

By: Representatives Boyd (19th), Williamson

To: Education

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1150

1 AN ACT TO BRING FORWARD SECTIONS 37-28-5, 37-28-7, 37-28-9,
2 37-28-11, 37-28-13, 37-28-15, 37-28-19, 37-28-21, 37-28-23,
3 37-28-29, 37-28-33, 37-28-37, 37-28-47, 37-28-49, 37-28-55 AND
4 37-28-57, MISSISSIPPI CODE OF 1972, WHICH ARE PROVISIONS OF THE
5 "MISSISSIPPI CHARTER SCHOOL ACT OF 2013", FOR PURPOSES OF POSSIBLE
6 AMENDMENTS; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 37-28-5, Mississippi Code of 1972, is
9 brought forward as follows:

10 37-28-5. As used in this chapter, the following words and
11 phrases have the meanings ascribed in this section unless the
12 context clearly indicates otherwise:

13 (a) "Applicant" means any person or group that develops
14 and submits an application for a charter school to the authorizer.

15 (b) "Application" means a proposal from an applicant to
16 the authorizer to enter into a charter contract whereby the
17 proposed school obtains charter school status.

18 (c) "Authorizer" means the Mississippi Charter School
19 Authorizer Board established under Section 37-28-7 to review
20 applications, decide whether to approve or reject applications,



21 enter into charter contracts with applicants, oversee charter
22 schools, and decide whether to renew, not renew, or revoke charter
23 contracts.

24 (d) "Charter contract" means a fixed-term, renewable
25 contract between a charter school and the authorizer which
26 outlines the roles, powers, responsibilities and performance
27 expectations for each party to the contract.

28 (e) "Charter school" means a public school that is
29 established and operating under the terms of charter contract
30 between the school's governing board and the authorizer. The term
31 "charter school" includes a conversion charter school and start-up
32 charter school.

33 (f) "Conversion charter school" means a charter school
34 that existed as a noncharter public school before becoming a
35 charter school.

36 (g) "Education service provider" means a charter
37 management organization, school design provider or any other
38 partner entity with which a charter school intends to contract for
39 educational design, implementation or comprehensive management.

40 (h) "Governing board" means the independent board of a
41 charter school which is party to the charter contract with the
42 authorizer and whose members have been elected or selected
43 pursuant to the school's application.



44 (i) "Noncharter public school" means a public school
45 that is under the direct management, governance and control of a
46 school board or the state.

47 (j) "Parent" means a parent, guardian or other person
48 or entity having legal custody of a child.

49 (k) "School board" means a school board exercising
50 management and control over a local school district and the
51 schools of that district pursuant to the State Constitution and
52 state statutes.

53 (l) "School district" means a governmental entity that
54 establishes and supervises one or more public schools within its
55 geographical limits pursuant to state statutes.

56 (m) "Start-up charter school" means a charter school
57 that did not exist as a noncharter public school before becoming a
58 charter school.

59 (n) "Student" means any child who is eligible for
60 attendance in a public school in the state.

61 (o) "Underserved students" means students participating
62 in the federal free lunch program who qualify for at-risk student
63 funding under the Mississippi Adequate Education Program and
64 students who are identified as having special educational needs.

65 **SECTION 2.** Section 37-28-7, Mississippi Code of 1972, is
66 brought forward as follows:

67 37-28-7. (1) There is created the Mississippi Charter
68 School Authorizer Board as a state agency with exclusive



69 chartering jurisdiction in the State of Mississippi. Unless
70 otherwise authorized by law, no other governmental agency or
71 entity may assume any charter authorizing function or duty in any
72 form.

73 (2) (a) The mission of the Mississippi Charter School
74 Authorizer Board is to authorize high-quality charter schools,
75 particularly schools designed to expand opportunities for
76 underserved students, consistent with the purposes of this
77 chapter. Subject to the restrictions and conditions prescribed in
78 this subsection, the Mississippi Charter School Authorizer Board
79 may authorize charter schools within the geographical boundaries
80 of any school district.

81 (b) The Mississippi Charter School Authorizer Board may
82 approve a maximum of fifteen (15) qualified charter applications
83 during a fiscal year.

84 (c) In any school district designated as an "A," "B" or
85 "C" school district by the State Board of Education under the
86 accreditation rating system at the time of application, the
87 Mississippi Charter School Authorizer Board may authorize charter
88 schools only if a majority of the members of the local school
89 board votes at a public meeting to endorse the application or to
90 initiate the application on its own initiative.

91 (3) The Mississippi Charter School Authorizer Board shall
92 consist of seven (7) members, to be appointed as follows:



93 (a) Three (3) members appointed by the Governor, with
94 one (1) member being from each of the Mississippi Supreme Court
95 Districts.

96 (b) Three (3) members appointed by the Lieutenant
97 Governor, with one (1) member being from each of the Mississippi
98 Supreme Court Districts.

99 (c) One (1) member appointed by the State
100 Superintendent of Public Education.

101 All appointments must be made with the advice and consent of
102 the Senate. In making the appointments, the appointing authority
103 shall ensure diversity among members of the Mississippi Charter
104 School Authorizer Board.

105 (4) Members appointed to the Mississippi Charter School
106 Authorizer Board collectively must possess strong experience and
107 expertise in public and nonprofit governance, management and
108 finance, public school leadership, assessment, curriculum and
109 instruction, and public education law. Each member of the
110 Mississippi Charter School Authorizer Board must have demonstrated
111 an understanding of and commitment to charter schooling as a
112 strategy for strengthening public education.

113 (5) To establish staggered terms of office, the initial term
114 of office for the three (3) Mississippi Charter School Authorizer
115 Board members appointed by the Governor shall be four (4) years
116 and thereafter shall be three (3) years; the initial term of
117 office for the three (3) members appointed by the Lieutenant



118 Governor shall be three (3) years and thereafter shall be three
119 (3) years; and the initial term of office for the member appointed
120 by the State Superintendent of Public Education shall be two (2)
121 years and thereafter shall be three (3) years. No member may
122 serve more than two (2) consecutive terms. The initial
123 appointments must be made before September 1, 2013.

