

**Adopted
AMENDMENT NO 1 PROPOSED TO**

House Bill No. 1152

BY: Senator(s) Tollison

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

58 **SECTION 1.** **Short title.** This act shall be known and may be
59 cited as the "Mississippi Public Charter Schools Act of 2012."

60 **SECTION 2.** **Legislative declarations.** (1) The Legislature
61 finds and declares that the purposes of the state's public charter
62 schools as a whole are:

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

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

67 (c) To increase high-quality educational opportunities
68 within the public education system for all students, especially
69 those with a likelihood of academic failure;

70 (d) To create new professional opportunities for
71 teachers, school administrators, and other school personnel that
72 allow them to have a direct voice in the operation of their
73 schools;

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



77 (f) To allow public schools freedom and flexibility in
78 exchange for exceptional levels of results driven accountability;

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

82 (h) To encourage the replication of successful public
83 charter schools.

84 (2) All public charter schools in the state established
85 under this act are public schools and are part of the state's
86 public education system.

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

89 **SECTION 3. Definitions.** As used in this act:

90 (a) An "applicant" means any person or group that
91 develops and submits an application for a public charter school to
92 an authorizer.

93 (b) An "application" means a proposal from an applicant
94 to an authorizer to enter into a charter contract whereby the
95 proposed school obtains public charter school status.

96 (c) An "at-risk student" means a student participating
97 in the federal free lunch program who qualifies for at-risk
98 student funding under the Mississippi Adequate Education Program.

99 (d) An "authorizer" means the Mississippi Public
100 Charter School Authorizer Board established under Section 5 of
101 this act to review applications, decide whether to approve or
102 reject applications, enter into charter contracts with applicants,
103 oversee public charter schools, and decide whether to renew, not
104 renew, or revoke charter contracts.

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



(f) A "conversion public charter school" means a charter school that existed as a noncharter public school before becoming a public charter school.

(g) An "education service provider" means a charter management organization, school design provider, or any other partner entity with which a public charter school intends to contract for educational design, implementation, or comprehensive management.

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

(i) A "local school board" means a school board exercising management and control of a local school district pursuant to the state constitution and state statutes.

(j) A "local school district" means a public agency that establishes and supervises one or more public schools within its geographical limits pursuant to state statutes.

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

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

(m) A "public charter school" means a public school that:

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

(ii) Is governed by an independent governing board;



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

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

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

(vi) Provides a program of education that includes one or more of the following: any grade or grades from Prekindergarten through 12th Grade;

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

(viii) Operates under the oversight of the authorizer in accordance with its charter contract. A public charter school includes a conversion public charter school, or start-up public charter school.

(n) A "start-up public charter school" means a public charter school that did not exist as a noncharter public school prior to becoming a public charter school.

(o) A "student" means any child who is eligible for attendance in public schools in the state.

SECTION 4. Enrollment. (1) Open enrollment and lottery requirements.

(a) A public charter school shall be open to any student residing in the state.

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

(c) A public charter school shall not limit admission based on ethnicity, national origin, religion, gender, income level, disabling condition, proficiency in the English language,



or academic or athletic ability, except as provided in Section 4(2)(d) of this act.

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

(e) The at-risk composition of the charter school enrollment shall reflect that of students in similar grades as determined by the most recent census data for school-aged students for the school district in which the charter school is located, to be defined for the purposes of this act as differing by no more than twenty-five percent (25%) from that population. In the event that the at-risk composition of an applicant's or charter school's enrollment differs from the enrollment of students in similar grades as determined by the most recent census data for school-aged students for the school district in which the charter school is located by more than twenty-five percent (25%), despite its best efforts, the authorizer from which the applicant is seeking sponsorship shall consider the applicant's or the charter school's recruitment efforts and at-risk composition of the applicant pool in determining whether the applicant or charter school is operating in a nondiscriminatory manner. A finding by the authorizer that the applicant is not operating in a discriminatory manner justifies approval of the charter without regard to the at-risk percentage requirement if the application is acceptable in all other aspects. A finding by the authorizer that the applicant or charter school is operating in a discriminatory manner justifies the denial of a charter school application or the revocation of a charter, as may be applicable.

(f) A public charter school shall enroll all students who wish to attend the school, unless the number of students



exceeds the capacity of a program, class, grade level, or building.

(g) If capacity is insufficient to enroll all students who wish to attend the school based on initial application, the public charter school shall select students through a lottery.

(2) Enrollment preferences.

(a) Any noncharter public school converting partially or entirely to a public charter school shall adopt and maintain a policy giving enrollment preference to students who reside within the former attendance area of that public school. If the charter school has excess capacity after enrolling students residing within the former attendance area of the school, students outside of the former attendance area of the school shall be eligible for enrollment. If the number of these additional students exceeds the capacity of a program, class, grade level, or building, the students will be entered into a lottery.

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

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

(d) This section does not preclude the formation of a public charter school whose mission is focused on serving students with disabilities, students of the same gender, students who pose such severe disciplinary problems that they warrant a specific educational program, or students who are at risk of academic



failure. If capacity is insufficient to enroll all students who wish to attend such school, the public charter school shall select students through a lottery.

(3) Credit transferability. If a student who was previously enrolled in a public charter school enrolls in another public school in this state, the student's new school shall accept credits earned by the student in courses or instructional programs at the public charter school in a uniform and consistent manner and according to the same criteria that are used to accept academic credits from other public schools.

(4) Information to parents and the general public. A school district shall provide or publicize to parents and the general public information about public charter schools as an enrollment option within the district to the same extent and through the same means that the district provides and publicizes information about noncharter public schools in the district.

SECTION 5. Authorizer. (1) (a) The Mississippi Public Charter School Authorizer Board created under subsection (2) of this section may authorize public charter schools in any county in the State of Mississippi.

(b) In Successful, High-Performing or Star school districts, the Mississippi Public Charter School Authorizer Board may authorize public charter schools only if a majority of the members of the local school board votes at a public meeting to endorse the application. This paragraph (b) shall stand repealed on July 1, 2015.

(c) Beginning on July 1, 2015, in High-Performing or Star school districts, the Mississippi public Charter School Authorizer Board may authorize public charter schools only if a majority of the members of the local school board votes at a public meeting to endorse the application.

(2) The Mississippi Public Charter School Authorizer Board.



265 (a) There is hereby established the Mississippi Public
266 Charter School Authorizer Board (the authorizer) as an independent
267 state agency with statewide chartering jurisdiction as described
268 in subsection (1) of this section.

269 (b) The mission of the Mississippi Public Charter
270 School Authorizer Board shall be to authorize high-quality public
271 charter schools throughout the state, particularly schools
272 designed to expand opportunities for at-risk students, consistent
273 with the purposes of this act.

274 (c) The Mississippi Public Charter School Authorizer
275 Board shall consist of seven (7) members. Three (3) members shall
276 be appointed by the Governor, one (1) member appointed from each
277 of the Mississippi Supreme Court Districts; three (3) members
278 shall be appointed by the Lieutenant Governor, one (1) member
279 appointed from each of the Mississippi Supreme Court Districts;
280 and one (1) member who shall be appointed by the State
281 Superintendent of Education. All appointments shall be made with
282 the advice and consent of the Senate. In making the appointments,
283 the appointing authority shall ensure statewide geographic and
284 racial diversity among Public Charter School Authorizer members.

285 (d) Members appointed to the Mississippi Public Charter
286 School Authorizer Board shall collectively possess strong
287 experience and expertise in public and nonprofit governance,
288 management and finance, public school leadership, assessment, and
289 curriculum and instruction, and public education law. All members
290 of the Mississippi Public Charter School Authorizer Board shall
291 have demonstrated understanding of and commitment to charter
292 schooling as a strategy for strengthening public education.

293 (e) To establish staggered terms of office, the initial
294 term of office for the three (3) Mississippi Public Charter School
295 Authorizer Board members appointed by the Governor shall be four
296 (4) years and thereafter shall be three (3) years; the initial



term of office for the three (3) members appointed by the Lieutenant Governor shall be three (3) years and thereafter shall be three (3) years; and the initial term of office for the member appointed by the State Superintendent of Education shall be two (2) years and thereafter shall be three (3) years. No appointed member shall serve more than two (2) consecutive terms. The initial appointments shall be made no later than September 1, 2012.

(f) The Authorizer shall meet as soon as practical after September 1, 2012, upon the call of the Governor, and shall organize for business by selecting a chairman and adopting bylaws. Subsequent meetings shall be called by the chairman.

(g) A member of the Mississippi Public Charter School Authorizer Board may be removed by the authorizer for any cause that renders the member incapable or unfit to discharge the duties of the office. Whenever a vacancy on the Mississippi Public Charter School Authorizer Board exists, the original appointing authority shall appoint a member for the remaining portion of the term.

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

(i) The Mississippi Public Charter School Authorizer Board shall appoint an executive director to serve at the discretion of the authorizer with qualifications established by the authorizer based on national best practices. The Mississippi Public Charter School Authorizer Board shall be located for administrative purposes within the offices of the State Institutions of Higher Learning which shall provide meeting space



329 and clerical support for the authorizer, and shall assist the
330 Mississippi Public Charter School Authorizer Board with
331 implementing the authorizer's decisions that relate to charter
332 schools.

333 (3) State Department of Education. The Mississippi
334 Department of Education shall assist the Mississippi Public
335 Charter School Authorizer Board with implementing the authorizer's
336 decisions by providing technical assistance and information
337 relating to the implementation of this act, and shall apply for
338 any federal funds available for the implementation of charter
339 school programs.

340 (4) Authorizer powers, duties and liabilities.

341 (a) The authorizer is responsible for executing, in
342 accordance with this act, the following essential powers and
343 duties:

344 (i) Soliciting and evaluating charter
345 applications;

346 (ii) Approving quality charter applications that
347 meet identified educational needs and promote a diversity of
348 educational choices;

349 (iii) Declining to approve weak or inadequate
350 charter applications;

351 (iv) Negotiating and executing sound charter
352 contracts with each approved public charter school;

353 (v) Monitoring, in accordance with charter
354 contract terms, the performance and legal compliance of public
355 charter schools; and

356 (vi) Determining whether each charter contract
357 merits renewal, nonrenewal or revocation.

358 (b) The authorizer may delegate its duties to the
359 executive director or to contractors.



360 (c) Regulation by the authorizer shall be limited to
361 these powers and duties, and consistent with the spirit and intent
362 of this act.

363 (d) The authorizer, members of the board of the
364 authorizer in their official capacity, and employees of the
365 authorizer in their official capacity are immune from civil
366 liability with respect to all activities related to a public
367 charter school they authorize, unless the person acted in reckless
368 disregard of the safety and well-being of another person or was
369 grossly negligent.

370 (e) The authorizer may exempt charter schools from the
371 provisions of Title 37, Mississippi Code of 1972, which relate to
372 the elementary and secondary education of public school students,
373 unless those provisions are specifically made applicable to
374 charter schools by the authorizer in the charter contract or by
375 this act.

