting zoning and land use
1182 designations.

1183 **SECTION 35.** Any charter school that is operating under the
1184 terms of a charter granted under the authority of Sections 37-28-1
1185 through 37-28-21 may continue to operate under the terms of that
1186 charter for the duration of its term, notwithstanding the repeal
1187 of Sections 37-28-1 through 37-28-21 by operation of law on July
1188 1, 2009. Upon the expiration of the charter, the charter school's



1189 sponsor may seek to renew the school's charter by modifying the
1190 charter so that the school fully complies with the requirements
1191 for being awarded, maintaining and renewing charter status under
1192 Sections 1 through 34 of this act.

1193 **SECTION 36.** The provisions of Sections 1 through 36 of this
1194 act shall stand repealed on July 1, 2020.

1195 **SECTION 37.** Section 37-3-2, Mississippi Code of 1972, is
1196 amended as follows:

1197 37-3-2. (1) There is established within the State
1198 Department of Education the Commission on Teacher and
1199 Administrator Education, Certification and Licensure and
1200 Development. It shall be the purpose and duty of the commission
1201 to make recommendations to the State Board of Education regarding
1202 standards for the certification and licensure and continuing
1203 professional development of those who teach or perform tasks of an
1204 educational nature in the public schools of Mississippi.

1205 (2) The commission shall be composed of fifteen (15)
1206 qualified members. The membership of the commission shall be
1207 composed of the following members to be appointed, three (3) from
1208 each congressional district: four (4) classroom teachers; three
1209 (3) school administrators; one (1) representative of schools of
1210 education of institutions of higher learning located within the
1211 state to be recommended by the Board of Trustees of State
1212 Institutions of Higher Learning; one (1) representative from the
1213 schools of education of independent institutions of higher
1214 learning to be recommended by the Board of the Mississippi
1215 Association of Independent Colleges; one (1) representative from
1216 public community and junior colleges located within the state to
1217 be recommended by the State Board for Community and Junior
1218 Colleges; one (1) local school board member; and four (4)
1219 laypersons. All appointments shall be made by the State Board of
1220 Education after consultation with the State Superintendent of
1221 Public Education. The first appointments by the State Board of



1222 Education shall be made as follows: five (5) members shall be
1223 appointed for a term of one (1) year; five (5) members shall be
1224 appointed for a term of two (2) years; and five (5) members shall
1225 be appointed for a term of three (3) years. Thereafter, all
1226 members shall be appointed for a term of four (4) years.

1227 (3) The State Board of Education when making appointments
1228 shall designate a chairman. The commission shall meet at least
1229 once every two (2) months or more often if needed. Members of the
1230 commission shall be compensated at a rate of per diem as
1231 authorized by Section 25-3-69 and be reimbursed for actual and
1232 necessary expenses as authorized by Section 25-3-41.

1233 (4) An appropriate staff member of the State Department of
1234 Education shall be designated and assigned by the State
1235 Superintendent of Public Education to serve as executive secretary
1236 and coordinator for the commission. No less than two (2) other
1237 appropriate staff members of the State Department of Education
1238 shall be designated and assigned by the State Superintendent of
1239 Public Education to serve on the staff of the commission.

1240 (5) It shall be the duty of the commission to:

1241 (a) Set standards and criteria, subject to the approval
1242 of the State Board of Education, for all educator preparation
1243 programs in the state;

1244 (b) Recommend to the State Board of Education each year
1245 approval or disapproval of each educator preparation program in
1246 the state;

1247 (c) Establish, subject to the approval of the State
1248 Board of Education, standards for initial teacher certification
1249 and licensure in all fields;

1250 (d) Establish, subject to the approval of the State
1251 Board of Education, standards for the renewal of teacher licenses
1252 in all fields;



1253 (e) Review and evaluate objective measures of teacher
1254 performance, such as test scores, which may form part of the
1255 licensure process, and to make recommendations for their use;

1256 (f) Review all existing requirements for certification
1257 and licensure;

1258 (g) Consult with groups whose work may be affected by
1259 the commission's decisions;

1260 (h) Prepare reports from time to time on current
1261 practices and issues in the general area of teacher education and
1262 certification and licensure;

1263 (i) Hold hearings concerning standards for teachers'
1264 and administrators' education and certification and licensure with
1265 approval of the State Board of Education;

1266 (j) Hire expert consultants with approval of the State
1267 Board of Education;

1268 (k) Set up ad hoc committees to advise on specific
1269 areas; and

1270 (l) Perform such other functions as may fall within
1271 their general charge and which may be delegated to them by the
1272 State Board of Education.

1273 (6) (a) **Standard License - Approved Program Route.** An
1274 educator entering the school system of Mississippi for the first
1275 time and meeting all requirements as established by the State
1276 Board of Education shall be granted a standard five-year license.
1277 Persons who possess two (2) years of classroom experience as an
1278 assistant teacher or who have taught for one (1) year in an
1279 accredited public or private school shall be allowed to fulfill
1280 student teaching requirements under the supervision of a qualified
1281 participating teacher approved by an accredited college of
1282 education. The local school district in which the assistant
1283 teacher is employed shall compensate such assistant teachers at
1284 the required salary level during the period of time such



1285 individual is completing student teaching requirements.

1286 Applicants for a standard license shall submit to the department:

1287 (i) An application on a department form;

1288 (ii) An official transcript of completion of a

1289 teacher education program approved by the department or a

1290 nationally accredited program, subject to the following:

1291 Licensure to teach in Mississippi prekindergarten through

1292 kindergarten classrooms shall require completion of a teacher

1293 education program or a bachelor of science degree with child

1294 development emphasis from a program accredited by the American

1295 Association of Family and Consumer Sciences (AAFCS) or by the

1296 National Association for Education of Young Children (NAEYC) or by

1297 the National Council for Accreditation of Teacher Education

1298 (NCATE). Licensure to teach in Mississippi kindergarten, for

1299 those applicants who have completed a teacher education program,

1300 and in Grade 1 through Grade 4 shall require the completion of an

1301 interdisciplinary program of studies. Licenses for Grades 4

1302 through 8 shall require the completion of an interdisciplinary

1303 program of studies with two (2) or more areas of concentration.

1304 Licensure to teach in Mississippi Grades 7 through 12 shall

1305 require a major in an academic field other than education, or a

1306 combination of disciplines other than education. Students

1307 preparing to teach a subject shall complete a major in the

1308 respective subject discipline. All applicants for standard

1309 licensure shall demonstrate that such person's college preparation

1310 in those fields was in accordance with the standards set forth by

1311 the National Council for Accreditation of Teacher Education

1312 (NCATE) or the National Association of State Directors of Teacher

1313 Education and Certification (NASDTEC) or, for those applicants who

1314 have a bachelor of science degree with child development emphasis,

1315 the American Association of Family and Consumer Sciences (AAFCS);

1316 (iii) A copy of test scores evidencing

1317 satisfactory completion of nationally administered examinations of



1318 achievement, such as the Educational Testing Service's teacher
1319 testing examinations; and

1320 (iv) Any other document required by the State
1321 Board of Education.

1322 (b) **Standard License - Nontraditional Teaching Route.**

1323 Beginning January 1, 2004, an individual who has a passing score
1324 on the Praxis I Basic Skills and Praxis II Specialty Area Test in
1325 the requested area of endorsement may apply for the Teach
1326 Mississippi Institute (TMI) program to teach students in Grades 7
1327 through 12 if the individual meets the requirements of this
1328 paragraph (b). The State Board of Education shall adopt rules
1329 requiring that teacher preparation institutions which provide the
1330 Teach Mississippi Institute (TMI) program for the preparation of
1331 nontraditional teachers shall meet the standards and comply with
1332 the provisions of this paragraph.