124 (6) The Mississippi Charter School Authorizer Board shall
125 meet as soon as practical after September 1, 2013, upon the call
126 of the Governor, and shall organize for business by selecting a
127 chairman and adopting bylaws. Subsequent meetings shall be called
128 by the chairman.

129 (7) An individual member of the Mississippi Charter School
130 Authorizer Board may be removed by the board if the member's
131 personal incapacity renders the member incapable or unfit to
132 discharge the duties of the office or if the member is absent from
133 a number of meetings of the board, as determined and specified by
134 the board in its bylaws. Whenever a vacancy on the Mississippi
135 Charter School Authorizer Board exists, the original appointing
136 authority shall appoint a member for the remaining portion of the
137 term.

138 (8) No member of the Mississippi Charter School Authorizer
139 Board or employee, agent or representative of the board may serve
140 simultaneously as an employee, trustee, agent, representative,
141 vendor or contractor of a charter school authorized by the board.



142 (9) The Mississippi Charter School Authorizer Board shall
143 appoint an individual to serve as the Executive Director of the
144 Mississippi Charter School Authorizer Board. The executive
145 director shall possess the qualifications established by the board
146 which are based on national best practices, and shall possess an
147 understanding of state and federal education law. The executive
148 director, who shall serve at the will and pleasure of the board,
149 shall devote his full time to the proper administration of the
150 board and the duties assigned to him by the board and shall be
151 paid a salary established by the board, subject to the approval of
152 the State Personnel Board. Subject to the availability of
153 funding, the executive director may employ such administrative
154 staff as may be necessary to assist the director and board in
155 carrying out the duties and directives of the Mississippi Charter
156 School Authorizer Board.

157 (10) The Mississippi Charter School Authorizer Board is
158 authorized to obtain suitable office space for administrative
159 purposes. In acquiring a facility or office space, the authorizer
160 board shall adhere to all policies and procedures required by the
161 Department of Finance and Administration and the Public
162 Procurement Review Board.

163 **SECTION 3.** Section 37-28-9, Mississippi Code of 1972, is
164 brought forward as follows:

165 37-28-9. (1) The authorizer is responsible for exercising,
166 in accordance with this chapter, the following powers and duties:



167 (a) Developing chartering policies and maintaining
168 practices consistent with nationally recognized principles and
169 standards for quality charter authorizing in all major areas of
170 authorizing responsibility, including:

171 (i) Organizational capacity and infrastructure;
172 (ii) Solicitation and evaluation of charter
173 applications;
174 (iii) Performance contracting;
175 (iv) Ongoing charter school oversight and
176 evaluation; and
177 (v) Charter renewal decision-making;

178 (b) Approving quality charter applications that meet
179 identified educational needs and promote a diversity of
180 educational choices;

181 (c) Declining to approve weak or inadequate charter
182 applications;

183 (d) Negotiating and executing charter contracts with
184 approved charter schools;

185 (e) Monitoring, in accordance with charter contract
186 terms, the performance and legal compliance of charter schools;

187 (f) Determining whether each charter contract merits
188 renewal, nonrenewal or revocation; and

189 (g) Applying for any federal funds that may be
190 available for the implementation of charter school programs.



191 (2) The authorizer shall carry out all its duties under this
192 chapter in a manner consistent with nationally recognized
193 principles and standards and with the spirit and intent of this
194 act.

195 (3) The authorizer may delegate its duties to the executive
196 director and general counsel.

197 (4) Regulation by the authorizer shall be limited to those
198 powers and duties prescribed in this section and all others
199 prescribed by law, consistent with the spirit and intent of this
200 chapter.

201 (5) Except in the case of gross negligence or reckless
202 disregard of the safety and well-being of another person, the
203 authorizer, members of the authorizer board in their official
204 capacity, and employees of the authorizer in their official
205 capacity are immune from civil liability with respect to all
206 activities related to a charter school approved by the authorizer.

207 **SECTION 4.** Section 37-28-11, Mississippi Code of 1972, is
208 brought forward as follows:

209 37-28-11. (1) To cover the costs of overseeing charter
210 schools in accordance with this chapter, the authorizer shall
211 receive three percent (3%) of annual per-pupil allocations
212 received by a charter school from state and local funds for each
213 charter school it authorizes.

214 (2) The authorizer may receive appropriate gifts, grants and
215 donations of any kind from any public or private entity to carry



216 out the purposes of this chapter, subject to all lawful terms and
217 conditions under which the gifts, grants or donations are given.

218 (3) The authorizer may expend its resources, seek grant
219 funds and establish partnerships to support its charter school
220 authorizing activities.

221 **SECTION 5.** Section 37-28-13, Mississippi Code of 1972, is
222 brought forward as follows:

223 37-28-13. (1) Upon request, the State Department of
224 Education shall assist the Mississippi Charter School Authorizer
225 Board with implementing the authorizer's decisions by providing
226 such technical assistance and information as may be necessary for
227 the implementation of this chapter.

228 (2) Before July 1 of each year, the authorizer shall publish
229 a pamphlet, which may be in electronic form, containing:

230 (a) All statutes in Title 37, Mississippi Code of 1972,
231 which are applicable to the charter schools;

232 (b) Any rules, regulations and policies adopted by the
233 State Superintendent of Public Education, the State Board of
234 Education or the State Department of Education with which charter
235 schools must comply by virtue of the applicability to charter
236 schools, as well as other public schools, of the state law to
237 which those relevant rules, regulations and policies pertain; and

238 (c) Any other state and federal laws and matters that
239 are relevant to the establishment and operation of charter schools
240 in the State of Mississippi.