376 (5) Principles and standards for charter authorizing. The
377 authorizer shall be required to develop and maintain chartering
378 policies and practices consistent with nationally recognized
379 principles and standards for quality charter authorizing in all
380 major areas of authorizing responsibility including:
381 organizational capacity and infrastructure; soliciting and
382 evaluating charter applications; performance contracting; ongoing
383 public charter school oversight and evaluation; and charter
384 renewal decision-making. The authorizer shall carry out all its
385 duties under this act in a manner consistent with such nationally
386 recognized principles and standards and with the spirit and intent
387 of this act. Evidence of material or persistent failure to do so
388 shall constitute grounds for losing charter authorizing powers.

389 (6) Authorizer funding.

390 (a) To cover costs for overseeing public charter
391 schools in accordance with this act, the authorizer shall receive



three percent (3%) of annual per-pupil allocations received by the public charter school from state and local funds for each public charter school it authorizes. These funds must be used to cover the costs for the authorizer to oversee its public charter schools.

(b) The authorizer may expend its resources, seek grant funds, and establish partnerships to support its public charter school authorizing activities.

(7) Conflicts of interest. No employee, trustee, agent or representative of the authorizer may simultaneously serve as an employee, trustee, agent, representative, vendor or contractor of a public charter school authorized by that entity.

(8) Exclusivity of authorizing functions and rights. No governmental or other entity, other than those expressly granted chartering authority as set forth in this act, may assume any charter authorizing function or duty in any form, unless expressly allowed by law.

SECTION 6. Application process. (1) Request for proposals.

(a) To solicit, encourage and guide the development of quality public charter school applications, the authorizer operating under this act shall issue and broadly publicize a request for proposals by September 1, except in the authorizer's first year of operation in which the authorizer shall issue and broadly publicize a request for proposals by December 1. The content and dissemination of the request for proposals shall be consistent with the purposes and requirements of this act.

(b) The authorizer shall annually establish and disseminate a statewide timeline for charter approval or denial decisions.

(c) The authorizer's request for proposals shall include a clear statement of any preferences the authorizer wishes



to grant to applications that help at-risk students and may include preferences for prekindergarten programs.

(d) The request for proposals shall include or otherwise direct applicants to the performance framework that the authorizer has developed for public charter school oversight and evaluation in accordance with Section 7(1) of this act.

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

(f) The request for proposals shall state clear, appropriately detailed questions as well as guidelines concerning the format and content essential for applicants to demonstrate the capacities necessary to establish and operate a successful public charter school.

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

(i) An executive summary;

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

(iii) The location or geographic area proposed for the school;

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

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

(vi) Evidence of need and community support for the proposed public charter school;

(vii) Background information on the proposed founding governing board members and, if identified, the proposed



455 school leadership and management team that includes a record of
456 success in raising student achievement;

457 (viii) The school's proposed calendar and sample
458 daily schedule, which shall be no less than state minimum number
459 of school days set forth in Section 37-13-63;

460 (ix) A description of the academic program aligned
461 with state standards;

462 (x) A description of the school's instructional
463 design, including the type of learning environment (such as
464 classroom-based or independent study), class size and structure,
465 curriculum overview, and teaching methods;

466 (xi) The school's plan for using internal and
467 external assessments to measure and report student progress on the
468 performance framework developed by the authorizer in accordance
469 with Section 7(1) of this act;

470 (xii) The school's plans for identifying and
471 successfully serving students with disabilities (including all of
472 the school's proposed policies pursuant to the individuals with
473 Disabilities Education Improvement Act of 2004, 20 USC Section
474 1400 et seq., Section 504 of the Rehabilitation Act of 1973, 29
475 USC Section 794, and Title 11 of the Americans with Disabilities
476 Act, 42 USC Section 12101 et seq., and the school's procedures for
477 securing and providing evaluations and related services pursuant
478 to federal law), students who are English language learners,
479 students who are academically behind, and gifted students,
480 including, but not limited to, compliance with applicable laws and
481 regulations;

482 (xiii) A description of co-curricular or
483 extracurricular programs and how they will be funded and
484 delivered;

485 (xiv) Plans and timelines for student recruitment
486 and enrollment, including lottery policies and procedures that



487 ensure that every student has an equal opportunity to be
488 considered in the lottery and that ensure the lottery is
489 equitable, randomized, transparent and impartial such that
490 students are assigned to charter schools without regard to
491 disability, income level, race, religion or national origin;

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

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

500 (xvii) A clear description of the roles and
501 responsibilities for the governing board, the school's leadership
502 and management team, and any other entities shown in the
503 organization chart;

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

506 (xix) Plans for recruiting and developing school
507 leadership and staff;

508 (xx) The school's leadership and teacher
509 employment policies, including performance evaluation plans;

510 (xxi) Proposed governing bylaws;

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

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

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



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

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

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

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

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

529 (xxx) Evidence of anticipated fundraising
530 contributions, if claimed in the application; and

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

533 (h) 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 a petition signed by
538 a majority of teachers or a petition signed by a majority of
539 parents of students in the existing noncharter public school, or
540 by a majority vote of the local school board or, in the case of
541 schools in districts under state conservatorship, by the State
542 Board of Education.

543 (i) In the case of a proposed public charter school
544 that intends to contract with an education service provider for
545 substantial educational services, management services, or both
546 types of services, the request for proposals shall additionally
547 require the applicants to:

548 (i) Provide evidence of the education service
549 provider's success in serving student populations similar to the
550 targeted population, including demonstrated academic achievement



551 as well as successful management of nonacademic school functions
552 if applicable;

553 (ii) Provide a term sheet setting forth the
554 proposed duration of the service contract; roles and
555 responsibilities of the governing board, the school staff, and the
556 service provider; scope of services and resources to be provided
557 by the service provider; performance evaluation measures and
558 timelines; compensation structure, including clear identification
559 of all fees to be paid to the service provider; methods of
560 contract oversight and enforcement; investment disclosure; and
561 conditions for renewal and termination of the contract; and

562 (iii) Disclose and explain any existing or
563 potential conflicts of interest between the school governing board
564 and proposed service provider or any affiliated business entities.

565 (j) In the case of a public charter school proposal
566 from an applicant that currently operates one or more schools in
567 any state or nation, the request for proposals shall additionally
568 require the applicant to provide evidence of past performance and
569 current capacity for growth. The applicant shall be required to
570 submit clear evidence that it has produced statistically
571 significant gains in student achievement or consistently produced
572 proficiency levels as measured on state achievement tests;

573 (k) The request for proposals shall require each
574 charter school applicant to provide evidence that the applicant
575 sent a copy of its completed charter school application to the
576 local school board in the district in which the charter school is
577 proposed.

578 (2) Application decision-making process.

579 (a) In reviewing and evaluating charter applications,
580 the authorizer shall employ procedures, practices and criteria
581 consistent with nationally recognized principles and standards for
582 quality charter authorizing. The application review process shall



include thorough evaluation of each written charter application, an in-person interview with the applicant group, and an opportunity in a public forum held in the county where the proposed public charter school is to be located for local residents to learn about and provide input on each application.

(b) In deciding whether to approve charter applications, authorizers shall:

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

(ii) Base decisions on documented evidence collected through the application review process;

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

(c) No later than one hundred eighty (180) days after the filing of a charter application, the authorizer shall decide to approve or deny the charter application. The authorizer shall adopt by resolution all charter approval or denial decisions in an open meeting of the authorizer's governing board.

(d) An approval decision may include, if appropriate, reasonable conditions that the charter applicant must meet before a charter contract may be executed pursuant to Section 6(6) of this act.

(e) For any charter denial, the authorizer shall clearly state, for public record, its reasons for denial. A denied applicant may subsequently reapply to the authorizer.

(f) Within ten (10) days of taking action to approve or deny a charter application, the authorizer shall provide a report to the charter applicant. The report shall include a copy of the authorizer's resolution setting forth the action taken and reasons



615 for the decision and assurances as to compliance with all of the
616 procedural requirements and application elements set forth in
617 Section 6 of this act.

618 (3) Purposes and limitations of charter applications. The
619 purposes of the charter application are to present the proposed
620 public charter school's academic and operational vision and plans,
621 demonstrate the applicant's capacities to execute the proposed
622 vision and plans, and provide the authorizer a clear basis for
623 assessing the applicant's plans and capacities. An approved
624 charter application shall not serve as the school's charter
625 contract.

626 (4) Initial charter term. An initial charter shall be
627 granted for a term of five (5) operating years. The charter term
628 shall commence on the public charter school's first day of
629 operation. An approved public charter school may delay its
630 opening for one (1) school year in order to plan and prepare for
631 the school's opening. If the school requires an opening delay of
632 more than one (1) school year, the school must request an
633 extension from its authorizer. The authorizer may grant or deny
634 the extension depending on the particular school's circumstances.

635 (5) Charter contracts.

636 (a) The authorizer and the governing board of the
637 approved public charter school shall execute a charter contract
638 that clearly sets forth the academic and operational performance
639 expectations and measures by which the public charter school will
640 be judged and the administrative relationship between the
641 authorizer and public charter school, including each party's
642 rights and duties. The performance expectations and measures set
643 forth in the charter contract shall include, but need not be
644 limited to, applicable federal and state accountability
645 requirements. The performance provisions may be refined or
646 amended by mutual agreement after the public charter school is



647 operating and has collected baseline achievement data for its
648 enrolled students.

649 (b) The charter contract shall be signed by the
650 president of the authorizer's governing board and the president of
651 the public charter school's governing body.

652 (c) No public charter school may commence operations
653 without a charter contract executed in accordance with this
654 provision and approved in an open meeting of the authorizer's
655 governing board.

656 (d) The charter contract must include a provision
657 declaring that the public charter school is not subject to the
658 provisions of Title 37, Mississippi Code of 1972, which relate to
659 the elementary and secondary education of public school students
660 unless the statute specifically is identified in the charter
661 contract as a statute from which the public charter school, in the
662 determination of the authorizer, is not exempt.

663 (6) Pre-Opening requirements or conditions.

664 (a) The authorizer may establish reasonable pre-opening
665 requirements or conditions to monitor the start-up progress of
666 newly approved public charter schools and ensure that they are
667 prepared to open smoothly on the date agreed, and to ensure that
668 each school meets all building, health, safety, insurance and
669 other legal requirements for school opening.

670 **SECTION 7. Accountability.** (1) Performance framework.

671 (a) The performance provisions within the charter
672 contract shall be based on a performance framework that clearly
673 sets forth the academic and operational performance indicators,
674 measures and metrics that will guide the authorizer's evaluations
675 of each public charter school. The performance framework shall
676 include indicators, measures and metrics for, at a minimum:

677 (i) Student academic proficiency;

678 (ii) Student academic growth;



679 (iii) Achievement gaps in both proficiency and
680 growth between major student subgroups;
681 (iv) Attendance;
682 (v) Recurrent enrollment from year to year;
683 (vi) In-school and out-of-school suspension rates
684 and expulsion rates;
685 (vii) Postsecondary readiness (for high schools),
686 including the percentage of graduates submitting applications to
687 postsecondary institutions, high school completion, postsecondary
688 admission, and postsecondary enrollment or employment;
689 (viii) Financial performance and sustainability;
690 and
691 (ix) Board performance and stewardship, including
692 compliance with all applicable laws, regulations and terms of the
693 charter contract.