1333 (i) The Teach Mississippi Institute (TMI) shall
1334 include an intensive eight-week, nine-semester-hour summer program
1335 or a curriculum of study in which the student matriculates in the
1336 fall or spring semester, which shall include, but not be limited
1337 to, instruction in education, effective teaching strategies,
1338 classroom management, state curriculum requirements, planning and
1339 instruction, instructional methods and pedagogy, using test
1340 results to improve instruction, and a one (1) semester three-hour
1341 supervised internship to be completed while the teacher is
1342 employed as a full-time teacher intern in a local school district.
1343 The TMI shall be implemented on a pilot program basis, with
1344 courses to be offered at up to four (4) locations in the state,
1345 with one (1) TMI site to be located in each of the three (3)
1346 Mississippi Supreme Court districts.

1347 (ii) The school sponsoring the teacher intern
1348 shall enter into a written agreement with the institution
1349 providing the Teach Mississippi Institute (TMI) program, under
1350 terms and conditions as agreed upon by the contracting parties,



1351 providing that the school district shall provide teacher interns
1352 seeking a nontraditional provisional teaching license with a
1353 one-year classroom teaching experience. The teacher intern shall
1354 successfully complete the one (1) semester three-hour intensive
1355 internship in the school district during the semester immediately
1356 following successful completion of the TMI and prior to the end of
1357 the one-year classroom teaching experience.

1358 (iii) Upon completion of the nine-semester-hour
1359 TMI or the fall or spring semester option, the individual shall
1360 submit his transcript to the commission for provisional licensure
1361 of the intern teacher, and the intern teacher shall be issued a
1362 provisional teaching license by the commission, which will allow
1363 the individual to legally serve as a teacher while the person
1364 completes a nontraditional teacher preparation internship program.

1365 (iv) During the semester of internship in the
1366 school district, the teacher preparation institution shall monitor
1367 the performance of the intern teacher. The school district that
1368 employs the provisional teacher shall supervise the provisional
1369 teacher during the teacher's intern year of employment under a
1370 nontraditional provisional license, and shall, in consultation
1371 with the teacher intern's mentor at the school district of
1372 employment, submit to the commission a comprehensive evaluation of
1373 the teacher's performance sixty (60) days prior to the expiration
1374 of the nontraditional provisional license. If the comprehensive
1375 evaluation establishes that the provisional teacher intern's
1376 performance fails to meet the standards of the approved
1377 nontraditional teacher preparation internship program, the
1378 individual shall not be approved for a standard license.

1379 (v) An individual issued a provisional teaching
1380 license under this nontraditional route shall successfully
1381 complete, at a minimum, a one-year beginning teacher mentoring and
1382 induction program administered by the employing school district
1383 with the assistance of the State Department of Education.



1384 (vi) Upon successful completion of the TMI and the
1385 internship provisional license period, applicants for a Standard
1386 License - Nontraditional Route shall submit to the commission a
1387 transcript of successful completion of the twelve (12) semester
1388 hours required in the internship program, and the employing school
1389 district shall submit to the commission a recommendation for
1390 standard licensure of the intern. If the school district
1391 recommends licensure, the applicant shall be issued a Standard
1392 License - Nontraditional Route which shall be valid for a
1393 five-year period and be renewable.

1394 (vii) At the discretion of the teacher preparation
1395 institution, the individual shall be allowed to credit the twelve
1396 (12) semester hours earned in the nontraditional teacher
1397 internship program toward the graduate hours required for a Master
1398 of Arts in Teacher (MAT) Degree.

1399 (viii) The local school district in which the
1400 nontraditional teacher intern or provisional licensee is employed
1401 shall compensate such teacher interns at Step 1 of the required
1402 salary level during the period of time such individual is
1403 completing teacher internship requirements and shall compensate
1404 such Standard License - Nontraditional Route teachers at Step 3 of
1405 the required salary level when they complete license requirements.

1406 Implementation of the TMI program provided for under this
1407 paragraph (b) shall be contingent upon the availability of funds
1408 appropriated specifically for such purpose by the Legislature.
1409 Such implementation of the TMI program may not be deemed to
1410 prohibit the State Board of Education from developing and
1411 implementing additional alternative route teacher licensure
1412 programs, as deemed appropriate by the board. The emergency
1413 certification program in effect prior to July 1, 2002, shall
1414 remain in effect.

1415 A Standard License - Approved Program Route shall be issued
1416 for a five-year period, and may be renewed. Recognizing teaching



1417 as a profession, a hiring preference shall be granted to persons
1418 holding a Standard License - Approved Program Route or Standard
1419 License - Nontraditional Teaching Route over persons holding any
1420 other license.

1421 (c) **Special License - Expert Citizen.** In order to
1422 allow a school district to offer specialized or technical courses,
1423 the State Department of Education, in accordance with rules and
1424 regulations established by the State Board of Education, may grant
1425 a one-year expert citizen-teacher license to local business or
1426 other professional personnel to teach in a public school or
1427 nonpublic school accredited or approved by the state. Such person
1428 may begin teaching upon his employment by the local school board
1429 and licensure by the Mississippi Department of Education. The
1430 board shall adopt rules and regulations to administer the expert
1431 citizen-teacher license. A Special License - Expert Citizen may
1432 be renewed in accordance with the established rules and
1433 regulations of the State Department of Education.

1434 (d) **Special License - Nonrenewable.** The State Board of
1435 Education is authorized to establish rules and regulations to
1436 allow those educators not meeting requirements in subsection
1437 (6) (a), (b) or (c) to be licensed for a period of not more than
1438 three (3) years, except by special approval of the State Board of
1439 Education.

1440 (e) **Nonlicensed Teaching Personnel.** A nonlicensed
1441 person may teach for a maximum of three (3) periods per teaching
1442 day in a public school or a nonpublic school accredited/approved
1443 by the state. Such person shall submit to the department a
1444 transcript or record of his education and experience which
1445 substantiates his preparation for the subject to be taught and
1446 shall meet other qualifications specified by the commission and
1447 approved by the State Board of Education. In no case shall any
1448 local school board hire nonlicensed personnel as authorized under



1449 this paragraph in excess of five percent (5%) of the total number
1450 of licensed personnel in any single school.

1451 (f) **Special License - Transitional Bilingual Education.**
1452 Beginning July 1, 2003, the commission shall grant special
1453 licenses to teachers of transitional bilingual education who
1454 possess such qualifications as are prescribed in this section.
1455 Teachers of transitional bilingual education shall be compensated
1456 by local school boards at not less than one (1) step on the
1457 regular salary schedule applicable to permanent teachers licensed
1458 under this section. The commission shall grant special licenses
1459 to teachers of transitional bilingual education who present the
1460 commission with satisfactory evidence that they (i) possess a
1461 speaking and reading ability in a language, other than English, in
1462 which bilingual education is offered and communicative skills in
1463 English; (ii) are in good health and sound moral character; (iii)
1464 possess a bachelor's degree or an associate's degree in teacher
1465 education from an accredited institution of higher education; (iv)
1466 meet such requirements as to courses of study, semester hours
1467 therein, experience and training as may be required by the
1468 commission; and (v) are legally present in the United States and
1469 possess legal authorization for employment. A teacher of
1470 transitional bilingual education serving under a special license
1471 shall be under an exemption from standard licensure if he achieves
1472 the requisite qualifications therefor. Two (2) years of service
1473 by a teacher of transitional bilingual education under such an
1474 exemption shall be credited to the teacher in acquiring a Standard
1475 Educator License. Nothing in this paragraph shall be deemed to
1476 prohibit a local school board from employing a teacher licensed in
1477 an appropriate field as approved by the State Department of
1478 Education to teach in a program in transitional bilingual
1479 education.

1480 (g) In the event any school district meets the highest
1481 accreditation standards as defined by the State Board of Education



1482 in the accountability system, the State Board of Education, in its
1483 discretion, may exempt such school district from any restrictions
1484 in paragraph (e) relating to the employment of nonlicensed
1485 teaching personnel.

