

By: Senator(s) Tollison

To: Education

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2189

1 AN ACT ENTITLED THE "MISSISSIPPI PUBLIC CHARTER SCHOOLS ACT  
2 OF 2013"; TO DECLARE THE LEGISLATIVE PURPOSE OF THE PUBLIC CHARTER  
3 SCHOOLS ACT; TO PROHIBIT CONVERSION OF PRIVATE OR PAROCHIAL  
4 SCHOOLS TO PUBLIC CHARTER SCHOOLS; TO PROVIDE DEFINITIONS; TO  
5 PROVIDE OPEN ENROLLMENT AND LOTTERY REQUIREMENTS FOR PUBLIC  
6 CHARTER SCHOOLS; TO PROVIDE PREFERENCES FOR STUDENT ENROLLMENT IN  
7 THE CASE OF A CONVERSION CHARTER SCHOOL AND FOR SCHOOLS SERVING  
8 SPECIAL 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 SCHOOL AUTHORIZING BOARD AND PRESCRIBE  
12 ITS MEMBERSHIP; TO PROVIDE FOR AN EXECUTIVE DIRECTOR OF THE  
13 MISSISSIPPI PUBLIC CHARTER SCHOOL AUTHORIZING 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 37-151-5, 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 LOCAL SCHOOL DISTRICT TO  
43 THE 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 AMEND SECTION  
53 37-15-29, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE AUTOMATIC  
54 TRANSFER OF STUDENTS ATTENDING PUBLIC CHARTER SCHOOLS FROM THE  
55 SCHOOLS OF THE STUDENT'S HOME DISTRICT; TO AMEND SECTION  
56 25-11-103, MISSISSIPPI CODE OF 1972, TO INCLUDE PUBLIC CHARTER  
57 SCHOOLS IN THE DEFINITION OF POLITICAL SUBDIVISION FOR PURPOSES OF  
58 THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO REPEAL SECTIONS  
59 37-165-1 THROUGH 37-165-27, MISSISSIPPI CODE OF 1972, WHICH ARE  
60 THE "CONVERSION CHARTER SCHOOL ACT OF 2010," AND SECTION 37-167-1,  
61 MISSISSIPPI CODE OF 1972, WHICH IS THE NEW START SCHOOL PROGRAM;  
62 AND FOR RELATED PURPOSES.

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

64 **SECTION 1. Short title.** This act shall be known and may be  
65 cited as the "Mississippi Public Charter Schools Act of 2013."

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

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

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



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

76 (d) To create new professional opportunities for  
77 teachers, school administrators, and other school personnel that  
78 allow them to have a direct voice in the operation of their  
79 schools;

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

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

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

88 (h) To encourage the replication of successful public  
89 charter schools.

90 (2) All public charter schools in the state established  
91 under this act are public schools and are part of the state's  
92 public education system.

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

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



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

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

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

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

112           (e) A "conversion public charter school" means a  
113 charter school that existed as a noncharter public school before  
114 becoming a public charter school.

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



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

124 (h) A "local school board" means a school board  
125 exercising management and control of a local school district  
126 pursuant to state statutes.

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

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

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

135 (l) A "public charter school" means a public school  
136 that:

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

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

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



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

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

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

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

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

159 (m) A "start-up public charter school" means a public  
160 charter school that did not exist as a noncharter public school.  
161 Private schools or affiliated private school groups may not form a  
162 start-up public charter school.

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

165 (o) An "underserved student" means a student who has an  
166 economic or academic disadvantage that requires special services  
167 and assistance to succeed in educational programs. The term  
168 includes, but is not necessarily limited to, students who are  
169 members of economically disadvantaged families, students who are



170 identified as having special educational needs, students who are  
171 limited in English proficiency, and students who do not meet  
172 minimum standards of academic proficiency.

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

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

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

179                 (c) A public charter school shall not limit admission  
180 based on ethnicity, national origin, religion, gender, income  
181 level, disabling condition, proficiency in the English language,  
182 or academic or athletic ability, except as provided in subsection  
183 (2)(d) of this section.