694 (b) Annual performance targets shall be set by each
695 public charter school in conjunction with its authorizer, and
696 shall be designed to help each school meet applicable federal,
697 state, and authorizer expectations.

698 (c) The performance framework shall allow the inclusion
699 of additional rigorous, valid and reliable indicators proposed by
700 a public charter school to augment external evaluations of its
701 performance, provided that the authorizer approves the quality and
702 rigor of such school-proposed indicators, and they are consistent
703 with the purposes of this act.

704 (d) The performance framework shall require the
705 disaggregation of all student performance data by major student
706 subgroups (gender, race, poverty status, special education status,
707 English Learner status, and gifted status).

708 (e) For each public charter school it oversees, the
709 authorizer shall be responsible for collecting, analyzing and
710 reporting all data from state assessments in accordance with the



performance framework. Multiple schools overseen by a single governing board shall be required to report their performance as separate, individual schools, and each school shall be held independently accountable for its performance.

(f) Information needed by the authorizer from the public charter school board to be included in the authorizer's reports shall be required and included as a material part of the charter contract.

(2) Oversight and corrective actions.

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

(b) The authorizer shall annually publish and provide, as part of its annual report to the Legislature, a performance report for each public charter school it oversees, in accordance with the performance framework set forth in the charter contract. This report shall be made available to the public at the same time as it is submitted to the Legislature. The authorizer may require each public charter school it oversees to submit an annual report to assist the authorizer in gathering complete information about each school, consistent with the performance framework.

(c) In the event that a public charter school's performance or legal compliance is unsatisfactory, the authorizer shall promptly notify the public charter school of the problem and



743 provide reasonable opportunity for the school to remedy the
744 problem, unless the problem warrants revocation in which case the
745 revocation timeframes will apply.

746 (d) The authorizer shall have the authority to take
747 appropriate corrective actions or exercise sanctions short of
748 revocation in response to apparent deficiencies in public charter
749 school performance or legal compliance. Such actions or sanctions
750 may include, if warranted, requiring a school to develop and
751 execute a corrective action plan within a specified timeframe.

752 (3) Renewals, revocations and nonrenewals.

753 (a) A charter may be renewed for successive five-year
754 terms of duration. The authorizer may grant renewal with specific
755 conditions for necessary improvements to a public charter school,
756 including lessening the renewal term based on the performance,
757 demonstrated capacities, and particular circumstances of each
758 public charter school.

759 (b) No later than September 30, the authorizer shall
760 issue a public charter school performance report and charter
761 renewal application guidance to any public charter school whose
762 charter will expire the following year. The performance report
763 shall summarize the public charter school's performance record to
764 date, based on the data required by this act and the charter
765 contract, and shall provide notice of any weaknesses or concerns
766 perceived by the authorizer concerning the public charter school
767 that may jeopardize its position in seeking renewal if not timely
768 rectified. The public charter school shall have ninety (90) days
769 to respond to the performance report and submit any corrections or
770 clarifications for the report.

771 (c) The renewal application guidance shall, at a
772 minimum, provide an opportunity for the public charter school to:



773 (i) Present additional evidence, beyond the data
774 contained in the performance report, supporting its case for
775 charter renewal;

776 (ii) Describe improvements undertaken or planned
777 for the school; and

778 (iii) Detail the school's plans for the next
779 charter term.

780 (d) The renewal application guidance shall include or
781 refer explicitly to the criteria that will guide the authorizer's
782 renewal decisions, which shall be based on the performance
783 framework set forth in the charter contract and consistent with
784 this act.

785 (e) No later than February 1, the governing board of a
786 public charter school seeking renewal shall submit a renewal
787 application to the charter authorizer pursuant to the renewal
788 application guidance issued by the authorizer. The authorizer
789 shall rule by resolution on the renewal application no later than
790 ninety (90) days after the filing of the renewal application.

791 (f) In making charter renewal decisions, the authorizer
792 shall:

793 (i) Ground its decisions in evidence of the
794 school's performance over the term of the charter contract in
795 accordance with the performance framework set forth in the charter
796 contract;

797 (ii) Ensure that data used in making renewal
798 decisions are available to the school and the public; and

799 (iii) Provide a public report summarizing the
800 evidence basis for each decision.

801 (g) A charter contract shall be revoked at any time or
802 not renewed if the authorizer determines that the public charter
803 school did any of the following or otherwise failed to comply with
804 the provisions of this act:



805 (i) Commits a material and substantial violation
806 of any of the terms, conditions, standards or procedures required
807 under this act or the charter contract;

808 (ii) Fails to meet or make sufficient progress
809 toward the performance expectations set forth in the charter
810 contract;

811 (iii) Fails to meet generally accepted standards
812 of fiscal management; or

813 (iv) Substantially violates any material provision
814 of law from which the public charter school was not exempted.

815 (h) The authorizer shall develop revocation and
816 nonrenewal processes that:

817 (i) Provide the charter holders with a timely
818 notification of the prospect of revocation or nonrenewal and of
819 the reasons for such possible closure;

820 (ii) Allow the charter holders a reasonable amount
821 of time in which to prepare a response;

822 (iii) Provide the charter holders with an
823 opportunity to submit documents and give testimony challenging the
824 rationale for closure and in support of the continuation of the
825 school at an orderly proceeding held for that purpose;

826 (iv) Allow the charter holders access to
827 representation by counsel and to call witnesses on their behalf;

828 (v) Permit the recording of such proceedings; and

829 (vi) After a reasonable period for deliberation,
830 require a final determination be made and conveyed in writing to
831 the charter holders.

832 (i) If the authorizer revokes or does not renew a
833 charter, the authorizer shall clearly state, in a resolution of
834 its governing board, the reasons for the revocation or nonrenewal.

835 (j) Within ten (10) days of taking action to renew, not
836 renew, or revoke a charter, the authorizer shall provide a copy of



a report to the public charter school. The report shall include a copy of the authorizer governing board's resolution setting forth the action taken and reasons for the decision and assurances as to compliance with all of the requirements set forth in this act.

(4) School closure and dissolution.

(a) Prior to any public charter school closure decision, an authorizer shall have developed a public charter school closure protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, and proper disposition of school funds, property, and assets in accordance with the requirements of this act. The protocol shall specify tasks, timelines, and responsible parties, including delineating the respective duties of the school and the authorizer. In the event of a public charter school closure for any reason, the authorizer shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students and parents, as guided by the closure protocol.

(b) If a charter school closes, all unspent government funds, unspent earnings from those funds and assets purchased with government funds will revert to the Mississippi Charter School Authorizer which shall determine the appropriate disbursement of the unspent government funds to the State Treasury or the local taxing authority, as is appropriate. Unspent funds from nongovernmental sources, unspent earnings from those funds, assets purchased with those funds and debts of the school (unless otherwise provided for in the charter or debt instrument) shall revert to the nonprofit entity created to operate the school and may be disposed of according to applicable laws for nonprofit corporations.

(5) Annual report. On or before September 30 of each year beginning in the first year after the state will have had public charter schools operating for a full school year, the Mississippi Public Schools Charter Authorizer Board shall issue to the



Governor, the Legislature, the State Board of Education and the public at large, an annual report on the state's public charter schools, for the school year ending in the preceding calendar year. The annual report shall include a comparison of the performance of public charter school students with the performance of academically, ethnically and economically comparable groups of students in public schools in the resident school district. In addition, the annual report shall include the authorizer's assessment of the successes, challenges and areas for improvement in meeting the purposes of this act, including a report by the Joint Legislative Committee on Performance Evaluation and Expenditure Review Committee (PEER) on an assessment of the sufficiency of funding for public charter schools, the efficacy of the state formula for authorizer funding, and any suggested changes in state law or policy necessary to strengthen the state's public charter schools. The report shall also assess whether the creation of public charter schools is sufficient to meet demand, as calculated according to admissions data and the number of students denied enrollment as based on lottery results. The reports due from the authorizer to the Legislature and the public shall be coordinated with reports due from public charter school boards, as near as possible, to decrease or eliminate duplication.

SECTION 8. Operations and autonomy. (1) Legal status of public charter school.

(a) Notwithstanding any provision of law to the contrary, to the extent that any provision of this act is inconsistent with any other state or local law, rule or regulation, the provisions of this act shall govern and be controlling.

(b) A public charter school shall be a nonprofit education organization.



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

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

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

912 (2) Local educational agency status.

913 (a) The public charter school functions for all
914 purposes as a local educational agency. Local educational agency
915 status does not preclude a public charter school from developing
916 links to local school districts for services, resources and
917 programs, by mutual agreement or by formal contract;

918 (b) Consistent with federal, state or local laws, the
919 public charter school is responsible for meeting the requirements
920 of local educational agencies under applicable federal, state and
921 local laws, including those relating to special education, receipt
922 of funds and compliance with funding requirements; and

923 (c) Consistent with federal, state or local laws, the
924 public charter school has primary responsibility for special
925 education at the school, including identification and provision of
926 service, and is responsible for meeting the needs of enrolled
927 students with disabilities.

928 (3) Powers of public charter school. A public charter
929 school shall have all the powers necessary for carrying out the
930 terms of its charter contract including the following powers:

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



932 (b) To secure appropriate insurance and to enter into
933 contracts and leases;

934 (c) To contract with an education service provider for
935 the management and operation of the public charter school so long
936 as the school's governing board retains oversight authority over
937 the school;

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

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

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

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

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

948 (4) General requirements.

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

953 (b) No public charter school may engage in any
954 sectarian practices in its educational program, admissions or
955 employment policies, or operations.

956 (c) A public charter school shall not discriminate
957 against any student on the basis of national origin, minority
958 status, or limited proficiency in English. Consistent with
959 federal civil rights laws, public charter schools shall provide
960 limited English proficient students with appropriate services
961 designed to teach them English and the general curriculum.



962 (d) A public charter school shall not charge tuition
963 and shall abide by Section 37-7-335 of state law in the
964 establishment and waiver of fees.

965 (e) The terms of each public charter school shall
966 include a transportation plan for students that will be attending
967 the charter school. Charter schools shall comply with
968 transportation regulations applicable to all other school
969 districts under Section 37-41-3. The transportation must be
970 provided by the public charter school within the district in which
971 the public charter school is located.

972 (f) The powers, obligations and responsibilities set
973 forth in the charter contract cannot be delegated or assigned by
974 either party.

975 (5) Applicability of other laws, rules and regulations.

976 (a) Public charter schools shall be subject to the same
977 civil rights, health and safety requirements applicable to other
978 public schools in the state, except as otherwise specifically
979 provided in this act.

980 (b) Public charter schools shall be subject to the
981 student assessment and accountability requirements applicable to
982 other public schools in the state, but nothing herein shall
983 preclude a public charter school from establishing additional
984 student assessment measures that go beyond state requirements if
985 the school's authorizer approves such measures.

986 (c) Public charter school governing boards shall be
987 subject to and comply with state open meetings and public records
988 laws.

989 (6) Public charter school employees.