1486 (h) **Highly Qualified Teachers.** Beginning July 1, 2006,
1487 any teacher from any state meeting the federal definition of
1488 highly qualified, as described in the No Child Left Behind Act,
1489 must be granted a standard five-year license by the State
1490 Department of Education.

1491 (7) **Administrator License.** The State Board of Education is
1492 authorized to establish rules and regulations and to administer
1493 the licensure process of the school administrators in the State of
1494 Mississippi. There will be four (4) categories of administrator
1495 licensure with exceptions only through special approval of the
1496 State Board of Education.

1497 (a) **Administrator License - Nonpracticing.** Those
1498 educators holding administrative endorsement but having no
1499 administrative experience or not serving in an administrative
1500 position on January 15, 1997.

1501 (b) **Administrator License - Entry Level.** Those
1502 educators holding administrative endorsement and having met the
1503 department's qualifications to be eligible for employment in a
1504 Mississippi school district. Administrator License - Entry Level
1505 shall be issued for a five-year period and shall be nonrenewable.

1506 (c) **Standard Administrator License - Career Level.** An
1507 administrator who has met all the requirements of the department
1508 for standard administrator licensure.

1509 (d) **Administrator License - Nontraditional Route.** The
1510 board may establish a nontraditional route for licensing
1511 administrative personnel. Such nontraditional route for
1512 administrative licensure shall be available for persons holding,
1513 but not limited to, a master of business administration degree, a
1514 master of public administration degree, a master of public



1515 planning and policy degree or a doctor of jurisprudence degree
1516 from an accredited college or university, with five (5) years of
1517 administrative or supervisory experience. Successful completion
1518 of the requirements of alternate route licensure for
1519 administrators shall qualify the person for a standard
1520 administrator license.

1521 Individuals seeking school administrator licensure under
1522 paragraph (b), (c) or (d) shall successfully complete a training
1523 program and an assessment process prescribed by the State Board of
1524 Education. All applicants for school administrator licensure
1525 shall meet all requirements prescribed by the department under
1526 paragraph (b), (c) or (d), and the cost of the assessment process
1527 required shall be paid by the applicant.

1528 (8) **Reciprocity.** (a) The department shall grant a standard
1529 license to any individual who possesses a valid standard license
1530 from another state and meets minimum Mississippi license
1531 requirements or equivalent requirements as determined by the State
1532 Board of Education.

1533 (b) The department shall grant a nonrenewable special
1534 license to any individual who possesses a credential which is less
1535 than a standard license or certification from another state. Such
1536 special license shall be valid for the current school year plus
1537 one (1) additional school year to expire on June 30 of the second
1538 year, not to exceed a total period of twenty-four (24) months,
1539 during which time the applicant shall be required to complete the
1540 requirements for a standard license in Mississippi.

1541 (9) **Renewal and Reinstatement of Licenses.** The State Board
1542 of Education is authorized to establish rules and regulations for
1543 the renewal and reinstatement of educator and administrator
1544 licenses. Effective May 15, 1997, the valid standard license held
1545 by an educator shall be extended five (5) years beyond the
1546 expiration date of the license in order to afford the educator
1547 adequate time to fulfill new renewal requirements established



1548 pursuant to this subsection. An educator completing a master of
1549 education, educational specialist or doctor of education degree in
1550 May 1997 for the purpose of upgrading the educator's license to a
1551 higher class shall be given this extension of five (5) years plus
1552 five (5) additional years for completion of a higher degree.

1553 (10) All controversies involving the issuance, revocation,
1554 suspension or any change whatsoever in the licensure of an
1555 educator required to hold a license shall be initially heard in a
1556 hearing de novo, by the commission or by a subcommittee
1557 established by the commission and composed of commission members
1558 for the purpose of holding hearings. Any complaint seeking the
1559 denial of issuance, revocation or suspension of a license shall be
1560 by sworn affidavit filed with the Commission of Teacher and
1561 Administrator Education, Certification and Licensure and
1562 Development. The decision thereon by the commission or its
1563 subcommittee shall be final, unless the aggrieved party shall
1564 appeal to the State Board of Education, within ten (10) days, of
1565 the decision of the committee or its subcommittee. An appeal to
1566 the State Board of Education shall be on the record previously
1567 made before the commission or its subcommittee unless otherwise
1568 provided by rules and regulations adopted by the board. The State
1569 Board of Education in its authority may reverse, or remand with
1570 instructions, the decision of the committee or its subcommittee.
1571 The decision of the State Board of Education shall be final.

1572 (11) The State Board of Education, acting through the
1573 commission, may deny an application for any teacher or
1574 administrator license for one or more of the following:

1575 (a) Lack of qualifications which are prescribed by law
1576 or regulations adopted by the State Board of Education;

1577 (b) The applicant has a physical, emotional or mental
1578 disability that renders the applicant unfit to perform the duties
1579 authorized by the license, as certified by a licensed psychologist
1580 or psychiatrist;



1581 (c) The applicant is actively addicted to or actively
1582 dependent on alcohol or other habit-forming drugs or is a habitual
1583 user of narcotics, barbiturates, amphetamines, hallucinogens or
1584 other drugs having similar effect, at the time of application for
1585 a license;

1586 (d) Revocation or suspension of an applicant's
1587 certificate or license by another state;

1588 (e) Fraud or deceit committed by the applicant in
1589 securing or attempting to secure such certification and license;

1590 (f) Failing or refusing to furnish reasonable evidence
1591 of identification;

1592 (g) The applicant has been convicted, has pled guilty
1593 or entered a plea of nolo contendere to a felony, as defined by
1594 federal or state law; or

1595 (h) The applicant has been convicted, has pled guilty
1596 or entered a plea of nolo contendere to a sex offense as defined
1597 by federal or state law.

1598 (12) The State Board of Education, acting on the
1599 recommendation of the commission, may revoke or suspend any
1600 teacher or administrator license for specified periods of time for
1601 one or more of the following:

1602 (a) Breach of contract or abandonment of employment may
1603 result in the suspension of the license for one (1) school year as
1604 provided in Section 37-9-57;

1605 (b) Obtaining a license by fraudulent means shall
1606 result in immediate suspension and continued suspension for one
1607 (1) year after correction is made;

1608 (c) Suspension or revocation of a certificate or
1609 license by another state shall result in immediate suspension or
1610 revocation and shall continue until records in the prior state
1611 have been cleared;



1612 (d) The license holder has been convicted, has pled
1613 guilty or entered a plea of nolo contendere to a felony, as
1614 defined by federal or state law;

1615 (e) The license holder has been convicted, has pled
1616 guilty or entered a plea of nolo contendere to a sex offense, as
1617 defined by federal or state law;

1618 (f) The license holder knowingly and willfully
1619 committing any of the acts affecting validity of mandatory uniform
1620 test results as provided in Section 37-16-4(1);

1621 (g) The license holder has engaged in unethical conduct
1622 relating to an educator/student relationship as identified by the
1623 State Board of Education in its rules;

1624 (h) The license holder has fondled a student as
1625 described in Section 97-5-23, or had any type of sexual
1626 involvement with a student as described in Section 97-3-95; or

1627 (i) The license holder has failed to report sexual
1628 involvement of a school employee with a student as required by
1629 Section 97-5-24.

1630 (13) (a) Dismissal or suspension of a licensed employee by
1631 a local school board pursuant to Section 37-9-59 may result in the
1632 suspension or revocation of a license for a length of time which
1633 shall be determined by the commission and based upon the severity
1634 of the offense.

1635 (b) Any offense committed or attempted in any other
1636 state shall result in the same penalty as if committed or
1637 attempted in this state.

1638 (c) A person may voluntarily surrender a license. The
1639 surrender of such license may result in the commission
1640 recommending any of the above penalties without the necessity of a
1641 hearing. However, any such license which has voluntarily been
1642 surrendered by a licensed employee may only be reinstated by a
1643 majority vote of all members of the commission present at the
1644 meeting called for such purpose.