241 The Mississippi Charter School Authorizer Board shall make
242 the pamphlet available to the public on the board's website and
243 shall notify all prospective applicants of the pamphlet.

244 **SECTION 6.** Section 37-28-15, Mississippi Code of 1972, is
245 brought forward as follows:

246 37-28-15. (1) To solicit, encourage and guide the
247 development of quality charter school applications, the authorizer
248 shall issue and publicize a request for proposals before September
249 1 of each year; however, during 2013, the authorizer shall issue
250 and publicize a request for proposals before December 1. The
251 content and dissemination of the request for proposals must be
252 consistent with the purposes and requirements of this chapter.

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

255 (3) The authorizer's request for proposals must include the
256 following:

257 (a) A clear statement of any preferences the authorizer
258 wishes to grant to applications intended to help underserved
259 students;

260 (b) A description of the performance framework that the
261 authorizer has developed for charter school oversight and
262 evaluation in accordance with Section 37-28-29;

263 (c) The criteria that will guide the authorizer's
264 decision to approve or deny a charter application; and



265 (d) A clear statement of appropriately detailed
266 questions, as well as guidelines, concerning the format and
267 content essential for applicants to demonstrate the capacities
268 necessary to establish and operate a successful charter school.

269 (4) In addition to all other requirements, the request for
270 proposals must require charter applications to provide or describe
271 thoroughly all of the following mandatory elements of the proposed
272 school plan:

273 (a) An executive summary;

274 (b) The mission and vision of the proposed charter
275 school, including identification of the targeted student
276 population and the community the school hopes to serve;

277 (c) The location or geographic area proposed for the
278 school;

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

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

283 (f) Evidence of need and community support for the
284 proposed charter school;

285 (g) Background information, including proof of United
286 States citizenship, on the applicants, the proposed founding
287 governing board members and, if identified, members of the
288 proposed school leadership and management team. The background
289 information must include annual student achievement data,



290 disaggregated by subgroup, for every school under the current or
291 prior management of each board member and leadership team member;

292 (h) The school's proposed calendar, including the
293 proposed opening and closing dates for the school term, and a
294 sample daily schedule. The school must be kept in session no less
295 than the minimum number of school days established for all public
296 schools in Section 37-13-63;

297 (i) A description of the school's academic program,
298 aligned with state standards;

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

303 (k) The school's plan for using internal and external
304 assessments to measure and report student progress on the
305 performance framework developed by the authorizer in accordance
306 with Section 37-28-29;

307 (l) The school's plan for identifying and successfully
308 serving students with disabilities (including all of the school's
309 proposed policies pursuant to the Individuals with Disabilities
310 Education Improvement Act of 2004, 20 USCS Section 1400 et seq.,
311 Section 504 of the Rehabilitation Act of 1973, 29 USCS Section
312 794, and Title 11 of the Americans with Disabilities Act, 42 USCS
313 Section 12101 et seq., and the school's procedures for securing
314 and providing evaluations and related services pursuant to federal



315 law), students who are English language learners, students who are
316 academically behind, and gifted students, including, but not
317 limited to, compliance with any applicable laws and regulations;

318 (m) A description of cocurricular or extracurricular
319 programs and how those programs will be funded and delivered;

320 (n) Plans and timelines for student recruitment and
321 enrollment, including lottery policies and procedures that ensure
322 that every student has an equal opportunity to be considered in
323 the lottery and that the lottery is equitable, randomized,
324 transparent and impartial so that students are accepted in a
325 charter school without regard to disability, income level, race,
326 religion or national origin;

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

329 (p) An organizational chart that clearly presents the
330 school's organizational structure, including lines of authority
331 and reporting between the governing board, education service
332 provider, staff, related bodies (such as advisory bodies or parent
333 and teacher councils), and all other external organizations that
334 will play a role in managing the school;

335 (q) A clear description of the roles and
336 responsibilities of the governing board, education service
337 provider, school leadership team, management team and all other
338 entities shown in the organizational chart;



- 339 (r) A staffing chart for the school's first year, and a
340 staffing plan for the term of the charter;
- 341 (s) Plans for recruiting and developing school
342 leadership and staff, which may not include utilization of
343 nonimmigrant foreign worker visa programs;
- 344 (t) The school's leadership and teacher employment
345 policies, including performance evaluation plans;
- 346 (u) Proposed governing bylaws;
- 347 (v) Explanations of any partnerships or contractual
348 relationships central to the school's operations or mission;
- 349 (w) The school's plans for providing transportation,
350 food service and all other significant operational or ancillary
351 services;
- 352 (x) Opportunities and expectations for parent
353 involvement;
- 354 (y) A detailed school start-up plan, identifying tasks,
355 timelines and responsible individuals;
- 356 (z) A description of the school's financial plans and
357 policies, including financial controls and audit requirements;
- 358 (aa) A description of the insurance coverage the school
359 will obtain;
- 360 (bb) Start-up and five-year budgets with clearly stated
361 assumptions;
- 362 (cc) Start-up and first-year cash flow projections with
363 clearly stated assumptions;



364 (dd) A disclosure of all sources of private funding and
365 all funds from foreign sources, including gifts from foreign
366 governments, foreign legal entities and domestic entities
367 affiliated with either foreign governments or foreign legal
368 entities. For the purposes of this paragraph, the term "foreign"
369 means a country or jurisdiction outside of any state or territory
370 of the United States;

371 (ee) Evidence of anticipated fundraising contributions,
372 if claimed in the application; and

373 (ff) A sound facilities plan, including backup or
374 contingency plans if appropriate.

375 (5) In the case of an application to establish a charter
376 school by converting an existing noncharter public school to
377 charter school status, the request for proposals additionally
378 shall require the applicant to demonstrate support for the
379 proposed charter school conversion by a petition signed by a
380 majority of teachers or a majority of parents of students in the
381 existing noncharter public school, or by a majority vote of the
382 local school board or, in the case of schools in districts under
383 state conservatorship, by the State Board of Education.