990 (a) Public charter schools shall comply with applicable
991 federal laws, rules, and regulations regarding the qualification
992 of teachers and other instructional staff. Fifty percent (50%) of
993 teachers in a public charter school may be exempt from state



teacher certification requirements. Administrators of public charter schools are exempt from state administrator certification requirements. However, teachers and administrators shall have a bachelor's degree as a minimum requirement.

(b) Employees in public charter schools shall have the same rights and privileges as other public school employees except as otherwise stated herein; however, such employees shall not be subject to the provisions of the Education Employment Procedures law, Section 37-9-103, shall not be subject to minimum salary requirements in Section 37-19-7, and shall not be deemed as members of the Public Employees' Retirement System.

(c) Employees in public charter schools are eligible for participation in retirement and other benefits programs if the public charter school chooses to participate.

(d) Teachers and other school personnel, as well as governing board trustees, shall be subject to criminal history record checks and fingerprinting requirements applicable to other public schools.

(e) Teachers and administrators shall be subject to disqualification or termination for sexual misconduct as is applicable to other public schools under Section 37-3-2(g) (h) and (i).

(7) Access to interscholastic activities. A public charter school shall be eligible for state-sponsored or district-sponsored interscholastic leagues, competitions, awards, scholarships and recognition programs for students, educators, administrators and schools to the same extent as noncharter public schools.

SECTION 9. Funding. (1) Enrollment.

(a) Each public charter school shall annually certify to the State Department of Education its student enrollment, average daily attendance and student participation in the national school lunch program, special education, vocational education,



1026 gifted education, alternative school program and federal programs,
1027 in the same manner as school districts.

1028 (b) Each public charter school shall annually certify
1029 to the tax collector in the county in which the charter school is
1030 located the number of enrolled public charter school students
1031 residing in each school district in the county. In the event a
1032 student enrolled in a public charter school resides in an
1033 adjoining county, the public charter school shall certify this
1034 enrollment to the tax collector of the county where the student
1035 resides.

1036 (c) By October 15 of each year, the State Department of
1037 Education shall send each tax collector of any county in which is
1038 located a public charter school the current amount of ad valorem
1039 millage for operations in dollars per pupil which is levied for
1040 the support of each school district located in every county in the
1041 state based upon the certified budget request in dollars for the
1042 first month of enrollment. The ad valorem millage for operations
1043 in dollars to be reported shall include all levies for the support
1044 of the school district under Sections 37-57-1 (local contribution
1045 to the adequate education program) and 37-57-105 (school district
1046 operational levy), plus an estimated amount each district
1047 anticipates to receive for in lieu payments, and shall not include
1048 any taxes levied for the retirement of school district bonded
1049 indebtedness or short-term notes or any taxes levied for the
1050 support of vocational-technical education programs.

1051 (2) Operational funding.

1052 (a) The State Department of Education shall make
1053 payments to public charter schools for each student in average
1054 daily attendance at the public charter school equal to the state
1055 share of the adequate education program payments for each student
1056 in average daily attendance at the public school district in which
1057 the public charter school is located. In calculating the local



1058 contribution for purposes of determining the state share of the
1059 adequate education program payments, the department shall deduct
1060 the pro rata local contribution of the school district in which
1061 the student resides, to be determined as provided in Section
1062 37-151-7(2) (a) .

1063 (b) The tax collector in the county in which the public
1064 charter school is located shall pay directly to the public charter
1065 school an amount for each student enrolled in the public charter
1066 school equal to the ad valorem taxes levied and in lieu payments
1067 per pupil for the support of the school district in which the
1068 student resides, and the tax collector shall withhold an equal
1069 amount from the local school district in which the public charter
1070 school student resides. The pro rata ad valorem taxes and in lieu
1071 payments to be transferred to the public charter school shall
1072 include all levies for the support of the school district under
1073 Sections 37-57-1 (local contribution to the adequate education
1074 program) and 37-57-105 (school district operational levy) and
1075 shall not include any taxes levied for the retirement of school
1076 district bonded indebtedness or short-term notes or any taxes
1077 levied for the support of vocational-technical education programs.
1078 In the event a student attending the public charter school resides
1079 in an adjoining county, it shall be the responsibility of the tax
1080 collector of the county of the student's residence to make local
1081 ad valorem payments under this section to the public charter
1082 school, but in no event shall such payment exceed the pro rata
1083 amount of the local ad valorem payment for the local contribution
1084 to the adequate education program under Section 37-57-1 for the
1085 school district in which the student resides. Payments made
1086 pursuant to this section by the tax collector to the charter
1087 schools shall be made at the same time and manner as funds are
1088 distributed to the school districts in the county on a per pupil
1089 basis. It shall be the duty of the tax collector to verify that



1090 payments of local school district ad valorem and in lieu receipts
1091 made to public charter schools and withheld from local school
1092 districts are based on the number of students actually attending
1093 the public charter school. If the tax collector collects ad
1094 valorem receipts for multiple school districts, the tax collecting
1095 entity will ensure that the deductions from each local school
1096 district's ad valorem and in lieu receipts that are diverted to
1097 the charter school are based on the number of students attending
1098 the charter school that reside in each local school district.

1099 (3) Payment schedule. Payments made pursuant to this
1100 section by the State Department of Education shall be made in
1101 twelve (12) substantially equal installments each year at the same
1102 time and in the same manner as adequate education program payments
1103 are made to public school districts. Amounts payable under this
1104 section shall be determined by the State Department of Education.
1105 Amounts payable to a public charter school in its first year of
1106 operation shall be based on the projections of initial-year
1107 enrollment and federal school level funding set forth in the
1108 charter contracts. Such projections shall be reconciled with the
1109 average daily attendance at the end of the school's first year of
1110 operation, and any necessary adjustments shall be made to payments
1111 during the school's second year of operation.

1112 (4) Categorical funding.

1113 (a) The state shall direct the proportionate share of
1114 monies generated under federal and state categorical aid programs,
1115 including special education, vocational, gifted and alternative
1116 school programs, to public charter schools serving students
1117 eligible for such aid. The state shall ensure that public charter
1118 schools with rapidly expanding enrollments are treated equitably
1119 in the calculation and disbursement of all federal and state
1120 categorical aid program dollars. Each public charter school that
1121 serves students who may be eligible to receive services provided



1122 through such programs shall comply with all reporting requirements
1123 to receive the aid.

1124 (b) A public charter school shall pay to a local school
1125 district any federal or state aid attributable to a student with a
1126 disability attending a public charter school in proportion to the
1127 level of services for such student that the local school district
1128 provides directly or indirectly.

1129 (c) At either party's request, a public charter school
1130 and a local school district may negotiate and include in the
1131 charter contract alternate arrangements for the provision of and
1132 payment for special education services, including, but not
1133 necessarily limited to, a reasonable reserve not to exceed five
1134 percent (5%) of the local school district's total budget for
1135 providing special education services. The reserve shall only be
1136 used by the local school district to offset excess costs of
1137 providing services to students with disabilities enrolled in one
1138 (1) of the public charter schools that has paid into it.

1139 (5) Generally accepted accounting principles independent
1140 audit.

1141 (a) A public charter school shall adhere to generally
1142 accepted accounting principles.

1143 (b) A public charter school shall annually engage an
1144 external auditor to do an independent audit of the school's
1145 finances. A public charter school shall file a copy of each audit
1146 report and accompanying management letter to the authorizer by
1147 July 30.

1148 (6) Transportation funding.

1149 (a) The State Department of Education shall disburse
1150 state transportation funding to a public charter school on the
1151 same basis and in the same manner as it is paid to school
1152 districts under the adequate education program.



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

(7) Budget reserves. Any monies received by a public charter school from any source and remaining in the public charter school's accounts at the end of any budget year shall remain in the public charter school's accounts for use by the public charter school during subsequent budget years.

(8) Ability to accept gifts, donations and grants. Nothing in this act shall be construed to prohibit any person or organization from providing funding or other assistance to the establishment or operation of a public charter school. The governing board of a public charter school is authorized to accept gifts, donations and grants of any kind made to the public charter school and to expend or use such gifts, donations and grants in accordance with the conditions prescribed by the donor; provided, however, that no gift, donation or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the charter contract.

(9) This act expressly prohibits the establishment of or the payment of state funds to virtual public charter schools and/or their management organizations. However, a charter school authorized under the provisions of this act may contract with an entity to provide virtual classes to students enrolled in the charter school in accordance with the provisions of Title 37, Mississippi Code of 1972.

SECTION 10. Facilities. (1) Access to district facilities and land. A public charter school shall have a right of first refusal to purchase or lease at or below fair market value a closed public school facility or property or unused portions of a public school facility or property located in a school district



from which it draws its students if the school district decides to sell or lease the public school facility or property.

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

(3) Use of other facilities under preexisting zoning and land use designations. Library, community service, museum, performing arts, theatre, cinema, church, community college, college and university facilities may provide space to public charter schools within their facilities under their preexisting zoning and land use designations.

SECTION 11. Section 37-151-7, Mississippi Code of 1972, is amended as follows:

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

(1) **Computation of the basic amount to be included for current operation in the adequate education program.** The following procedure shall be followed in determining the annual allocation to each school district:

(a) **Determination of average daily attendance.** Effective with fiscal year 2011, the State Department of Education shall determine the percentage change from the prior year of each year of each school district's average of months two (2) and three (3) average daily attendance (ADA) for the three (3) immediately preceding school years of the year for which funds are being appropriated. For any school district that experiences a positive growth in the average of months two (2) and three (3) ADA each year of the three (3) years, the average percentage growth over



1216 the three-year period shall be multiplied times the school
1217 district's average of months two (2) and three (3) ADA for the
1218 year immediately preceding the year for which MAEP funds are being
1219 appropriated. The resulting amount shall be added to the school
1220 district's average of months two (2) and three (3) ADA for the
1221 year immediately preceding the year for which MAEP funds are being
1222 appropriated to arrive at the ADA to be used in determining a
1223 school district's MAEP allocation. Otherwise, months two (2) and
1224 three (3) ADA for the year immediately preceding the year for
1225 which MAEP funds are being appropriated will be used in
1226 determining a school district's MAEP allocation. In any fiscal
1227 year prior to 2010 in which the MAEP formula is not fully funded,
1228 for those districts that do not demonstrate a three-year positive
1229 growth in months two (2) and three (3) ADA, months one (1) through
1230 nine (9) ADA of the second preceding year for which funds are
1231 being appropriated or months two (2) and three (3) ADA of the
1232 preceding year for which funds are being appropriated, whichever
1233 is greater, shall be used to calculate the district's MAEP
1234 allocation. The district's average daily attendance shall be
1235 computed and currently maintained in accordance with regulations
1236 promulgated by the State Board of Education.

1237 (b) **Determination of base student cost.** Effective with
1238 fiscal year 2011 and every fourth fiscal year thereafter, the
1239 State Board of Education, on or before August 1, with adjusted
1240 estimate no later than January 2, shall submit to the Legislative
1241 Budget Office and the Governor a proposed base student cost
1242 adequate to provide the following cost components of educating a
1243 pupil in a successful school district: (i) Instructional Cost;
1244 (ii) Administrative Cost; (iii) Operation and Maintenance of
1245 Plant; and (iv) Ancillary Support Cost. For purposes of these
1246 calculations, the Department of Education shall utilize financial



1247 data from the second preceding year of the year for which funds
1248 are being appropriated.