1645 (14) A person whose license has been suspended on any
1646 grounds except criminal grounds may petition for reinstatement of
1647 the license after one (1) year from the date of suspension, or
1648 after one-half (1/2) of the suspended time has lapsed, whichever
1649 is greater. A license suspended or revoked on the criminal
1650 grounds may be reinstated upon petition to the commission filed
1651 after expiration of the sentence and parole or probationary period
1652 imposed upon conviction. A revoked, suspended or surrendered
1653 license may be reinstated upon satisfactory showing of evidence of
1654 rehabilitation. The commission shall require all who petition for
1655 reinstatement to furnish evidence satisfactory to the commission
1656 of good character, good mental, emotional and physical health and
1657 such other evidence as the commission may deem necessary to
1658 establish the petitioner's rehabilitation and fitness to perform
1659 the duties authorized by the license.

1660 (15) Reporting procedures and hearing procedures for dealing
1661 with infractions under this section shall be promulgated by the
1662 commission, subject to the approval of the State Board of
1663 Education. The revocation or suspension of a license shall be
1664 effected at the time indicated on the notice of suspension or
1665 revocation. The commission shall immediately notify the
1666 superintendent of the school district or school board where the
1667 teacher or administrator is employed of any disciplinary action
1668 and also notify the teacher or administrator of such revocation or
1669 suspension and shall maintain records of action taken. The State
1670 Board of Education may reverse or remand with instructions any
1671 decision of the commission regarding a petition for reinstatement
1672 of a license, and any such decision of the State Board of
1673 Education shall be final.

1674 (16) An appeal from the action of the State Board of
1675 Education in denying an application, revoking or suspending a
1676 license or otherwise disciplining any person under the provisions
1677 of this section shall be filed in the Chancery Court of the First



1678 Judicial District of Hinds County on the record made, including a
1679 verbatim transcript of the testimony at the hearing. The appeal
1680 shall be filed within thirty (30) days after notification of the
1681 action of the board is mailed or served and the proceedings in
1682 chancery court shall be conducted as other matters coming before
1683 the court. The appeal shall be perfected upon filing notice of
1684 the appeal and by the prepayment of all costs, including the cost
1685 of preparation of the record of the proceedings by the State Board
1686 of Education, and the filing of a bond in the sum of Two Hundred
1687 Dollars (\$200.00) conditioned that if the action of the board be
1688 affirmed by the chancery court, the applicant or license holder
1689 shall pay the costs of the appeal and the action of the chancery
1690 court.

1691 (17) All such programs, rules, regulations, standards and
1692 criteria recommended or authorized by the commission shall become
1693 effective upon approval by the State Board of Education as
1694 designated by appropriate orders entered upon the minutes thereof.

1695 (18) The granting of a license shall not be deemed a
1696 property right nor a guarantee of employment in any public school
1697 district. A license is a privilege indicating minimal eligibility
1698 for teaching in the public schools of Mississippi. This section
1699 shall in no way alter or abridge the authority of local school
1700 districts to require greater qualifications or standards of
1701 performance as a prerequisite of initial or continued employment
1702 in such districts.

1703 (19) In addition to the reasons specified in subsections
1704 (12) and (13) of this section, the board shall be authorized to
1705 suspend the license of any licensee for being out of compliance
1706 with an order for support, as defined in Section 93-11-153. The
1707 procedure for suspension of a license for being out of compliance
1708 with an order for support, and the procedure for the reissuance or
1709 reinstatement of a license suspended for that purpose, and the
1710 payment of any fees for the reissuance or reinstatement of a



1711 license suspended for that purpose, shall be governed by Section
1712 93-11-157 or 93-11-163, as the case may be. Actions taken by the
1713 board in suspending a license when required by Section 93-11-157
1714 or 93-11-163 are not actions from which an appeal may be taken
1715 under this section. Any appeal of a license suspension that is
1716 required by Section 93-11-157 or 93-11-163 shall be taken in
1717 accordance with the appeal procedure specified in Section
1718 93-11-157 or 93-11-163, as the case may be, rather than the
1719 procedure specified in this section. If there is any conflict
1720 between any provision of Section 93-11-157 or 93-11-163 and any
1721 provision of this chapter, the provisions of Section 93-11-157 or
1722 93-11-163, as the case may be, shall control.

1723 (20) The provisions of this section shall not apply to any
1724 teacher, instructional staff or administrator of a public charter
1725 school established under the terms and provisions of Sections 1
1726 through 36 of this act.

1727 **SECTION 38.** Section 37-9-17, Mississippi Code of 1972, is
1728 amended as follows:

1729 37-9-17. (1) On or before April 1 of each year, the
1730 principal of each school shall recommend to the superintendent of
1731 the local school district the licensed employees or
1732 noninstructional employees to be employed for the school involved
1733 except those licensed employees or noninstructional employees who
1734 have been previously employed and who have a contract valid for
1735 the ensuing scholastic year. If such recommendations meet with
1736 the approval of the superintendent, the superintendent shall
1737 recommend the employment of such licensed employees or
1738 noninstructional employees to the local school board, and, unless
1739 good reason to the contrary exists, the board shall elect the
1740 employees so recommended. If, for any reason, the local school
1741 board shall decline to elect any employee so recommended,
1742 additional recommendations for the places to be filled shall be
1743 made by the principal to the superintendent and then by the



1744 superintendent to the local school board as provided above. The
1745 school board of any local school district shall be authorized to
1746 designate a personnel supervisor or another principal employed by
1747 the school district to recommend to the superintendent licensed
1748 employees or noninstructional employees; however, this
1749 authorization shall be restricted to no more than two (2)
1750 positions for each employment period for each school in the local
1751 school district. Any noninstructional employee employed upon the
1752 recommendation of a personnel supervisor or another principal
1753 employed by the local school district must have been employed by
1754 the local school district at the time the superintendent was
1755 elected or appointed to office; a noninstructional employee
1756 employed under this authorization may not be paid compensation in
1757 excess of the statewide average compensation for such
1758 noninstructional position with comparable experience, as
1759 established by the State Department of Education. The school
1760 board of any local school district shall be authorized to
1761 designate a personnel supervisor or another principal employed by
1762 the school district to accept the recommendations of principals or
1763 their designees for licensed employees or noninstructional
1764 employees and to transmit approved recommendations to the local
1765 school board; however, this authorization shall be restricted to
1766 no more than two (2) positions for each employment period for each
1767 school in the local school district.

1768 When the licensed employees have been elected as provided in
1769 the preceding paragraph, the superintendent of the district shall
1770 enter into a contract with such persons in the manner provided in
1771 this chapter.

1772 If, at the commencement of the scholastic year, any licensed
1773 employee shall present to the superintendent a license of a higher
1774 grade than that specified in such individual's contract, such
1775 individual may, if funds are available from adequate education
1776 program funds of the district, or from district funds, be paid



1777 from such funds the amount to which such higher grade license
1778 would have entitled the individual, had the license been held at
1779 the time the contract was executed.