384 (6) In the case of a proposed charter school that intends to
385 contract with an education service provider for substantial
386 educational services, management services or both types of
387 services, the request for proposals additionally shall require the
388 applicant to:



389 (a) Provide evidence of the education service
390 provider's success in serving student populations similar to the
391 targeted population, including demonstrated academic achievement
392 as well as successful management of nonacademic school functions,
393 if applicable;

394 (b) Provide a term sheet setting forth: the proposed
395 duration of the service contract; roles and responsibilities of
396 the governing board, the school staff and the education service
397 provider; the scope of services and resources to be provided by
398 the education service provider; performance evaluation measures
399 and timelines; the compensation structure, including clear
400 identification of all fees to be paid to the education service
401 provider; methods of contract oversight and enforcement;
402 investment disclosure; and conditions for renewal and termination
403 of the contract;

404 (c) Disclose and explain any existing or potential
405 conflicts of interest between the school governing board and
406 proposed service provider or any affiliated business entities; and

407 (d) Background information, including proof of United
408 States citizenship, on the principal individuals affiliated with
409 the education service provider.

410 (7) In the case of a charter school proposal from an
411 applicant that currently operates one or more schools in any state
412 or nation, the request for proposals additionally shall require
413 the applicant to provide evidence of past performance and current



414 capacity for growth. The applicant shall be required to submit
415 clear evidence that it has produced statistically significant
416 gains in student achievement or consistently produced proficiency
417 levels as measured on state achievement tests.

418 **SECTION 7.** Section 37-28-19, Mississippi Code of 1972, is
419 brought forward as follows:

420 37-28-19. (1) In reviewing and evaluating charter
421 applications, the authorizer shall employ procedures, practices
422 and criteria consistent with nationally recognized principles and
423 standards for quality charter authorizing. The application review
424 process must include thorough evaluation of each written charter
425 application and in-person interview with the applicant group.

426 (2) In deciding whether to approve charter applications, the
427 authorizer must:

428 (a) Grant charters only to applicants that have
429 provided evidence of competence in each element of the
430 authorizer's published approval criteria, and in the case of an
431 applicant that currently operates one or more schools in any state
432 or nation, clear evidence that the management or leadership team
433 of the charter school or schools currently operated by the
434 applicant has produced statistically significant gains in student
435 achievement or consistently produced proficiency levels as
436 measured on state achievement test;

437 (b) Base decisions on documented evidence collected
438 through the application review process; and



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

442 (3) Before the expiration of one hundred eighty (180) days
443 after the filing of a charter application, the authorizer must
444 approve or deny the charter application; however, an application
445 submitted by a public historically black college or university
446 (HBCU), in partnership with a national nonprofit public HBCU
447 support organization, for a charter school to be operated on or
448 near the campus of the HBCU must be considered for expedited
449 approval by the authorizer. The authorizer shall adopt by
450 resolution all charter approval or denial decisions in an open
451 meeting of the authorizer board.

452 (4) An approval decision may include, if appropriate,
453 reasonable conditions that the charter applicant must meet before
454 a charter contract may be executed pursuant to Section 37-28-21.

455 (5) For a charter denial, the authorizer shall state
456 clearly, for public record, its reasons for denial. A denied
457 applicant may reapply subsequently with the authorizer.

458 (6) Before the expiration of ten (10) days after taking
459 action to approve or deny a charter application, the authorizer
460 shall provide a report to the applicant. The report must include
461 a copy of the authorizer's resolution setting forth the action
462 taken and reasons for the decision and assurances as to compliance



463 with all of the procedural requirements and application elements
464 set forth in this chapter.

465 **SECTION 8.** Section 37-28-21, Mississippi Code of 1972, is
466 brought forward as follows:

467 37-28-21. (1) The authorizer shall grant an initial charter
468 to each qualified applicant for a term of five (5) operating
469 years. The term of the charter shall commence on the charter
470 school's first day of operation. An approved charter school may
471 delay its opening for one (1) school year in order to plan and
472 prepare for the school's opening. If the school requires an
473 opening delay of more than one (1) school year, the school must
474 request an extension from the authorizer. The authorizer may
475 grant or deny the extension depending on the particular school's
476 circumstances.

477 (2) (a) The authorizer and the governing board of the
478 approved charter school shall execute a charter contract that
479 clearly sets forth the academic and operational performance
480 expectations and measures by which the charter school will be
481 judged and the administrative relationship between the authorizer
482 and charter school, including each party's rights and duties. The
483 performance expectations and measures set forth in the charter
484 contract must include, but need not be limited to, applicable
485 federal and state accountability requirements. The performance
486 provisions may be refined or amended by mutual agreement after the



487 charter school is operating and has collected baseline achievement
488 data for its enrolled students.

489 (b) The charter contract must be signed by the chairman
490 of the authorizer board and the president of the charter school's
491 governing board.

492 (c) A charter school may not commence operations
493 without a charter contract executed in accordance with this
494 section and approved in an open meeting of the authorizer board.

495 (3) The authorizer may establish reasonable preopening
496 requirements or conditions to monitor the start-up progress of a
497 newly approved charter school and to ensure that the school is
498 prepared to open smoothly on the date agreed and that the school
499 meets all building, health, safety, insurance and other legal
500 requirements before the school's opening.

501 **SECTION 9.** Section 37-28-23, Mississippi Code of 1972, is
502 brought forward as follows:

503 37-28-23. (1) A charter school must be open to:

504 (a) Any student residing in the geographical boundaries
505 of the school district in which the charter school is located; and

506 (b) Any student who resides in the geographical
507 boundaries of a school district that was rated "C," "D" or "F" at
508 the time the charter school was approved by the authorizer board,
509 or who resides in the geographical boundaries of a school district
510 rated "C," or "D" or "F" at the time the student enrolls.