1249 For the instructional cost component, the Department of
1250 Education shall select districts that have been identified as
1251 instructionally successful and have a ratio of a number of
1252 teachers per one thousand (1,000) students that is between one (1)
1253 standard deviation above the mean and two (2) standard deviations
1254 below the mean of the statewide average of teachers per one
1255 thousand (1,000) students. The instructional cost component shall
1256 be calculated by dividing the latest available months one (1)
1257 through nine (9) ADA into the instructional expenditures of these
1258 selected districts. For the purpose of this calculation, the
1259 Department of Education shall use the following funds, functions
1260 and objects:

1261 Fund 1120 Functions 1110-1199 Objects 100-999, Functions
1262 1210, 1220, 2150-2159 Objects 210 and 215;

1263 Fund 1130 All Functions, Object Code 210 and 215;

1264 Fund 2001 Functions 1110-1199 Objects 100-999;

1265 Fund 2070 Functions 1110-1199 Objects 100-999;

1266 Fund 2420 Functions 1110-1199 Objects 100-999;

1267 Fund 2711 All Functions, Object Code 210 and 215.

1268 Prior to the calculation of the instructional cost component,
1269 there shall be subtracted from the above expenditures any revenue
1270 received for Chickasaw Cession payments, Master Teacher
1271 Certification payments and the district's portion of state revenue
1272 received from the MAEP at-risk allocation.

1273 For the administrative cost component, the Department of
1274 Education shall select districts that have been identified as
1275 instructionally successful and have a ratio of an administrative
1276 staff to nonadministrative staff between one (1) standard
1277 deviation above the mean and two (2) standard deviations below the
1278 mean of the statewide average administrative staff to



1279 nonadministrative staff. The administrative cost component shall
1280 be calculated by dividing the latest available months one (1)
1281 through nine (9) ADA of the selected districts into the
1282 administrative expenditures of these selected districts. For the
1283 purpose of this calculation, the Department of Education shall use
1284 the following funds, functions and objects:

1285 Fund 1120 Functions 2300-2599, Functions 2800-2899,
1286 Objects 100-999;

1287 Fund 2711 Functions 2300-2599, Functions 2800-2899,
1288 Objects 100-999.

1289 For the plant and maintenance cost component, the Department
1290 of Education shall select districts that have been identified as
1291 instructionally successful and have a ratio of plant and
1292 maintenance expenditures per one hundred thousand (100,000) square
1293 feet of building space and a ratio of maintenance workers per one
1294 hundred thousand (100,000) square feet of building space that are
1295 both between one (1) standard deviation above the mean and two (2)
1296 standard deviations below the mean of the statewide average. The
1297 plant and maintenance cost component shall be calculated by
1298 dividing the latest available months one (1) through nine (9) ADA
1299 of the selected districts into the plant and maintenance
1300 expenditures of these selected districts. For the purpose of this
1301 calculation, the Department of Education shall use the following
1302 funds, functions and objects:

1303 Fund 1120 Functions 2600-2699, Objects 100-699
1304 and Objects 800-999;

1305 Fund 2711 Functions 2600-2699, Objects 100-699
1306 and Objects 800-999;

1307 Fund 2430 Functions 2600-2699, Objects 100-699
1308 and Objects 800-999.

1309 For the ancillary support cost component, the Department of
1310 Education shall select districts that have been identified as



1311 instructionally successful and have a ratio of a number of
1312 librarians, media specialists, guidance counselors and
1313 psychologists per one thousand (1,000) students that is between
1314 one (1) standard deviation above the mean and two (2) standard
1315 deviations below the mean of the statewide average of librarians,
1316 media specialists, guidance counselors and psychologists per one
1317 thousand (1,000) students. The ancillary cost component shall be
1318 calculated by dividing the latest available months one (1) through
1319 nine (9) ADA into the ancillary expenditures instructional
1320 expenditures of these selected districts. For the purpose of this
1321 calculation, the Department of Education shall use the following
1322 funds, functions and objects:

1323 Fund 1120 Functions 2110-2129, Objects 100-999;
1324 Fund 1120 Functions 2140-2149, Objects 100-999;
1325 Fund 1120 Functions 2220-2229, Objects 100-999;
1326 Fund 2001 Functions 2100-2129, Objects 100-999;
1327 Fund 2001 Functions 2140-2149, Objects 100-999;
1328 Fund 2001 Functions 2220-2229, Objects 100-999.

1329 The total base cost for each year shall be the sum of the
1330 instructional cost component, administrative cost component, plant
1331 and maintenance cost component and ancillary support cost
1332 component, and any estimated adjustments for additional state
1333 requirements as determined by the State Board of Education.

1334 Provided, however, that the base student cost in fiscal year 1998
1335 shall be Two Thousand Six Hundred Sixty-four Dollars (\$2,664.00).

1336 For each of the fiscal years between the recalculation of the
1337 base student cost under the provisions of this paragraph (b), the
1338 base student cost shall be increased by an amount equal to forty
1339 percent (40%) of the base student cost for the previous fiscal
1340 year, multiplied by the latest annual rate of inflation for the
1341 State of Mississippi as determined by the State Economist, plus
1342 any adjustments for additional state requirements such as, but not



1343 limited to, teacher pay raises and health insurance premium
1344 increases.

1345 (c) **Determination of the basic adequate education**

1346 **program cost.** The basic amount for current operation to be
1347 included in the Mississippi Adequate Education Program for each
1348 school district shall be computed as follows:

1349 Multiply the average daily attendance of the district by the
1350 base student cost as established by the Legislature, which yields
1351 the total base program cost for each school district.

1352 (d) **Adjustment to the base student cost for at-risk**

1353 **pupils.** The amount to be included for at-risk pupil programs for
1354 each school district shall be computed as follows: Multiply the
1355 base student cost for the appropriate fiscal year as determined
1356 under paragraph (b) by five percent (5%), and multiply that
1357 product by the number of pupils participating in the federal free
1358 school lunch program in such school district, which yields the
1359 total adjustment for at-risk pupil programs for such school
1360 district.

1361 (e) **Add-on program cost.** The amount to be allocated to
1362 school districts in addition to the adequate education program
1363 cost for add-on programs for each school district shall be
1364 computed as follows:

1365 (i) Transportation cost shall be the amount
1366 allocated to such school district for the operational support of
1367 the district transportation system from state funds.

1368 (ii) Vocational or technical education program
1369 cost shall be the amount allocated to such school district from
1370 state funds for the operational support of such programs.

1371 (iii) Special education program cost shall be the
1372 amount allocated to such school district from state funds for the
1373 operational support of such programs.



1374 (iv) Gifted education program cost shall be the
1375 amount allocated to such school district from state funds for the
1376 operational support of such programs.

1377 (v) Alternative school program cost shall be the
1378 amount allocated to such school district from state funds for the
1379 operational support of such programs.

1380 (vi) Extended school year programs shall be the
1381 amount allocated to school districts for those programs authorized
1382 by law which extend beyond the normal school year.

1383 (vii) University-based programs shall be the
1384 amount allocated to school districts for those university-based
1385 programs for handicapped children as defined and provided for in
1386 Section 37-23-131 et seq., Mississippi Code of 1972.

1387 (viii) Bus driver training programs shall be the
1388 amount provided for those driver training programs as provided for
1389 in Section 37-41-1, Mississippi Code of 1972.

1390 The sum of the items listed above (i) transportation, (ii)
1391 vocational or technical education, (iii) special education, (iv)
1392 gifted education, (v) alternative school, (vi) extended school
1393 year, (vii) university-based, and (viii) bus driver training shall
1394 yield the add-on cost for each school district.

1395 (f) **Total projected adequate education program cost.**

1396 The total Mississippi Adequate Education Program cost shall be the
1397 sum of the total basic adequate education program cost (paragraph
1398 (c)), and the adjustment to the base student cost for at-risk
1399 pupils (paragraph (d)) for each school district. In any year in
1400 which the MAEP is not fully funded, the Legislature shall direct
1401 the Department of Education in the K-12 appropriation bill as to
1402 how to allocate MAEP funds to school districts for that year.

1403 (g) The State Auditor shall annually verify the State
1404 Board of Education's estimated calculations for the Mississippi
1405 Adequate Education Program that are submitted each year to the



Legislative Budget Office on August 1 and the final calculation that is submitted on January 2.

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

(a) The State Department of Education shall certify to each school district that twenty-eight (28) mills, less the estimated amount of the yield of the School Ad Valorem Tax Reduction Fund grants as determined by the State Department of Education, is the millage rate required to provide the district required local effort for that year, or twenty-seven percent (27%) of the basic adequate education program cost for such school district as determined under paragraph (c), whichever is a lesser amount. In the case of an agricultural high school, the millage requirement shall be set at a level which generates an equitable amount per pupil to be determined by the State Board of Education. Local contribution amount for school districts in which public charter school students reside will be calculated using the following methodology: using the adequate education program twenty-eight (28) mill value, or the twenty-seven percent (27%) cap amount (whichever is less) for each public school district with a student attending the charter school, an average per pupil amount will be calculated. This average per pupil amount will be multiplied times the number of students attending the charter school from the resident district. The sum becomes the charter school's local contribution to the adequate education program.

(b) The State Department of Education shall determine (i) the total assessed valuation of nonexempt property for school purposes in each school district; (ii) assessed value of exempt property owned by homeowners aged sixty-five (65) or older or disabled as defined in Section 27-33-67(2), Mississippi Code of



1438 1972; (iii) the school district's tax loss from exemptions
1439 provided to applicants under the age of sixty-five (65) and not
1440 disabled as defined in Section 27-33-67(1), Mississippi Code of
1441 1972; and (iv) the school district's homestead reimbursement
1442 revenues.

1443 (c) The amount of the total adequate education program
1444 funding which shall be contributed by each school district shall
1445 be the sum of the ad valorem receipts generated by the millage
1446 required under this subsection plus the following local revenue
1447 sources for the appropriate fiscal year which are or may be
1448 available for current expenditure by the school district:

1449 One hundred percent (100%) of Grand Gulf income as prescribed
1450 in Section 27-35-309.

1451 One hundred percent (100%) of any fees in lieu of taxes as
1452 prescribed in Section 27-31-104.

1453 (3) **Computation of the required state effort in support of**
1454 **the adequate education program.**

1455 (a) The required state effort in support of the
1456 adequate education program shall be determined by subtracting the
1457 sum of the required local tax effort as set forth in subsection
1458 (2)(a) of this section and the other local revenue sources as set
1459 forth in subsection (2)(c) of this section in an amount not to
1460 exceed twenty-seven percent (27%) of the total projected adequate
1461 education program cost as set forth in subsection (1)(f) of this
1462 section from the total projected adequate education program cost
1463 as set forth in subsection (1)(f) of this section.