1780 (2) Superintendents/directors of schools under the purview
1781 of the State Board of Education, the superintendent of the local
1782 school district and any private firm under contract with the local
1783 public school district to provide substitute teachers to teach
1784 during the absence of a regularly employed schoolteacher shall
1785 require, through the appropriate governmental authority, that
1786 current criminal records background checks and current child abuse
1787 registry checks are obtained, and that such criminal record
1788 information and registry checks are on file for any new hires
1789 applying for employment as a licensed or nonlicensed employee at a
1790 school and not previously employed in such school under the
1791 purview of the State Board of Education or at such local school
1792 district prior to July 1, 2000. In order to determine the
1793 applicant's suitability for employment, the applicant shall be
1794 fingerprinted. If no disqualifying record is identified at the
1795 state level, the fingerprints shall be forwarded by the Department
1796 of Public Safety to the Federal Bureau of Investigation for a
1797 national criminal history record check. The fee for such
1798 fingerprinting and criminal history record check shall be paid by
1799 the applicant, not to exceed Fifty Dollars (\$50.00); however, the
1800 State Board of Education, the school board of the local school
1801 district or a private firm under contract with a local school
1802 district to provide substitute teachers to teach during the
1803 temporary absence of the regularly employed schoolteacher, in its
1804 discretion, may elect to pay the fee for the fingerprinting and
1805 criminal history record check on behalf of any applicant. Under
1806 no circumstances shall a member of the State Board of Education,
1807 superintendent/director of schools under the purview of the State
1808 Board of Education, local school district superintendent, local
1809 school board member or any individual other than the subject of



1810 the criminal history record checks disseminate information
1811 received through any such checks except insofar as required to
1812 fulfill the purposes of this section. Any nonpublic school which
1813 is accredited or approved by the State Board of Education may
1814 avail itself of the procedures provided for herein and shall be
1815 responsible for the same fee charged in the case of local public
1816 schools of this state. The determination whether the applicant
1817 has a disqualifying crime, as set forth in subsection (3) of this
1818 section, shall be made by the appropriate governmental authority,
1819 and the appropriate governmental authority shall notify the
1820 private firm whether a disqualifying crime exists.

1821 (3) If such fingerprinting or criminal record checks
1822 disclose a felony conviction, guilty plea or plea of nolo
1823 contendere to a felony of possession or sale of drugs, murder,
1824 manslaughter, armed robbery, rape, sexual battery, sex offense
1825 listed in Section 45-33-23(g), child abuse, arson, grand larceny,
1826 burglary, gratification of lust or aggravated assault which has
1827 not been reversed on appeal or for which a pardon has not been
1828 granted, the new hire shall not be eligible to be employed at such
1829 school. Any employment contract for a new hire executed by the
1830 superintendent of the local school district or any employment of a
1831 new hire by a superintendent/director of a new school under the
1832 purview of the State Board of Education or by a private firm shall
1833 be voidable if the new hire receives a disqualifying criminal
1834 record check. However, the State Board of Education or the school
1835 board may, in its discretion, allow any applicant aggrieved by the
1836 employment decision under this section to appear before the
1837 respective board, or before a hearing officer designated for such
1838 purpose, to show mitigating circumstances which may exist and
1839 allow the new hire to be employed at the school. The State Board
1840 of Education or local school board may grant waivers for such
1841 mitigating circumstances, which shall include, but not be limited
1842 to: (a) age at which the crime was committed; (b) circumstances



1843 surrounding the crime; (c) length of time since the conviction and
1844 criminal history since the conviction; (d) work history; (e)
1845 current employment and character references; (f) other evidence
1846 demonstrating the ability of the person to perform the employment
1847 responsibilities competently and that the person does not pose a
1848 threat to the health or safety of the children at the school.

1849 (4) Any teacher, instructional staff or administrator of a
1850 public charter school established under the terms and provisions
1851 of Sections 1 through 36 of this act shall adhere to the criminal
1852 background check and fingerprinting requirements under subsection
1853 (2) of this section.

1854 (5) No local school district, local school district
1855 employee, member of the State Board of Education or employee of a
1856 school under the purview of the State Board of Education shall be
1857 held liable in any employment discrimination suit in which an
1858 allegation of discrimination is made regarding an employment
1859 decision authorized under this Section 37-9-17.

1860 **SECTION 39.** Section 37-9-103, Mississippi Code of 1972, is
1861 amended as follows:

1862 37-9-103. (1) As used in Sections 37-9-101 through
1863 37-9-113, the word "employee" shall include:

1864 (a) Any teacher, principal, superintendent or other
1865 professional personnel employed by the local school district for a
1866 continuous period of two (2) years with that district and required
1867 to have a valid license issued by the State Department of
1868 Education as a prerequisite of employment; or

1869 (b) Any teacher, principal, superintendent or other
1870 professional personnel who has completed a continuous period of
1871 two (2) years of employment in a Mississippi public school
1872 district and one (1) full year of employment with the school
1873 district of current employment, and who is required to have a
1874 valid license issued by the State Department of Education as a
1875 prerequisite of employment.



1876 (2) (a) The Education Employment Procedures Law shall not
1877 apply to any category of employee as defined in this section
1878 employed in any school district after the Governor declares a
1879 state of emergency under the provisions of Section 37-17-6(11).
1880 The Education Employment Procedures Law shall not be applicable in
1881 any school district for the full period of time that those
1882 conditions, as defined in Section 37-17-6(11), exist.

1883 (b) The Education Employment Procedures Law shall not
1884 apply to any category of employee as defined in this section
1885 employed in any school that is a new start school, as provided for
1886 under Section 37-167-1.

1887 (c) The Education Employment Procedures Law shall not
1888 apply to any category of teacher, administrator or employee of a
1889 public charter school established under the terms and provisions
1890 of Sections 1 through 36 of this act.

1891 (3) For purposes of Sections 37-9-101 through 37-9-113, the
1892 term "days" means calendar days.

1893 **SECTION 40.** Sections 37-165-1, 37-165-3, 37-165-5, 37-165-7,
1894 37-165-9, 37-165-11, 37-165-13, 37-165-15, 37-165-17, 37-165-19,
1895 37-165-21, 37-165-23 and 37-165-25, Mississippi Code of 1972,
1896 which are the Conversion Charter School Act of 2010, are repealed.

1897 **SECTION 41.** Section 37-165-27, Mississippi Code of 1972, is
1898 amended as follows:

1899 37-165-27. Sections 37-167-1, 37-9-3, 37-9-103 and

1900 * * * 37-165-27 shall stand repealed on July 1, 2016.

1901 **SECTION 42.** Section 37-151-7, Mississippi Code of 1972, is
1902 brought forward as follows:

1903 37-151-7. The annual allocation to each school district for
1904 the operation of the adequate education program shall be
1905 determined as follows:

1906 (1) **Computation of the basic amount to be included for**
1907 **current operation in the adequate education program.** The



1908 following procedure shall be followed in determining the annual
1909 allocation to each school district:

1910 (a) **Determination of average daily attendance.**

1911 Effective with fiscal year 2011, the State Department of Education
1912 shall determine the percentage change from the prior year of each
1913 year of each school district's average of months two (2) and three
1914 (3) average daily attendance (ADA) for the three (3) immediately
1915 preceding school years of the year for which funds are being
1916 appropriated. For any school district that experiences a positive
1917 growth in the average of months two (2) and three (3) ADA each
1918 year of the three (3) years, the average percentage growth over
1919 the three-year period shall be multiplied times the school
1920 district's average of months two (2) and three (3) ADA for the
1921 year immediately preceding the year for which MAEP funds are being
1922 appropriated. The resulting amount shall be added to the school
1923 district's average of months two (2) and three (3) ADA for the
1924 year immediately preceding the year for which MAEP funds are being
1925 appropriated to arrive at the ADA to be used in determining a
1926 school district's MAEP allocation. Otherwise, months two (2) and
1927 three (3) ADA for the year immediately preceding the year for
1928 which MAEP funds are being appropriated will be used in
1929 determining a school district's MAEP allocation. In any fiscal
1930 year prior to 2010 in which the MAEP formula is not fully funded,
1931 for those districts that do not demonstrate a three-year positive
1932 growth in months two (2) and three (3) ADA, months 1-9 ADA of the
1933 second preceding year for which funds are being appropriated or
1934 months two (2) and three (3) ADA of the preceding year for which
1935 funds are being appropriated, whichever is greater, shall be used
1936 to calculate the district's MAEP allocation. The district's
1937 average daily attendance shall be computed and currently
1938 maintained in accordance with regulations promulgated by the State
1939 Board of Education.