511 (2) A school district may not require any student enrolled
512 in the school district to attend a charter school.

513 (3) Except as otherwise provided under subsection (8)(d) of
514 this section, a charter school may not limit admission based on
515 ethnicity, national origin, religion, gender, income level,
516 disabling condition, proficiency in the English language, or
517 academic or athletic ability.

518 (4) A charter school may limit admission to students within
519 a given age group or grade level, including pre-kindergarten
520 students, and may be organized around a special emphasis, theme or
521 concept as stated in the school's application.

522 (5) The underserved student composition of a charter
523 school's enrollment collectively must reflect that of students of
524 all ages attending the school district in which the charter school
525 is located, to be defined for the purposes of this chapter as
526 being at least eighty percent (80%) of that population. If the
527 underserved student composition of an applicant's or charter
528 school's enrollment is less than eighty percent (80%) of the
529 enrollment of students of all ages in the school district in which
530 the charter school is located, despite the school's best efforts,
531 the authorizer must consider the applicant's or charter school's
532 recruitment efforts and the underserved student composition of the
533 applicant pool in determining whether the applicant or charter
534 school is operating in a nondiscriminatory manner. A finding by



535 the authorizer that a charter school is operating in a
536 discriminatory manner justifies the revocation of a charter.

537 (6) A charter school must enroll all students who wish to
538 attend the school unless the number of students exceeds the
539 capacity of a program, class, grade level or building.

540 (7) If capacity is insufficient to enroll all students who
541 wish to attend the school based on initial application, the
542 charter school must select students through a lottery.

543 (8) (a) Any noncharter public school or part of a
544 noncharter public school converting to a charter school shall
545 adopt and maintain a policy giving an enrollment preference to
546 students who reside within the former attendance area of that
547 public school. If the charter school has excess capacity after
548 enrolling students residing within the former attendance area of
549 the school, students outside of the former attendance area of the
550 school, but within the geographical boundaries of the school
551 district in which the charter school is located, are eligible for
552 enrollment. If the number of students applying for admission
553 exceeds the capacity of a program, class, grade level or building
554 of the charter school, the charter school must admit students on
555 the basis of a lottery.

556 (b) A charter school must give an enrollment preference
557 to students enrolled in the charter school during the preceding
558 school year and to siblings of students already enrolled in the



559 charter school. An enrollment preference for returning students
560 excludes those students from entering into a lottery.

561 (c) A charter school may give an enrollment preference
562 to children of the charter school's applicant, governing board
563 members and full-time employees, so long as those children
564 constitute no more than ten percent (10%) of the charter school's
565 total student population.

566 (d) A charter school shall give an enrollment
567 preference to underserved children as defined in Section 37-28-5
568 to ensure the charter school meets its required underserved
569 student composition.

570 (e) This section does not preclude the formation of a
571 charter school whose mission is focused on serving students with
572 disabilities, students of the same gender, students who pose such
573 severe disciplinary problems that they warrant a specific
574 educational program, or students who are at risk of academic
575 failure. If capacity is insufficient to enroll all students who
576 wish to attend the school, the charter school must select students
577 through a lottery.

578 **SECTION 10.** Section 37-28-29, Mississippi Code of 1972, is
579 brought forward as follows:

580 37-28-29. (1) The performance provisions within a charter
581 contract must be based on a performance framework that clearly
582 sets forth the academic and operational performance indicators,
583 measures and metrics that will guide the authorizer's evaluations



584 of the charter school. The performance framework must include
585 indicators, measures and metrics, at a minimum, for the following:

586 (a) Student academic proficiency;

587 (b) Student academic growth;

588 (c) Achievement gaps in both proficiency and growth
589 between major student subgroups;

590 (d) Attendance;

591 (e) Recurrent enrollment from year to year;

592 (f) In-school and out-of-school suspension rates and
593 expulsion rates;

594 (g) For charter high schools, postsecondary readiness,
595 including the percentage of graduates submitting applications to
596 postsecondary institutions, high school completion, postsecondary
597 admission and postsecondary enrollment or employment;

598 (h) Financial performance and sustainability; and

599 (i) Board performance and stewardship, including
600 compliance with all applicable laws, regulations and terms of the
601 charter contract.

602 (2) The charter contract of each charter school serving
603 Grades 9-12 must include a provision ensuring that graduation
604 requirements meet or exceed those set by the Mississippi
605 Department of Education for a regular high school diploma.
606 Nothing in this section shall preclude competency-based
607 satisfaction of graduation requirements.



608 (3) Annual performance targets must be set by each charter
609 school in conjunction with the authorizer and must be designed to
610 help each school meet applicable federal, state and authorizer
611 expectations.

612 (4) The performance framework must allow the inclusion of
613 additional rigorous, valid and reliable indicators proposed by a
614 charter school to augment external evaluations of its performance;
615 however, the authorizer must approve the quality and rigor of any
616 indicators proposed by a charter school, which indicators must be
617 consistent with the purposes of this chapter.

618 (5) The performance framework must require the
619 disaggregation of all student performance data by major student
620 subgroups (gender, race, poverty status, special education status,
621 English learner status and gifted status).

622 (6) The authorizer shall collect, analyze and report all
623 data from state assessments in accordance with the performance
624 framework for each charter school. Multiple schools overseen by a
625 single governing board must report their performance as separate,
626 individual schools, and each school must be held independently
627 accountable for its performance.

628 (7) Information needed by the authorizer from the charter
629 school governing board for the authorizer's reports must be
630 required and included as a material part of the charter contract.