1464 (b) Provided, however, that in fiscal year 1998 and in
1465 the fiscal year in which the adequate education program is fully
1466 funded by the Legislature, any increase in the said state
1467 contribution to any district calculated under this section shall
1468 be not less than eight percent (8%) in excess of the amount
1469 received by said district from state funds for the fiscal year



1470 immediately preceding. For purposes of this paragraph (b), state
1471 funds shall include minimum program funds less the add-on
1472 programs, State Uniform Millage Assistance Grant Funds, Education
1473 Enhancement Funds appropriated for Uniform Millage Assistance
1474 Grants and state textbook allocations, and State General Funds
1475 allocated for textbooks.

1476 (c) If the school board of any school district shall
1477 determine that it is not economically feasible or practicable to
1478 operate any school within the district for the full one hundred
1479 eighty (180) days required for a school term of a scholastic year
1480 as required in Section 37-13-63, Mississippi Code of 1972, due to
1481 an enemy attack, a man-made, technological or natural disaster in
1482 which the Governor has declared a disaster emergency under the
1483 laws of this state or the President of the United States has
1484 declared an emergency or major disaster to exist in this state,
1485 said school board may notify the State Department of Education of
1486 such disaster and submit a plan for altering the school term. If
1487 the State Board of Education finds such disaster to be the cause
1488 of the school not operating for the contemplated school term and
1489 that such school was in a school district covered by the
1490 Governor's or President's disaster declaration, it may permit said
1491 school board to operate the schools in its district for less than
1492 one hundred eighty (180) days and, in such case, the State
1493 Department of Education shall not reduce the state contributions
1494 to the adequate education program allotment for such district,
1495 because of the failure to operate said schools for one hundred
1496 eighty (180) days.

1497 (4) The Interim School District Capital Expenditure Fund is
1498 hereby established in the State Treasury which shall be used to
1499 distribute any funds specifically appropriated by the Legislature
1500 to such fund to school districts entitled to increased allocations
1501 of state funds under the adequate education program funding



1502 formula prescribed in Sections 37-151-3 through 37-151-7,
1503 Mississippi Code of 1972, until such time as the said adequate
1504 education program is fully funded by the Legislature. The
1505 following percentages of the total state cost of increased
1506 allocations of funds under the adequate education program funding
1507 formula shall be appropriated by the Legislature into the Interim
1508 School District Capital Expenditure Fund to be distributed to all
1509 school districts under the formula: Nine and two-tenths percent
1510 (9.2%) shall be appropriated in fiscal year 1998, twenty percent
1511 (20%) shall be appropriated in fiscal year 1999, forty percent
1512 (40%) shall be appropriated in fiscal year 2000, sixty percent
1513 (60%) shall be appropriated in fiscal year 2001, eighty percent
1514 (80%) shall be appropriated in fiscal year 2002, and one hundred
1515 percent (100%) shall be appropriated in fiscal year 2003 into the
1516 state adequate education program Fund. Until July 1, 2002, such
1517 money shall be used by school districts for the following
1518 purposes:

1519 (a) Purchasing, erecting, repairing, equipping,
1520 remodeling and enlarging school buildings and related facilities,
1521 including gymnasiums, auditoriums, lunchrooms, vocational training
1522 buildings, libraries, school barns and garages for transportation
1523 vehicles, school athletic fields and necessary facilities
1524 connected therewith, and purchasing land therefor. Any such
1525 capital improvement project by a school district shall be approved
1526 by the State Board of Education, and based on an approved
1527 long-range plan. The State Board of Education shall promulgate
1528 minimum requirements for the approval of school district capital
1529 expenditure plans.

1530 (b) Providing necessary water, light, heating, air
1531 conditioning, and sewerage facilities for school buildings, and
1532 purchasing land therefor.



1533 (c) Paying debt service on existing capital improvement
1534 debt of the district or refinancing outstanding debt of a district
1535 if such refinancing will result in an interest cost savings to the
1536 district.

1537 (d) From and after October 1, 1997, through June 30,
1538 1998, pursuant to a school district capital expenditure plan
1539 approved by the State Department of Education, a school district
1540 may pledge such funds until July 1, 2002, plus funds provided for
1541 in paragraph (e) of this subsection (4) that are not otherwise
1542 permanently pledged under such paragraph (e) to pay all or a
1543 portion of the debt service on debt issued by the school district
1544 under Sections 37-59-1 through 37-59-45, 37-59-101 through
1545 37-59-115, 37-7-351 through 37-7-359, 37-41-89 through 37-41-99,
1546 37-7-301, 37-7-302 and 37-41-81, Mississippi Code of 1972, or debt
1547 issued by boards of supervisors for agricultural high schools
1548 pursuant to Section 37-27-65, Mississippi Code of 1972, or
1549 lease-purchase contracts entered into pursuant to Section 31-7-13,
1550 Mississippi Code of 1972, or to retire or refinance outstanding
1551 debt of a district, if such pledge is accomplished pursuant to a
1552 written contract or resolution approved and spread upon the
1553 minutes of an official meeting of the district's school board or
1554 board of supervisors. It is the intent of this provision to allow
1555 school districts to irrevocably pledge their Interim School
1556 District Capital Expenditure Fund allotments as a constant stream
1557 of revenue to secure a debt issued under the foregoing code
1558 sections. To allow school districts to make such an irrevocable
1559 pledge, the state shall take all action necessary to ensure that
1560 the amount of a district's Interim School District Capital
1561 Expenditure Fund allotments shall not be reduced below the amount
1562 certified by the department or the district's total allotment
1563 under the Interim Capital Expenditure Fund if fully funded, so
1564 long as such debt remains outstanding.



1565 (e) [Repealed]

1566 (f) [Repealed]

1567 (g) The State Board of Education may authorize the

1568 school district to expend not more than twenty percent (20%) of

1569 its annual allotment of such funds or Twenty Thousand Dollars

1570 (\$20,000.00), whichever is greater, for technology needs of the

1571 school district, including computers, software,

1572 telecommunications, cable television, interactive video, film,

1573 low-power television, satellite communications, microwave

1574 communications, technology-based equipment installation and

1575 maintenance, and the training of staff in the use of such

1576 technology-based instruction. Any such technology expenditure

1577 shall be reflected in the local district technology plan approved

1578 by the State Board of Education under Section 37-151-17,

1579 Mississippi Code of 1972.

1580 (h) To the extent a school district has not utilized

1581 twenty percent (20%) of its annual allotment for technology

1582 purposes under paragraph (g), a school district may expend not

1583 more than twenty percent (20%) of its annual allotment or Twenty

1584 Thousand Dollars (\$20,000.00), whichever is greater, for

1585 instructional purposes. The State Board of Education may

1586 authorize a school district to expend more than said twenty

1587 percent (20%) of its annual allotment for instructional purposes

1588 if it determines that such expenditures are needed for

1589 accreditation purposes.

1590 (i) The State Department of Education or the State

1591 Board of Education may require that any project commenced under

1592 this section with an estimated project cost of not less than Five

1593 Million Dollars (\$5,000,000.00) shall be done only pursuant to

1594 program management of the process with respect to design and

1595 construction. Any individuals, partnerships, companies or other

1596 entities acting as a program manager on behalf of a local school



1597 district and performing program management services for projects
1598 covered under this subsection shall be approved by the State
1599 Department of Education.

1600 Any interest accruing on any unexpended balance in the
1601 Interim School District Capital Expenditure Fund shall be invested
1602 by the State Treasurer and placed to the credit of each school
1603 district participating in such fund in its proportionate share.

1604 The provisions of this subsection (4) shall be cumulative and
1605 supplemental to any existing funding programs or other authority
1606 conferred upon school districts or school boards.

1607 (5) The State Department of Education shall make payments to
1608 public charter schools for each student in average daily
1609 attendance at the public charter school equal to the state share
1610 of the adequate education program payments for each student in
1611 average daily attendance at the public school district in which
1612 the public charter school is located. In calculating the local
1613 contribution for purposes of determining the state share of the
1614 adequate education program payments, the department shall deduct
1615 the pro rata local contribution of the school district in which
1616 the student resides as determined in subsection (2)(a) of this
1617 section.

1618 **SECTION 12.** Section 37-57-107, Mississippi Code of 1972, is
1619 amended as follows:

1620 37-57-107. (1) Beginning with the tax levy for the 1997
1621 fiscal year and for each fiscal year thereafter, the aggregate
1622 receipts from taxes levied for school district purposes pursuant
1623 to Sections 37-57-105 and 37-57-1 shall not exceed the aggregate
1624 receipts from those sources during any one (1) of the immediately
1625 preceding three (3) fiscal years, as determined by the school
1626 board, plus an increase not to exceed seven percent (7%). For the
1627 purpose of this limitation, the term "aggregate receipts" when
1628 used in connection with the amount of funds generated in a



1629 preceding fiscal year shall not include excess receipts required
1630 by law to be deposited into a special account, however the term
1631 "aggregate receipts" shall include any receipts required by law to
1632 be diverted to a public charter school. The additional revenue
1633 from the ad valorem tax on any newly constructed properties or any
1634 existing properties added to the tax rolls or any properties
1635 previously exempt which were not assessed in the next preceding
1636 year may be excluded from the seven percent (7%) increase
1637 limitation set forth herein. Taxes levied for payment of
1638 principal of and interest on general obligation school bonds
1639 issued heretofore or hereafter shall be excluded from the seven
1640 percent (7%) increase limitation set forth herein. Any additional
1641 millage levied to fund any new program mandated by the Legislature
1642 shall be excluded from the limitation for the first year of the
1643 levy and included within such limitation in any year thereafter.
1644 For the purposes of this section, the term "new program" shall
1645 include, but shall not be limited to, (a) the Early Childhood
1646 Education Program required to commence with the 1986-1987 school
1647 year as provided by Section 37-21-7 and any additional millage
1648 levied and the revenue generated therefrom, which is excluded from
1649 the limitation for the first year of the levy, to support the
1650 mandated Early Childhood Education Program shall be specified on
1651 the minutes of the school board and of the governing body making
1652 such tax levy; (b) any additional millage levied and the revenue
1653 generated therefrom which shall be excluded from the limitation
1654 for the first year of the levy, for the purpose of generating
1655 additional local contribution funds required for the adequate
1656 education program for the 2003 fiscal year and for each fiscal
1657 year thereafter under Section 37-151-7(2); and (c) any additional
1658 millage levied and the revenue generated therefrom which shall be
1659 excluded from the limitation for the first year of the levy, for
1660 the purpose of support and maintenance of any agricultural high



1661 school which has been transferred to the control, operation and
1662 maintenance of the school board by the board of trustees of the
1663 community college district under provisions of Section 37-29-272.

1664 (2) The seven percent (7%) increase limitation prescribed in
1665 this section may be increased an additional amount only when the
1666 school board has determined the need for additional revenues and
1667 has held an election on the question of raising the limitation
1668 prescribed in this section. The limitation may be increased only
1669 if three-fifths (3/5) of those voting in the election shall vote
1670 for the proposed increase. The resolution, notice and manner of
1671 holding the election shall be as prescribed by law for the holding
1672 of elections for the issuance of bonds by the respective school
1673 boards. Revenues collected for the fiscal year in excess of the
1674 seven percent (7%) increase limitation pursuant to an election
1675 shall be included in the tax base for the purpose of determining
1676 aggregate receipts for which the seven percent (7%) increase
1677 limitation applies for subsequent fiscal years.