1940 (b) **Determination of base student cost.** Effective with
1941 fiscal year 2011 and every fourth fiscal year thereafter, the
1942 State Board of Education, on or before August 1, with adjusted
1943 estimate no later than January 2, shall submit to the Legislative
1944 Budget Office and the Governor a proposed base student cost
1945 adequate to provide the following cost components of educating a
1946 pupil in a successful school district: (i) Instructional Cost;
1947 (ii) Administrative Cost; (iii) Operation and Maintenance of
1948 Plant; and (iv) Ancillary Support Cost. For purposes of these
1949 calculations, the Department of Education shall utilize financial
1950 data from the second preceding year of the year for which funds
1951 are being appropriated.

1952 For the instructional cost component, the Department of
1953 Education shall select districts that have been identified as
1954 instructionally successful and have a ratio of a number of
1955 teachers per one thousand (1,000) students that is between one (1)
1956 standard deviation above the mean and two (2) standard deviations
1957 below the mean of the statewide average of teachers per one
1958 thousand (1,000) students. The instructional cost component shall
1959 be calculated by dividing the latest available months 1-9 ADA into
1960 the instructional expenditures of these selected districts. For
1961 the purpose of this calculation, the Department of Education shall
1962 use the following funds, functions and objects:

1963 Fund 1120 Functions 1110-1199 Objects 100-999, Functions
1964 1210, 1220, 2150-2159 Objects 210 and 215;

1965 Fund 1130 All Functions, Object Code 210 and 215;

1966 Fund 2001 Functions 1110-1199 Objects 100-999;

1967 Fund 2070 Functions 1110-1199 Objects 100-999;

1968 Fund 2420 Functions 1110-1199 Objects 100-999;

1969 Fund 2711 All Functions, Object Code 210 and 215.

1970 Prior to the calculation of the instructional cost component,
1971 there shall be subtracted from the above expenditures any revenue
1972 received for Chickasaw Cession payments, Master Teacher



1973 Certification payments and the district's portion of state revenue
1974 received from the MAEP at-risk allocation.

1975 For the administrative cost component, the Department of
1976 Education shall select districts that have been identified as
1977 instructionally successful and have a ratio of an administrative
1978 staff to nonadministrative staff between one (1) standard
1979 deviation above the mean and two (2) standard deviations below the
1980 mean of the statewide average administrative staff to
1981 nonadministrative staff. The administrative cost component shall
1982 be calculated by dividing the latest available months 1-9 ADA of
1983 the selected districts into the administrative expenditures of
1984 these selected districts. For the purpose of this calculation,
1985 the Department of Education shall use the following funds,
1986 functions and objects:

1987 Fund 1120 Functions 2300-2599, Functions 2800-2899,
1988 Objects 100-999;

1989 Fund 2711 Functions 2300-2599, Functions 2800-2899,
1990 Objects 100-999.

1991 For the plant and maintenance cost component, the Department
1992 of Education shall select districts that have been identified as
1993 instructionally successful and have a ratio of plant and
1994 maintenance expenditures per one hundred thousand (100,000) square
1995 feet of building space and a ratio of maintenance workers per one
1996 hundred thousand (100,000) square feet of building space that are
1997 both between one (1) standard deviation above the mean and two (2)
1998 standard deviations below the mean of the statewide average. The
1999 plant and maintenance cost component shall be calculated by
2000 dividing the latest available months 1-9 ADA of the selected
2001 districts into the plant and maintenance expenditures of these
2002 selected districts. For the purpose of this calculation, the
2003 Department of Education shall use the following funds, functions
2004 and objects:

2005 Fund 1120 Functions 2600-2699, Objects 100-699



2006 and Objects 800-999;
2007 Fund 2711 Functions 2600-2699, Objects 100-699
2008 and Objects 800-999;
2009 Fund 2430 Functions 2600-2699, Objects 100-699
2010 and Objects 800-999.

2011 For the ancillary support cost component, the Department of
2012 Education shall select districts that have been identified as
2013 instructionally successful and have a ratio of a number of
2014 librarians, media specialists, guidance counselors and
2015 psychologists per one thousand (1,000) students that is between
2016 one (1) standard deviation above the mean and two (2) standard
2017 deviations below the mean of the statewide average of librarians,
2018 media specialists, guidance counselors and psychologists per one
2019 thousand (1,000) students. The ancillary cost component shall be
2020 calculated by dividing the latest available months 1-9 ADA into
2021 the ancillary expenditures instructional expenditures of these
2022 selected districts. For the purpose of this calculation, the
2023 Department of Education shall use the following funds, functions
2024 and objects:

2025 Fund 1120 Functions 2110-2129, Objects 100-999;
2026 Fund 1120 Functions 2140-2149, Objects 100-999;
2027 Fund 1120 Functions 2220-2229, Objects 100-999;
2028 Fund 2001 Functions 2100-2129, Objects 100-999;
2029 Fund 2001 Functions 2140-2149, Objects 100-999;
2030 Fund 2001 Functions 2220-2229, Objects 100-999.

2031 The total base cost for each year shall be the sum of the
2032 instructional cost component, administrative cost component, plant
2033 and maintenance cost component and ancillary support cost
2034 component, and any estimated adjustments for additional state
2035 requirements as determined by the State Board of Education.
2036 Provided, however, that the base student cost in fiscal year 1998
2037 shall be Two Thousand Six Hundred Sixty-four Dollars (\$2,664.00).



2038 For each of the fiscal years between the recalculation of the
2039 base student cost under the provisions of this paragraph (b), the
2040 base student cost shall be increased by an amount equal to forty
2041 percent (40%) of the base student cost for the previous fiscal
2042 year, multiplied by the latest annual rate of inflation for the
2043 State of Mississippi as determined by the State Economist, plus
2044 any adjustments for additional state requirements such as, but not
2045 limited to, teacher pay raises and health insurance premium
2046 increases.

2047 (c) **Determination of the basic adequate education**
2048 **program cost.** The basic amount for current operation to be
2049 included in the Mississippi Adequate Education Program for each
2050 school district shall be computed as follows:

2051 Multiply the average daily attendance of the district by the
2052 base student cost as established by the Legislature, which yields
2053 the total base program cost for each school district.

2054 (d) **Adjustment to the base student cost for at-risk**
2055 **pupils.** The amount to be included for at-risk pupil programs for
2056 each school district shall be computed as follows: Multiply the
2057 base student cost for the appropriate fiscal year as determined
2058 under paragraph (b) by five percent (5%), and multiply that
2059 product by the number of pupils participating in the federal free
2060 school lunch program in such school district, which yields the
2061 total adjustment for at-risk pupil programs for such school
2062 district.

2063 (e) **Add-on program cost.** The amount to be allocated to
2064 school districts in addition to the adequate education program
2065 cost for add-on programs for each school district shall be
2066 computed as follows:

2067 (i) Transportation cost shall be the amount
2068 allocated to such school district for the operational support of
2069 the district transportation system from state funds.



2070 (ii) Vocational or technical education program
2071 cost shall be the amount allocated to such school district from
2072 state funds for the operational support of such programs.

2073 (iii) Special education program cost shall be the
2074 amount allocated to such school district from state funds for the
2075 operational support of such programs.

2076 (iv) Gifted education program cost shall be the
2077 amount allocated to such school district from state funds for the
2078 operational support of such programs.

2079 (v) Alternative school program cost shall be the
2080 amount allocated to such school district from state funds for the
2081 operational support of such programs.

2082 (vi) Extended school year programs shall be the
2083 amount allocated to school districts for those programs authorized
2084 by law which extend beyond the normal school year.

2085 (vii) University-based programs shall be the
2086 amount allocated to school districts for those university-based
2087 programs for handicapped children as defined and provided for in
2088 Section 37-23-131 et seq., Mississippi Code of 1972.