631 **SECTION 11.** Section 37-28-33, Mississippi Code of 1972, is
632 brought forward as follows:



633 37-28-33. (1) A charter may be renewed for successive
634 five-year terms of duration. The authorizer may grant renewal
635 with specific conditions for necessary improvements to a charter
636 school and may lessen the renewal term based on the performance,
637 demonstrated capacities and particular circumstances of each
638 charter school.

639 (2) Before September 30, the authorizer shall issue a
640 charter school performance report and charter renewal application
641 guidance to any charter school whose charter will expire the
642 following year. The performance report must summarize the charter
643 school's performance record to date, based on the data required by
644 this chapter and the charter contract, and must provide notice of
645 any weaknesses or concerns perceived by the authorizer which may
646 jeopardize the charter school's position in seeking renewal if not
647 timely rectified. The charter school must respond and submit any
648 corrections or clarifications for the performance report within
649 ninety (90) days after receiving the report.

650 (3) The charter renewal application guidance must provide,
651 at a minimum, an opportunity for the charter school to:

652 (a) Present additional evidence, beyond the data
653 contained in the performance report, supporting its case for
654 charter renewal;

655 (b) Describe improvements undertaken or planned for the
656 school; and



657 (c) Detail the school's plans for the next charter
658 term.

659 (4) The charter renewal application guidance must include or
660 refer explicitly to the criteria that will guide the authorizer's
661 renewal decision, which must be based on the performance framework
662 set forth in the charter contract and consistent with this
663 chapter.

664 (5) Before February 1, the governing board of a charter
665 school seeking renewal shall submit a renewal application to the
666 authorizer pursuant to the charter renewal application guidance
667 issued by the authorizer. The authorizer shall adopt a resolution
668 ruling on the renewal application no later than ninety (90) days
669 after the filing of the renewal application.

670 (6) In making each charter renewal decision, the authorizer
671 must:

672 (a) Ground its decision in evidence of the school's
673 performance over the term of the charter contract in accordance
674 with the performance framework set forth in the charter contract;

675 (b) Ensure that data used in making the renewal
676 decision is available to the school and the public; and

677 (c) Provide a public report summarizing the evidence
678 that is the basis for the renewal decision.

679 (7) A charter contract must be revoked at any time or not
680 renewed if the authorizer determines that the charter school has



681 done any of the following or otherwise failed to comply with the
682 provisions of this chapter:

683 (a) Committed a material and substantial violation of
684 any of the terms, conditions, standards or procedures required
685 under this chapter or the charter contract;

686 (b) Failed to meet or make sufficient progress toward
687 the performance expectations set forth in the charter contract;

688 (c) Failed to meet generally accepted standards of
689 fiscal management; or

690 (d) Substantially violated any material provision of
691 law which is applicable to the charter school.

692 (8) The authorizer shall develop revocation and nonrenewal
693 processes that:

694 (a) Provide the governing board of a charter school
695 with a timely notification of the prospect of revocation or
696 nonrenewal and of the reasons for such possible closure;

697 (b) Allow the governing board a reasonable amount of
698 time in which to prepare a response;

699 (c) Provide the governing board with an opportunity to
700 submit documents and give testimony challenging the rationale for
701 closure and in support of the continuation of the school at an
702 orderly proceeding held for that purpose;

703 (d) Allow the governing board access to representation
704 by counsel and to call witnesses on the school's behalf;

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



706 (f) After a reasonable period for deliberation, require
707 a final determination to be made and conveyed in writing to the
708 governing board.

709 (9) Notwithstanding any provision to the contrary, the
710 authorizer may not renew the charter of any charter school that,
711 during the school's final operating year under the term of the
712 charter contract, is designated an "F" school under the school
713 accreditation rating system.

714 (10) If the authorizer revokes or does not renew a charter,
715 the authorizer must state clearly, in a resolution of adopted by
716 the authorizer board, the reasons for the revocation or
717 nonrenewal.

718 (11) Within ten (10) days after taking action to renew, not
719 renew or revoke a charter, the authorizer shall provide a report
720 to the charter school. The report must include a copy of the
721 authorizer board's resolution setting forth the action taken,
722 reasons for the board's decision and assurances as to compliance
723 with all of the requirements set forth in this chapter.

724 **SECTION 12.** Section 37-28-37, Mississippi Code of 1972, is
725 brought forward as follows:

726 37-28-37. (1) Before October 1 of each year, beginning in
727 the year that the state has had at least one (1) charter school
728 operating for a full school year, the Mississippi Charter School
729 Authorizer Board shall issue to the Governor, Legislature, State
730 Board of Education and the public an annual report on the state's



731 charter schools for the preceding school year. The report must
732 include a comparison of the performance of charter school students
733 with the performance of academically, ethnically and economically
734 comparable groups of students in the school district in which a
735 charter school is located. In addition, the report must include
736 the authorizer's assessment of the successes, challenges and areas
737 for improvement in meeting the purposes of this chapter. The
738 report also must include an assessment on whether the number and
739 size of operating charter schools are sufficient to meet demand,
740 as calculated according to admissions data and the number of
741 students denied enrollment based on lottery results. The report
742 due from the authorizer under this section must be coordinated
743 with reports due from charter school governing boards, as near as
744 possible, to decrease or eliminate duplication.

745 (2) The Joint Legislative Committee on Performance
746 Evaluation and Expenditure Review (PEER) shall prepare an annual
747 report assessing the sufficiency of funding for charter schools,
748 the efficacy of the state formula for authorizer funding, and any
749 suggested changes in state law or policy necessary to strengthen
750 the state's charter schools.