1678 (3) Except as otherwise provided for excess revenues
1679 generated pursuant to an election, if revenues collected as the
1680 result of the taxes levied for the fiscal year pursuant to this
1681 section and Section 37-57-1 exceed the increase limitation, then
1682 it shall be the mandatory duty of the school board of the school
1683 district to deposit such excess receipts over and above the
1684 increase limitation into a special account and credit it to the
1685 fund for which the levy was made. It will be the further duty of
1686 such board to hold said funds and invest the same as authorized by
1687 law. Such excess funds shall be calculated in the budgets for the
1688 school districts for the purpose for which such levies were made,
1689 for the succeeding fiscal year. Taxes imposed for the succeeding
1690 year shall be reduced by the amount of excess funds available.
1691 Under no circumstances shall such excess funds be expended during
1692 the fiscal year in which such excess funds are collected.



1693 (4) For the purposes of determining ad valorem tax receipts
1694 for a preceding fiscal year under this section, the term "fiscal
1695 year" means the fiscal year beginning October 1 and ending
1696 September 30.

1697 (5) Effective with the 2012-2013 school year, the tax
1698 collector in the county in which the public charter school is
1699 located shall pay directly to the public charter school an amount
1700 for each student enrolled in the public charter school equal to
1701 the ad valorem taxes levied per pupil for the support of the
1702 school district in which the student resides, and the tax
1703 collector shall withhold an equal amount from the local school
1704 district in which the public charter school student resides. The
1705 pro rata ad valorem taxes to be transferred to the public charter
1706 school shall include all levies for the support of the school
1707 district under Sections 37-57-1 (local contribution to the
1708 adequate education program) and 37-57-105 (school district
1709 operational levy) and shall not include any taxes levied for the
1710 retirement of school district bonded indebtedness or short-term
1711 notes or any taxes levied for the support of vocational-technical
1712 education programs. In the event a student attending the public
1713 charter school resides in an adjoining county, it shall be the
1714 responsibility of the tax collector of the county of the student's
1715 residence to make local ad valorem payments under this section to
1716 the public charter school, but in no event shall such payment
1717 exceed the pro rata amount of the local ad valorem payment for the
1718 local contribution to the adequate education program under Section
1719 37-57-1 for the school district in which the student resides.
1720 Payments made pursuant to this section by the tax collector to the
1721 charter schools shall be made at the same time and manner as funds
1722 are distributed to the school districts in the county on a per
1723 pupil basis.



(6) Any funds withheld from the school district for the purpose of making pro rata payments of ad valorem taxes levied in the school district to any public charter school located in the school district shall not be considered a shortfall within the meaning of Section 37-57-108.

SECTION 13. Section 37-9-103, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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



1756 (c) The Education Employment Procedures Law shall not
1757 apply to any category of teacher, administrator or employee of a
1758 public charter school established under the terms and provisions
1759 of this act.

1760 (3) For purposes of Sections 37-9-101 through 37-9-113, the
1761 term "days" means calendar days.

1762 **SECTION 14.** Section 37-13-63, Mississippi Code of 1972, is
1763 amended as follows:

1764 37-13-63. (1) Except as otherwise provided, all public
1765 schools in the state and public charter schools shall be kept in
1766 session for at least one hundred eighty (180) days in each
1767 scholastic year.

1768 (2) If the school board of any school district or the
1769 governing board of the public charter school shall determine that
1770 it is not economically feasible or practicable to operate any
1771 school within the district for the full one hundred eighty (180)
1772 days required for a scholastic year as contemplated due to an
1773 enemy attack, a man-made, technological or natural disaster or
1774 extreme weather emergency in which the Governor has declared a
1775 disaster or state of emergency under the laws of this state or the
1776 President of the United States has declared an emergency or major
1777 disaster to exist in this state, the school board may notify the
1778 State Department of Education of the disaster or weather
1779 emergency, and the local governing board of the public charter
1780 school may notify the Mississippi Public Charter School Authorizer
1781 Board, and submit a plan for altering the school term. If the
1782 State Board of Education, or the Mississippi Public Charter School
1783 Authorizer Board, as the case may be, finds the disaster or
1784 extreme weather emergency to be the cause of the school not
1785 operating for the contemplated school term and that such school
1786 was in a school district covered by the Governor's or President's
1787 disaster or state of emergency declaration, it may permit that



1788 school board to operate the schools in its district for less than
1789 one hundred eighty (180) days; however, in no instance of a
1790 declared disaster or state of emergency under the provisions of
1791 this subsection shall a school board or a public charter school
1792 receive payment from the State Department of Education for per
1793 pupil expenditure for pupils in average daily attendance in excess
1794 of ten (10) days.

1795 **SECTION 15.** Section 37-13-91, Mississippi Code of 1972, is
1796 amended as follows:

1797 37-13-91. (1) This section shall be referred to as the
1798 "Mississippi Compulsory School Attendance Law."

1799 (2) The following terms as used in this section are defined
1800 as follows:

1801 (a) "Parent" means the father or mother to whom a child
1802 has been born, or the father or mother by whom a child has been
1803 legally adopted.

1804 (b) "Guardian" means a guardian of the person of a
1805 child, other than a parent, who is legally appointed by a court of
1806 competent jurisdiction.

1807 (c) "Custodian" means any person having the present
1808 care or custody of a child, other than a parent or guardian of the
1809 child.

1810 (d) "School day" means not less than five (5) and not
1811 more than eight (8) hours of actual teaching in which both
1812 teachers and pupils are in regular attendance for scheduled
1813 schoolwork.

1814 (e) "School" means any public school in this state or
1815 any nonpublic school in this state which is in session each school
1816 year for at least one hundred eighty (180) school days, except
1817 that the "nonpublic" school term shall be the number of days that
1818 each school shall require for promotion from grade to grade.



1819 (f) "Compulsory-school-age child" means a child who has
1820 attained or will attain the age of six (6) years on or before
1821 September 1 of the calendar year and who has not attained the age
1822 of seventeen (17) years on or before September 1 of the calendar
1823 year; and shall include any child who has attained or will attain
1824 the age of five (5) years on or before September 1 and has
1825 enrolled in a full-day public school kindergarten program.
1826 Provided, however, that the parent or guardian of any child
1827 enrolled in a full-day public school kindergarten program shall be
1828 allowed to disenroll the child from the program on a one-time
1829 basis, and such child shall not be deemed a compulsory-school-age
1830 child until the child attains the age of six (6) years.

1831 (g) "School attendance officer" means a person employed
1832 by the State Department of Education pursuant to Section 37-13-89.

1833 (h) "Appropriate school official" means the
1834 superintendent of the school district, or his designee, or, in the
1835 case of a nonpublic school, the principal or the headmaster.

1836 (i) (i) "Nonpublic school" means an institution for
1837 the teaching of children, consisting of a physical plant, whether
1838 owned or leased, including a home, instructional staff members and
1839 students, and which is in session each school year. This
1840 definition shall include, but not be limited to, private, church,
1841 parochial and home instruction programs.

1842 (ii) "Public charter school" means a public
1843 charter school as defined in Section 3 of this act and approved to
1844 operate by the Mississippi Public Charter School Authorizer Board.

1845 (3) A parent, guardian or custodian of a
1846 compulsory-school-age child in this state shall cause the child to
1847 enroll in and attend a public school, a legitimate nonpublic
1848 school or a public charter school for the period of time that the
1849 child is of compulsory school age, except under the following
1850 circumstances:



1851 (a) When a compulsory-school-age child is physically,
1852 mentally or emotionally incapable of attending school as
1853 determined by the appropriate school official based upon
1854 sufficient medical documentation.

1855 (b) When a compulsory-school-age child is enrolled in
1856 and pursuing a course of special education, remedial education or
1857 education for handicapped or physically or mentally disadvantaged
1858 children.

1859 (c) When a compulsory-school-age child is being
1860 educated in a legitimate home instruction program.

1861 The parent, guardian or custodian of a compulsory-school-age
1862 child described in this subsection, or the parent, guardian or
1863 custodian of a compulsory-school-age child attending any nonpublic
1864 school or public charter school, or the appropriate school
1865 official for any or all children attending a nonpublic school or
1866 public charter school shall complete a "certificate of enrollment"
1867 in order to facilitate the administration of this section.

1868 The form of the certificate of enrollment shall be prepared
1869 by the Office of Compulsory School Attendance Enforcement of the
1870 State Department of Education and shall be designed to obtain the
1871 following information only:

1872 (i) The name, address, telephone number and date
1873 of birth of the compulsory-school-age child;

1874 (ii) The name, address and telephone number of the
1875 parent, guardian or custodian of the compulsory-school-age child;

1876 (iii) A simple description of the type of
1877 education the compulsory-school-age child is receiving and, if the
1878 child is enrolled in a nonpublic school, the name and address of
1879 the school; and

1880 (iv) The signature of the parent, guardian or
1881 custodian of the compulsory-school-age child or, for any or all
1882 compulsory-school-age child or children attending a nonpublic



1883 school or public charter school, the signature of the appropriate
1884 school official and the date signed.

1885 The certificate of enrollment shall be returned to the school
1886 attendance officer where the child resides on or before September
1887 15 of each year. Any parent, guardian or custodian found by the
1888 school attendance officer to be in noncompliance with this section
1889 shall comply, after written notice of the noncompliance by the
1890 school attendance officer, with this subsection within ten (10)
1891 days after the notice or be in violation of this section.

1892 However, in the event the child has been enrolled in a public
1893 school within fifteen (15) calendar days after the first day of
1894 the school year as required in subsection (6), the parent or
1895 custodian may, at a later date, enroll the child in a legitimate
1896 nonpublic school or legitimate home instruction program or public
1897 charter school and send the certificate of enrollment to the
1898 school attendance officer and be in compliance with this
1899 subsection.

1900 For the purposes of this subsection, a legitimate nonpublic
1901 school, public charter school or legitimate home instruction
1902 program shall be those not operated or instituted for the purpose
1903 of avoiding or circumventing the compulsory attendance law.

1904 (4) An "unlawful absence" is an absence during a school day
1905 by a compulsory-school-age child, which absence is not due to a
1906 valid excuse for temporary nonattendance. Days missed from school
1907 due to disciplinary suspension shall not be considered an
1908 "excused" absence under this section. This subsection shall not
1909 apply to children enrolled in a nonpublic school.

1910 Each of the following shall constitute a valid excuse for
1911 temporary nonattendance of a compulsory-school-age child enrolled
1912 in a public school, provided satisfactory evidence of the excuse
1913 is provided to the superintendent of the school district, or his
1914 designee:



1915 (a) An absence is excused when the absence results from
1916 the compulsory-school-age child's attendance at an authorized
1917 school activity with the prior approval of the superintendent of
1918 the school district, or his designee. These activities may
1919 include field trips, athletic contests, student conventions,
1920 musical festivals and any similar activity.

1921 (b) An absence is excused when the absence results from
1922 illness or injury which prevents the compulsory-school-age child
1923 from being physically able to attend school.