2089 (viii) Bus driver training programs shall be the
2090 amount provided for those driver training programs as provided for
2091 in Section 37-41-1, Mississippi Code of 1972.

2092 The sum of the items listed above (i) transportation, (ii)
2093 vocational or technical education, (iii) special education, (iv)
2094 gifted education, (v) alternative school, (vi) extended school
2095 year, (vii) university-based, and (viii) bus driver training shall
2096 yield the add-on cost for each school district.

2097 (f) **Total projected adequate education program cost.**

2098 The total Mississippi Adequate Education Program cost shall be the
2099 sum of the total basic adequate education program cost (paragraph
2100 (c)), and the adjustment to the base student cost for at-risk
2101 pupils (paragraph (d)) for each school district. In any year in
2102 which the MAEP is not fully funded, the Legislature shall direct



2103 the Department of Education in the K-12 appropriation bill as to
2104 how to allocate MAEP funds to school districts for that year.

2105 (g) The State Auditor shall annually verify the State
2106 Board of Education's estimated calculations for the Mississippi
2107 Adequate Education Program that are submitted each year to the
2108 Legislative Budget Office on August 1 and the final calculation
2109 that is submitted on January 2.

2110 (2) **Computation of the required local revenue in support of**
2111 **the adequate education program.** The amount that each district
2112 shall provide toward the cost of the adequate education program
2113 shall be calculated as follows:

2114 (a) The State Department of Education shall certify to
2115 each school district that twenty-eight (28) mills, less the
2116 estimated amount of the yield of the School Ad Valorem Tax
2117 Reduction Fund grants as determined by the State Department of
2118 Education, is the millage rate required to provide the district
2119 required local effort for that year, or twenty-seven percent (27%)
2120 of the basic adequate education program cost for such school
2121 district as determined under paragraph (c), whichever is a lesser
2122 amount. In the case of an agricultural high school, the millage
2123 requirement shall be set at a level which generates an equitable
2124 amount per pupil to be determined by the State Board of Education.

2125 (b) The State Department of Education shall determine
2126 (i) the total assessed valuation of nonexempt property for school
2127 purposes in each school district; (ii) assessed value of exempt
2128 property owned by homeowners aged sixty-five (65) or older or
2129 disabled as defined in Section 27-33-67(2), Mississippi Code of
2130 1972; (iii) the school district's tax loss from exemptions
2131 provided to applicants under the age of sixty-five (65) and not
2132 disabled as defined in Section 27-33-67(1), Mississippi Code of
2133 1972; and (iv) the school district's homestead reimbursement
2134 revenues.



2135 (c) The amount of the total adequate education program
2136 funding which shall be contributed by each school district shall
2137 be the sum of the ad valorem receipts generated by the millage
2138 required under this subsection plus the following local revenue
2139 sources for the appropriate fiscal year which are or may be
2140 available for current expenditure by the school district:

2141 One hundred percent (100%) of Grand Gulf income as prescribed
2142 in Section 27-35-309.

2143 One hundred percent (100%) of any fees in lieu of taxes as
2144 prescribed in Section 27-31-104.

2145 (3) **Computation of the required state effort in support of**
2146 **the adequate education program.**

2147 (a) The required state effort in support of the
2148 adequate education program shall be determined by subtracting the
2149 sum of the required local tax effort as set forth in subsection
2150 (2)(a) of this section and the other local revenue sources as set
2151 forth in subsection (2)(c) of this section in an amount not to
2152 exceed twenty-seven percent (27%) of the total projected adequate
2153 education program cost as set forth in subsection (1)(f) of this
2154 section from the total projected adequate education program cost
2155 as set forth in subsection (1)(f) of this section.

2156 (b) Provided, however, that in fiscal year 1998 and in
2157 the fiscal year in which the adequate education program is fully
2158 funded by the Legislature, any increase in the said state
2159 contribution to any district calculated under this section shall
2160 be not less than eight percent (8%) in excess of the amount
2161 received by said district from state funds for the fiscal year
2162 immediately preceding. For purposes of this paragraph (b), state
2163 funds shall include minimum program funds less the add-on
2164 programs, State Uniform Millage Assistance Grant Funds, Education
2165 Enhancement Funds appropriated for Uniform Millage Assistance
2166 Grants and state textbook allocations, and State General Funds
2167 allocated for textbooks.



2168 (c) If the school board of any school district shall
2169 determine that it is not economically feasible or practicable to
2170 operate any school within the district for the full one hundred
2171 eighty (180) days required for a school term of a scholastic year
2172 as required in Section 37-13-63, Mississippi Code of 1972, due to
2173 an enemy attack, a man-made, technological or natural disaster in
2174 which the Governor has declared a disaster emergency under the
2175 laws of this state or the President of the United States has
2176 declared an emergency or major disaster to exist in this state,
2177 said school board may notify the State Department of Education of
2178 such disaster and submit a plan for altering the school term. If
2179 the State Board of Education finds such disaster to be the cause
2180 of the school not operating for the contemplated school term and
2181 that such school was in a school district covered by the
2182 Governor's or President's disaster declaration, it may permit said
2183 school board to operate the schools in its district for less than
2184 one hundred eighty (180) days and, in such case, the State
2185 Department of Education shall not reduce the state contributions
2186 to the adequate education program allotment for such district,
2187 because of the failure to operate said schools for one hundred
2188 eighty (180) days.

2189 (4) The Interim School District Capital Expenditure Fund is
2190 hereby established in the State Treasury which shall be used to
2191 distribute any funds specifically appropriated by the Legislature
2192 to such fund to school districts entitled to increased allocations
2193 of state funds under the adequate education program funding
2194 formula prescribed in Sections 37-151-3 through 37-151-7,
2195 Mississippi Code of 1972, until such time as the said adequate
2196 education program is fully funded by the Legislature. The
2197 following percentages of the total state cost of increased
2198 allocations of funds under the adequate education program funding
2199 formula shall be appropriated by the Legislature into the Interim
2200 School District Capital Expenditure Fund to be distributed to all



2201 school districts under the formula: Nine and two-tenths percent
2202 (9.2%) shall be appropriated in fiscal year 1998, twenty percent
2203 (20%) shall be appropriated in fiscal year 1999, forty percent
2204 (40%) shall be appropriated in fiscal year 2000, sixty percent
2205 (60%) shall be appropriated in fiscal year 2001, eighty percent
2206 (80%) shall be appropriated in fiscal year 2002, and one hundred
2207 percent (100%) shall be appropriated in fiscal year 2003 into the
2208 State Adequate Education Program Fund. Until July 1, 2002, such
2209 money shall be used by school districts for the following
2210 purposes:

2211 (a) Purchasing, erecting, repairing, equipping,
2212 remodeling and enlarging school buildings and related facilities,
2213 including gymnasiums, auditoriums, lunchrooms, vocational training
2214 buildings, libraries, school barns and garages for transportation
2215 vehicles, school athletic fields and necessary facilities
2216 connected therewith, and purchasing land therefor. Any such
2217 capital improvement project by a school district shall be approved
2218 by the State Board of Education, and based on an approved
2219 long-range plan. The State Board of Education shall promulgate
2220 minimum requirements for the approval of school district capital
2221 expenditure plans.

2222 (b) Providing necessary water, light, heating, air
2223 conditioning, and sewerage facilities for school buildings, and
2224 purchasing land therefor.

2225 (c) Paying debt service on existing capital improvement
2226 debt of the district or refinancing outstanding debt of a district
2227 if such refinancing will result in an interest cost savings to the
2228 district.