751 **SECTION 13.** Section 37-28-47, Mississippi Code of 1972, is
752 brought forward as follows:

753 37-28-47. (1) (a) Charter schools must comply with
754 applicable federal laws, rules and regulations regarding the
755 qualification of teachers and other instructional staff. No more



756 than twenty-five percent (25%) of teachers in a charter school may
757 be exempt from state teacher licensure requirements.
758 Administrators of charter schools are exempt from state
759 administrator licensure requirements. However, teachers and
760 administrators must have a bachelor's degree as a minimum
761 requirement, and teachers must have demonstrated subject-matter
762 competency. Within three (3) years of a teacher's employment by a
763 charter school, the teacher must have, at a minimum, alternative
764 licensure approved by the Commission on Teacher and Administrator
765 Education, Certification and Licensure and Development.

766 (b) A charter school may not staff positions for
767 teachers, administrators, ancillary support personnel or other
768 employees by utilizing or otherwise relying on nonimmigrant
769 foreign worker visa programs. However, a charter school may
770 submit a request to the authorizer for an exception allowing the
771 employment of a nonimmigrant foreign worker before the worker is
772 employed. The authorizer may grant permission for the employment
773 of the nonimmigrant foreign worker only if the charter school
774 makes a satisfactory showing of efforts to recruit lawful
775 permanent residents of the United States to fill the position and
776 a lack of qualified applicants to fill the position.

777 (2) Employees in charter schools must have the same general
778 rights and privileges as other public school employees, except
779 such employees are not:



780 (a) Covered under the Education Employment Procedures
781 Law (Section 37-9-103); and

782 (b) Subject to the state salary requirements prescribed
783 in Section 37-19-7.

784 (3) For the purpose of eligibility for participation in the
785 Public Employees' Retirement System, a public charter school is
786 considered to be a political subdivision of the state. Employees
787 in public charter schools are eligible for participation in other
788 benefits programs if the public charter school governing board
789 chooses to participate.

790 **SECTION 14.** Section 37-28-49, Mississippi Code of 1972, is
791 brought forward as follows:

792 37-28-49. (1) Charter school teachers and other school
793 personnel, as well as members of the governing board and any
794 education service provider with whom a charter school contracts,
795 are subject to criminal history record checks and fingerprinting
796 requirements applicable to employees of other public schools. The
797 authorizer shall require that current criminal records background
798 checks and current child abuse registry checks are obtained, and
799 that the criminal record information and registry checks are on
800 file at the charter school for any new hires applying for
801 employment. In order to determine an applicant's suitability for
802 employment, the applicant must be fingerprinted. If no
803 disqualifying record is identified at the state level, the
804 fingerprints must be forwarded by the Department of Public Safety



805 to the Federal Bureau of Investigation for a national criminal
806 history record check. Under no circumstances may a member of the
807 Mississippi Charter School Authorizer Board, member of the charter
808 school governing board or any individual other than the subject of
809 the criminal history record checks disseminate information
810 received through the checks except as may be required to fulfill
811 the purposes of this section. The determination whether the
812 applicant has a disqualifying crime, as set forth in subsection
813 (2) of this section, must be made by the appropriate state or
814 federal governmental authority, which must notify the charter
815 school whether a disqualifying crime exists.

816 (2) If the fingerprinting or criminal record checks disclose
817 a felony conviction, guilty plea or plea of nolo contendere to a
818 felony of possession or sale of drugs, murder, manslaughter, armed
819 robbery, rape, sexual battery, sex offense listed in Section
820 45-33-23(g), child abuse, arson, grand larceny, burglary,
821 gratification of lust or aggravated assault which has not been
822 reversed on appeal or for which a pardon has not been granted, the
823 new hire is not eligible to be employed at the charter school.
824 However, the charter school, in its discretion, may allow any
825 applicant aggrieved by the employment decision under this section
826 to show mitigating circumstances that exist and may allow, subject
827 to the approval of the Mississippi Charter School Authorizer
828 Board, the new hire to be employed at the school. The authorizer
829 may approve the employment depending on the mitigating



830 circumstances, which may include, but need not be limited to: (a)
831 age at which the crime was committed; (b) circumstances
832 surrounding the crime; (c) length of time since the conviction and
833 criminal history since the conviction; (d) work history; (e)
834 current employment and character references; and (f) other
835 evidence demonstrating the ability of the person to perform the
836 employment responsibilities competently and that the person does
837 not pose a threat to the health or safety of children.

838 (3) No charter school, charter school employee, member of
839 the charter school governing board, the Mississippi Charter School
840 Authorizer Board or member or employee of the Mississippi Charter
841 School Authorizer Board employee may be held liable in any
842 employment discrimination suit in which an allegation of
843 discrimination is made regarding an employment decision authorized
844 under this section.

845 (4) A charter school shall terminate any teacher or
846 administrator for committing one or more of the following acts:

847 (a) Engaging in unethical conduct relating to an
848 educator-student relationship as identified by the Mississippi
849 Charter School Authorizer Board;

850 (b) Fondling a student as described in Section 97-5-23
851 or engaging in any type of sexual involvement with a student as
852 described in Section 97-3-95; or

853 (c) Failure to report sexual involvement of a charter
854 school employee with a student as required by Section 97-5-24.



855 **SECTION 15.** Section 37-28-55, Mississippi Code of 1972, is
856 brought forward as follows:

857 37-28-55. (1) (a) The State Department of Education shall
858 make payments to charter schools for each student in average daily
859 attendance at the charter school equal to the state share of the
860 adequate education program payments for each student in average
861 daily attendance at the school district in which the charter
862 school is located. In calculating the local contribution for
863 purposes of determining the state share of the adequate education
864 program payments, the department shall deduct the pro rata local
865 contribution of the school district in which the student resides,
866 to be determined as provided in Section 37-151-7(2) (a).

867 (b) Payments made pursuant to this subsection by the
868 State Department of Education must be made at the same time and in
869 the same manner as adequate education program payments are made to
870 school districts under Sections 37-151-101 and 37-151-103.
871 Amounts payable to a charter school must be determined by the
872 State Department of Education. Amounts payable to a charter
873 school over its charter term must be based on the enrollment
874 projections set forth over the term of the charter contract. Such
875 projections must be reconciled with the average daily attendance
876 using months two (2) and three (3) ADA for the current year for
877 which adequate education program funds are being appropriated and
878 any necessary adjustments must be made to payments during the
879 school's following year of operation.