1924 (c) An absence is excused when isolation of a
1925 compulsory-school-age child is ordered by the county health
1926 officer, by the State Board of Health or appropriate school
1927 official.

1928 (d) An absence is excused when it results from the
1929 death or serious illness of a member of the immediate family of a
1930 compulsory-school-age child. The immediate family members of a
1931 compulsory-school-age child shall include children, spouse,
1932 grandparents, parents, brothers and sisters, including
1933 stepbrothers and stepsisters.

1934 (e) An absence is excused when it results from a
1935 medical or dental appointment of a compulsory-school-age child.

1936 (f) An absence is excused when it results from the
1937 attendance of a compulsory-school-age child at the proceedings of
1938 a court or an administrative tribunal if the child is a party to
1939 the action or under subpoena as a witness.

1940 (g) An absence may be excused if the religion to which
1941 the compulsory-school-age child or the child's parents adheres,
1942 requires or suggests the observance of a religious event. The
1943 approval of the absence is within the discretion of the
1944 superintendent of the school district, or his designee, but
1945 approval should be granted unless the religion's observance is of
1946 such duration as to interfere with the education of the child.



1947 (h) An absence may be excused when it is demonstrated
1948 to the satisfaction of the superintendent of the school district,
1949 or his designee, that the purpose of the absence is to take
1950 advantage of a valid educational opportunity such as travel,
1951 including vacations or other family travel. Approval of the
1952 absence must be gained from the superintendent of the school
1953 district, or his designee, before the absence, but the approval
1954 shall not be unreasonably withheld.

1955 (i) An absence may be excused when it is demonstrated
1956 to the satisfaction of the superintendent of the school district,
1957 or his designee, that conditions are sufficient to warrant the
1958 compulsory-school-age child's nonattendance. However, no absences
1959 shall be excused by the school district superintendent, or his
1960 designee, when any student suspensions or expulsions circumvent
1961 the intent and spirit of the compulsory attendance law.

1962 (5) Any parent, guardian or custodian of a
1963 compulsory-school-age child subject to this section who refuses or
1964 willfully fails to perform any of the duties imposed upon him or
1965 her under this section or who intentionally falsifies any
1966 information required to be contained in a certificate of
1967 enrollment, shall be guilty of contributing to the neglect of a
1968 child and, upon conviction, shall be punished in accordance with
1969 Section 97-5-39.

1970 Upon prosecution of a parent, guardian or custodian of a
1971 compulsory-school-age child for violation of this section, the
1972 presentation of evidence by the prosecutor that shows that the
1973 child has not been enrolled in school within eighteen (18)
1974 calendar days after the first day of the school year of the public
1975 school which the child is eligible to attend, or that the child
1976 has accumulated twelve (12) unlawful absences during the school
1977 year at the public school in which the child has been enrolled,
1978 shall establish a prima facie case that the child's parent,



1979 guardian or custodian is responsible for the absences and has
1980 refused or willfully failed to perform the duties imposed upon him
1981 or her under this section. However, no proceedings under this
1982 section shall be brought against a parent, guardian or custodian
1983 of a compulsory-school-age child unless the school attendance
1984 officer has contacted promptly the home of the child and has
1985 provided written notice to the parent, guardian or custodian of
1986 the requirement for the child's enrollment or attendance.

1987 (6) If a compulsory-school-age child has not been enrolled
1988 in a school within fifteen (15) calendar days after the first day
1989 of the school year of the school which the child is eligible to
1990 attend or the child has accumulated five (5) unlawful absences
1991 during the school year of the public school in which the child is
1992 enrolled, the school district superintendent or his designee shall
1993 report, within two (2) school days or within five (5) calendar
1994 days, whichever is less, the absences to the school attendance
1995 officer. The State Department of Education shall prescribe a
1996 uniform method for schools to utilize in reporting the unlawful
1997 absences to the school attendance officer. The superintendent, or
1998 his designee, also shall report any student suspensions or student
1999 expulsions to the school attendance officer when they occur.

2000 (7) When a school attendance officer has made all attempts
2001 to secure enrollment and/or attendance of a compulsory-school-age
2002 child and is unable to effect the enrollment and/or attendance,
2003 the attendance officer shall file a petition with the youth court
2004 under Section 43-21-451 or shall file a petition in a court of
2005 competent jurisdiction as it pertains to parent or child.
2006 Sheriffs, deputy sheriffs and municipal law enforcement officers
2007 shall be fully authorized to investigate all cases of
2008 nonattendance and unlawful absences by compulsory-school-age
2009 children, and shall be authorized to file a petition with the
2010 youth court under Section 43-21-451 or file a petition or



2011 information in the court of competent jurisdiction as it pertains
2012 to parent or child for violation of this section. The youth court
2013 shall expedite a hearing to make an appropriate adjudication and a
2014 disposition to ensure compliance with the Compulsory School
2015 Attendance Law, and may order the child to enroll or re-enroll in
2016 school. The superintendent of the school district to which the
2017 child is ordered may assign, in his discretion, the child to the
2018 alternative school program of the school established pursuant to
2019 Section 37-13-92.

2020 (8) The State Board of Education shall adopt rules and
2021 regulations for the purpose of reprimanding any school
2022 superintendents who fail to timely report unexcused absences under
2023 the provisions of this section.

2024 (9) Notwithstanding any provision or implication herein to
2025 the contrary, it is not the intention of this section to impair
2026 the primary right and the obligation of the parent or parents, or
2027 person or persons in loco parentis to a child, to choose the
2028 proper education and training for such child, and nothing in this
2029 section shall ever be construed to grant, by implication or
2030 otherwise, to the State of Mississippi, any of its officers,
2031 agencies or subdivisions any right or authority to control,
2032 manage, supervise or make any suggestion as to the control,
2033 management or supervision of any private or parochial school or
2034 institution for the education or training of children, of any kind
2035 whatsoever that is not a public school according to the laws of
2036 this state; and this section shall never be construed so as to
2037 grant, by implication or otherwise, any right or authority to any
2038 state agency or other entity to control, manage, supervise,
2039 provide for or affect the operation, management, program,
2040 curriculum, admissions policy or discipline of any such school or
2041 home instruction program.



2042 **SECTION 16.** Sections 37-165-1, 37-165-3, 37-165-5, 37-165-7,
2043 37-165-9, 37-165-11, 37-165-13, 37-165-15, 37-165-17, 37-165-19,
2044 37-165-21, 37-165-23, 37-165-25 and 37-165-27, Mississippi Code of
2045 1972, which are the "Conversion Charter School Act of 2010," and
2046 Section 37-167-1, Mississippi Code of 1972, which is the New Start
2047 School Program, are repealed.

2048 **SECTION 17.** This act shall take effect and be in force from
2049 and after its passage, provided that Sections 1 through 10 shall
2050 stand repealed from and after July 1, 2020.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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 PRESCRIBE THE APPLICATION PROCESS FOR ALL
18 TYPES OF CHARTER SCHOOLS AND A DECISION-MAKING PROCESS; TO
19 ESTABLISH AN INITIAL CHARTER TERM; TO PROVIDE GUIDELINES FOR
20 EXECUTING CHARTER CONTRACTS; TO PROVIDE ACHIEVEMENT AND
21 OPERATIONAL STANDARDS FOR CHARTER SCHOOL OVERSIGHT AND CORRECTIVE
22 ACTIONS; TO PROVIDE FOR RENEWALS AND REVOCATIONS OF CHARTER SCHOOL
23 CONTRACTS; TO PROVIDE PROCEDURES FOR CHARTER SCHOOL CLOSURE AND
24 DISSOLUTION; TO PRESCRIBE THE LEGAL STATUS OF CHARTER SCHOOLS; TO
25 EMPOWER CHARTER SCHOOLS WITH FINANCIAL AUTHORITY TO IMPLEMENT ITS
26 CONTRACT AND TO PROHIBIT DISCRIMINATION AND THE CHARGING OF
27 TUITION; TO PRESCRIBE THE QUALIFICATIONS OF EMPLOYEES OF CHARTER
28 SCHOOLS AND REQUIRE CRIMINAL BACKGROUND CHECKS FOR SUCH EMPLOYEES;
29 TO PROVIDE THAT CHARTER SCHOOLS SHALL CERTIFY AVERAGE DAILY
30 ATTENDANCE AND QUALIFY FOR STATE ADEQUATE EDUCATION PROGRAM
31 ALLOCATIONS ON A PER-PUPIL BASIS; TO AUTHORIZE EQUAL
32 TRANSPORTATION FUNDING UNDER THE ADEQUATE EDUCATION PROGRAM FOR
33 PUBLIC CHARTER SCHOOLS; TO AUTHORIZE LOCAL FUNDING FOR PUBLIC
34 CHARTER SCHOOLS; TO AUTHORIZE CHARTER SCHOOLS TO ACCEPT GIFTS,
35 DONATIONS AND GRANTS; TO AUTHORIZE CHARTER SCHOOLS THE RIGHT OF
36 FIRST REFUSAL TO VACANT SCHOOL FACILITIES AND PROPERTY AND THE USE
37 OF DONATED SPACE UNDER PREEXISTING ZONING REGULATIONS; TO AMEND
38 SECTION 37-151-7, MISSISSIPPI CODE OF 1972, TO CONFORM THE
39 ADEQUATE EDUCATION FUNDING FORMULA TO THE ALLOCATION OF FUNDS TO
40 PUBLIC CHARTER SCHOOLS; TO AMEND SECTION 37-57-107, MISSISSIPPI
41 CODE OF 1972, TO PROVIDE FOR THE TRANSFER OF LOCAL AD VALOREM



42 SCHOOL DISTRICT MAINTENANCE FUNDS BY THE TAX COLLECTOR TO THE
43 PUBLIC CHARTER SCHOOL ON A PER-PUPIL BASIS; TO AMEND SECTION
44 37-9-103, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE EDUCATION
45 EMPLOYMENT PROCEDURES LAW SHALL NOT APPLY TO TEACHERS OR
46 ADMINISTRATORS AT PUBLIC CHARTER SCHOOLS; TO AMEND SECTION
47 37-13-63, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT PUBLIC CHARTER
48 SCHOOLS SHALL COMPLY WITH THE MINIMUM LENGTH OF SCHOOL TERM
49 APPLICABLE TO PUBLIC SCHOOLS; TO AMEND SECTION 37-13-91,
50 MISSISSIPPI CODE OF 1972, TO CLARIFY THAT STUDENTS ATTENDING
51 PUBLIC CHARTER SCHOOLS SHALL COMPLY WITH THE PROVISIONS OF THE
52 MISSISSIPPI COMPULSORY SCHOOL ATTENDANCE LAW; TO REPEAL SECTIONS
53 37-165-1 THROUGH 37-165-27, MISSISSIPPI CODE OF 1972, WHICH ARE
54 THE "CONVERSION CHARTER SCHOOL ACT OF 2010," AND SECTION 37-167-1,
55 MISSISSIPPI CODE OF 1972, WHICH IS THE NEW START SCHOOL PROGRAM;
56 AND FOR RELATED PURPOSES.