2229 (d) From and after October 1, 1997, through June 30,
2230 1998, pursuant to a school district capital expenditure plan
2231 approved by the State Department of Education, a school district
2232 may pledge such funds until July 1, 2002, plus funds provided for
2233 in paragraph (e) of this subsection (4) that are not otherwise



2234 permanently pledged under such paragraph (e) to pay all or a
2235 portion of the debt service on debt issued by the school district
2236 under Sections 37-59-1 through 37-59-45, 37-59-101 through
2237 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
2238 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
2239 issued by boards of supervisors for agricultural high schools
2240 pursuant to Section 37-27-65, Mississippi Code of 1972, or
2241 lease-purchase contracts entered into pursuant to Section 31-7-13,
2242 Mississippi Code of 1972, or to retire or refinance outstanding
2243 debt of a district, if such pledge is accomplished pursuant to a
2244 written contract or resolution approved and spread upon the
2245 minutes of an official meeting of the district's school board or
2246 board of supervisors. It is the intent of this provision to allow
2247 school districts to irrevocably pledge their Interim School
2248 District Capital Expenditure Fund allotments as a constant stream
2249 of revenue to secure a debt issued under the foregoing code
2250 sections. To allow school districts to make such an irrevocable
2251 pledge, the state shall take all action necessary to ensure that
2252 the amount of a district's Interim School District Capital
2253 Expenditure Fund allotments shall not be reduced below the amount
2254 certified by the department or the district's total allotment
2255 under the Interim Capital Expenditure Fund if fully funded, so
2256 long as such debt remains outstanding.

2257 (e) [Repealed]

2258 (f) [Repealed]

2259 (g) The State Board of Education may authorize the
2260 school district to expend not more than twenty percent (20%) of
2261 its annual allotment of such funds or Twenty Thousand Dollars
2262 (\$20,000.00), whichever is greater, for technology needs of the
2263 school district, including computers, software,
2264 telecommunications, cable television, interactive video, film,
2265 low-power television, satellite communications, microwave
2266 communications, technology-based equipment installation and



2267 maintenance, and the training of staff in the use of such
2268 technology-based instruction. Any such technology expenditure
2269 shall be reflected in the local district technology plan approved
2270 by the State Board of Education under Section 37-151-17,
2271 Mississippi Code of 1972.

2272 (h) To the extent a school district has not utilized
2273 twenty percent (20%) of its annual allotment for technology
2274 purposes under paragraph (g), a school district may expend not
2275 more than twenty percent (20%) of its annual allotment or Twenty
2276 Thousand Dollars (\$20,000.00), whichever is greater, for
2277 instructional purposes. The State Board of Education may
2278 authorize a school district to expend more than said twenty
2279 percent (20%) of its annual allotment for instructional purposes
2280 if it determines that such expenditures are needed for
2281 accreditation purposes.

2282 (i) The State Department of Education or the State
2283 Board of Education may require that any project commenced under
2284 this section with an estimated project cost of not less than Five
2285 Million Dollars (\$5,000,000.00) shall be done only pursuant to
2286 program management of the process with respect to design and
2287 construction. Any individuals, partnerships, companies or other
2288 entities acting as a program manager on behalf of a local school
2289 district and performing program management services for projects
2290 covered under this subsection shall be approved by the State
2291 Department of Education.

2292 Any interest accruing on any unexpended balance in the
2293 Interim School District Capital Expenditure Fund shall be invested
2294 by the State Treasurer and placed to the credit of each school
2295 district participating in such fund in its proportionate share.

2296 The provisions of this subsection (4) shall be cumulative and
2297 supplemental to any existing funding programs or other authority
2298 conferred upon school districts or school boards.



2299 **SECTION 43.** Section 37-57-107, Mississippi Code of 1972, is
2300 brought forward as follows:

2301 37-57-107. Beginning with the tax levy for the 1997 fiscal
2302 year and for each fiscal year thereafter, the aggregate receipts
2303 from taxes levied for school district purposes pursuant to
2304 Sections 37-57-105 and 37-57-1 shall not exceed the aggregate
2305 receipts from those sources during any one (1) of the immediately
2306 preceding three (3) fiscal years, as determined by the school
2307 board, plus an increase not to exceed seven percent (7%). For the
2308 purpose of this limitation, the term "aggregate receipts" when
2309 used in connection with the amount of funds generated in a
2310 preceding fiscal year shall not include excess receipts required
2311 by law to be deposited into a special account. The additional
2312 revenue from the ad valorem tax on any newly constructed
2313 properties or any existing properties added to the tax rolls or
2314 any properties previously exempt which were not assessed in the
2315 next preceding year may be excluded from the seven percent (7%)
2316 increase limitation set forth herein. Taxes levied for payment of
2317 principal of and interest on general obligation school bonds
2318 issued heretofore or hereafter shall be excluded from the seven
2319 percent (7%) increase limitation set forth herein. Any additional
2320 millage levied to fund any new program mandated by the Legislature
2321 shall be excluded from the limitation for the first year of the
2322 levy and included within such limitation in any year thereafter.
2323 For the purposes of this section, the term "new program" shall
2324 include, but shall not be limited to, (a) the Early Childhood
2325 Education Program required to commence with the 1986-1987 school
2326 year as provided by Section 37-21-7 and any additional millage
2327 levied and the revenue generated therefrom, which is excluded from
2328 the limitation for the first year of the levy, to support the
2329 mandated Early Childhood Education Program shall be specified on
2330 the minutes of the school board and of the governing body making
2331 such tax levy; (b) any additional millage levied and the revenue



2332 generated therefrom which shall be excluded from the limitation
2333 for the first year of the levy, for the purpose of generating
2334 additional local contribution funds required for the adequate
2335 education program for the 2003 fiscal year and for each fiscal
2336 year thereafter under Section 37-151-7(2); and (c) any additional
2337 millage levied and the revenue generated therefrom which shall be
2338 excluded from the limitation for the first year of the levy, for
2339 the purpose of support and maintenance of any agricultural high
2340 school which has been transferred to the control, operation and
2341 maintenance of the school board by the board of trustees of the
2342 community college district under provisions of Section 37-29-272.

2343 The seven percent (7%) increase limitation prescribed in this
2344 section may be increased an additional amount only when the school
2345 board has determined the need for additional revenues and has held
2346 an election on the question of raising the limitation prescribed
2347 in this section. The limitation may be increased only if
2348 three-fifths (3/5) of those voting in the election shall vote for
2349 the proposed increase. The resolution, notice and manner of
2350 holding the election shall be as prescribed by law for the holding
2351 of elections for the issuance of bonds by the respective school
2352 boards. Revenues collected for the fiscal year in excess of the
2353 seven percent (7%) increase limitation pursuant to an election
2354 shall be included in the tax base for the purpose of determining
2355 aggregate receipts for which the seven percent (7%) increase
2356 limitation applies for subsequent fiscal years.

2357 Except as otherwise provided for excess revenues generated
2358 pursuant to an election, if revenues collected as the result of
2359 the taxes levied for the fiscal year pursuant to this section and
2360 Section 37-57-1 exceed the increase limitation, then it shall be
2361 the mandatory duty of the school board of the school district to
2362 deposit such excess receipts over and above the increase
2363 limitation into a special account and credit it to the fund for
2364 which the levy was made. It will be the further duty of such



2365 board to hold said funds and invest the same as authorized by law.
2366 Such excess funds shall be calculated in the budgets for the
2367 school districts for the purpose for which such levies were made,
2368 for the succeeding fiscal year. Taxes imposed for the succeeding
2369 year shall be reduced by the amount of excess funds available.
2370 Under no circumstances shall such excess funds be expended during
2371 the fiscal year in which such excess funds are collected.

2372 For the purposes of determining ad valorem tax receipts for a
2373 preceding fiscal year under this section, the term "fiscal year"
2374 means the fiscal year beginning October 1 and ending September 30.

2375 **SECTION 44.** If any provision of this law or its application
2376 is held invalid, the invalidity does not affect other provisions
2377 or applications of this law which can be given effect without the
2378 invalid provision or application and to this end the provisions of
2379 this law are severable.

2380 **SECTION 45.** This act shall take effect and be in force from
2381 and after January 1, 2012.