880 (2) For students attending a charter school located in the
881 school district in which the student resides, the school district
882 in which a charter school is located shall pay directly to the
883 charter school an amount for each student enrolled in the charter
884 school equal to the ad valorem tax receipts and in-lieu payments
885 received per pupil for the support of the local school district in
886 which the student resides. The pro rata ad valorem receipts and
887 in-lieu receipts to be transferred to the charter school shall
888 include all levies for the support of the local school district
889 under Sections 37-57-1 (local contribution to the adequate
890 education program) and 37-57-105 (school district operational
891 levy) and may not include any taxes levied for the retirement of
892 the local school district's bonded indebtedness or short-term
893 notes or any taxes levied for the support of vocational-technical
894 education programs. The amount of funds payable to the charter
895 school by the school district must be based on the previous year's
896 enrollment data and ad valorem receipts and in-lieu receipts of
897 the local school district in which the student resides. The pro
898 rata amount must be calculated by dividing the local school
899 district's months one (1) through nine (9) average daily
900 membership into the total amount of ad valorem receipts and
901 in-lieu receipts, as reported to the State Department of Education
902 by the local school district. The local school district shall pay
903 an amount equal to this pro rata amount multiplied by the number
904 of students enrolled in the charter school, based on the charter



905 school's end of first month enrollment for the current school
906 year. The amount must be paid by the school district to the
907 charter school before January 16 of the current fiscal year. If
908 the local school district does not pay the required amount to the
909 charter school before January 16, the State Department of
910 Education shall reduce the local school district's January
911 transfer of Mississippi Adequate Education Program funds by the
912 amount owed to the charter school and shall redirect that amount
913 to the charter school. Any such payments made under this
914 subsection (2) by the State Department of Education to a charter
915 school must be made at the same time and in the same manner as
916 adequate education program payments are made to school districts
917 under Sections 37-151-101 and 37-151-103.

918 (3) For students attending a charter school located in a
919 school district in which the student does not reside, the State
920 Department of Education shall pay to the charter school in which
921 the student is enrolled an amount as follows: the pro rata ad
922 valorem receipts and in-lieu payments per pupil for the support of
923 the local school district in which the student resides under
924 Sections 37-57-1 (local contribution to the adequate education
925 program) and 37-57-105 (school district operational levy),
926 however, not including any taxes levied for the retirement of the
927 local school district's bonded indebtedness or short-term notes or
928 any taxes levied for the support of vocational-technical education
929 programs. The amount of funds payable to the charter school by



930 the school district must be based on the previous year's
931 enrollment data and ad valorem receipts and in-lieu receipts of
932 the local school district in which the student resides. The pro
933 rata amount must be calculated by dividing the local school
934 district's months one (1) through nine (9) average daily
935 membership into the total amount of ad valorem receipts and
936 in-lieu receipts, as reported to the State Department of Education
937 by the transferor local school district. The payable amount shall
938 be equal to this pro rata amount multiplied by the number of
939 students enrolled in the charter school, based on the charter
940 school's end of first month enrollment for the current school
941 year. The State Department of Education shall reduce the school
942 district's January transfer of Mississippi Adequate Education
943 Program funds by the amount owed to the charter school and shall
944 redirect that amount to the charter school. Any such payments
945 made under this subsection (3) by the State Department of
946 Education to a charter school must be made at the same time and in
947 the same manner as adequate education program payments are made to
948 school districts under Sections 37-151-101 and 37-151-103.

949 (4) (a) The State Department of Education shall direct the
950 proportionate share of monies generated under federal and state
951 categorical aid programs, including special education, vocational,
952 gifted and alternative school programs, to charter schools serving
953 students eligible for such aid. The department shall ensure that
954 charter schools with rapidly expanding enrollments are treated



955 equitably in the calculation and disbursement of all federal and
956 state categorical aid program dollars. Each charter school that
957 serves students who may be eligible to receive services provided
958 through such programs shall comply with all reporting requirements
959 to receive the aid.

960 (b) A charter school shall pay to a local school
961 district any federal or state aid attributable to a student with a
962 disability attending the charter school in proportion to the level
963 of services for that student which the local school district
964 provides directly or indirectly.

965 (c) Subject to the approval of the authorizer, a
966 charter school and a local school district may negotiate and enter
967 into a contract for the provision of and payment for special
968 education services, including, but not necessarily limited to, a
969 reasonable reserve not to exceed five percent (5%) of the local
970 school district's total budget for providing special education
971 services. The reserve may be used by the local school district
972 only to offset excess costs of providing services to students with
973 disabilities enrolled in the charter school.

974 (5) (a) The State Department of Education shall disburse
975 state transportation funding to a charter school on the same basis
976 and in the same manner as it is paid to school districts under the
977 adequate education program.



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

981 **SECTION 16.** Section 37-28-57, Mississippi Code of 1972, is
982 brought forward as follows:

983 37-28-57. (1) A charter school must adhere to generally
984 accepted accounting principles.

985 (2) A charter school shall have its financial records
986 audited annually, at the end of each fiscal year, either by the
987 State Auditor or by a certified public accountant approved by the
988 State Auditor. However, a certified public accountant may not be
989 selected to perform the annual audit of a charter school if that
990 accountant previously has audited the charter school for more than
991 three (3) consecutive years. Certified public accountants must be
992 selected in a manner determined by the State Auditor. The charter
993 school shall file a copy of each audit report and accompanying
994 management letter with the authorizer before October 1.

995 **SECTION 17.** This act shall take effect and be in force from
996 and after July 1, 2023, and shall stand repealed on June 30, 2023.