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

188                 (e) The underserved student composition of the charter  
189 school enrollment shall collectively reflect that of students of  
190 all school ages attending the school district in which the charter  
191 school is located, to be defined for the purposes of this act as  
192 being at least eighty percent (80%) of that population. In the  
193 event that the underserved student composition of an applicant's  
194 or charter school's enrollment is less than eighty percent (80%)



195 of the enrollment of students of all school ages in the school  
196 district in which the charter school is located, despite its best  
197 efforts, the authorizer shall consider the charter school's  
198 recruitment efforts and the underserved student composition of the  
199 applicant pool in determining whether the charter school is  
200 operating in a nondiscriminatory manner. A finding by the  
201 authorizer that the charter school is operating in a  
202 discriminatory manner justifies the revocation of a charter.

203 (f) A public charter school shall enroll all students  
204 who wish to attend the school, unless the number of students  
205 exceeds the capacity of a program, class, grade level, or  
206 building.

207 (g) If capacity is insufficient to enroll all students  
208 who wish to attend the school based on initial application, the  
209 public charter school shall select students through a lottery.  
210 Charter schools are not permitted to seek demographic information  
211 from a student applicant prior to the student being admitted to  
212 the charter school.

213 (2) Enrollment preferences.

214 (a) Any noncharter public school converting partially  
215 or entirely to a public charter school shall adopt and maintain a  
216 policy giving enrollment preference to students who reside within  
217 the former attendance area of that public school. If the charter  
218 school has excess capacity after enrolling students residing  
219 within the former attendance area of the school, students outside



220 of the former attendance area of the school shall be eligible for  
221 enrollment. If the number of these additional students exceeds  
222 the capacity of a program, class, grade level, or building, the  
223 students will be entered into a lottery.

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

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

235 (d) This section does not preclude the formation of a  
236 public charter school whose mission is focused on serving students  
237 with disabilities, students of the same gender, students who pose  
238 such severe disciplinary problems that they warrant a specific  
239 educational program, or students who are at risk of academic  
240 failure. If capacity is insufficient to enroll all students who  
241 wish to attend such school, the public charter school shall select  
242 students through a lottery.

243 (3) Credit transferability. If a student who was previously  
244 enrolled in a public charter school enrolls in another public



245 school in this state, the student's new school shall accept  
246 credits earned by the student in courses or instructional programs  
247 at the public charter school in a uniform and consistent manner  
248 and according to the same criteria that are used to accept  
249 academic credits from other public schools.

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

256 **SECTION 5. Authorizer.** (1) (a) The Mississippi Public  
257 Charter School Authorizing Board created under subsection (2) of  
258 this section may authorize public charter schools in any county or  
259 municipality in the State of Mississippi.

260 (b) In school districts with an "A" or "B" rating at  
261 the time of application, the Mississippi Public Charter School  
262 Authorizing Board may authorize public charter schools only if a  
263 majority of the members of the local school board votes at a  
264 public meeting to endorse the application.

265 (2) The Mississippi Public Charter School Authorizing Board.

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



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

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

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



295 (e) To establish staggered terms of office, the initial  
296 term of office for the three (3) Mississippi Public Charter School  
297 Authorizing Board members appointed by the Governor shall be four  
298 (4) years and thereafter shall be three (3) years; the initial  
299 term of office for the three (3) members appointed by the  
300 Lieutenant Governor shall be three (3) years and thereafter shall  
301 be three (3) years; and the initial term of office for the member  
302 appointed by the State Superintendent of Education shall be two  
303 (2) years and thereafter shall be three (3) years. No appointed  
304 member shall serve more than two (2) consecutive terms. The  
305 initial appointments shall be made no later than September 1,  
306 2013.

307 (f) The authorizing board shall meet as soon as  
308 practical after a majority of the board has been confirmed by the  
309 Senate, upon the call of the Governor, and shall organize for  
310 business by selecting a chairman and adopting rules for the  
311 organization and operation of the board and to develop, implement  
312 and refine its procedures for authorizing public charter schools.  
313 Subsequent meetings shall be called by the chairman.

314 (g) A member of the Mississippi Public Charter School  
315 Authorizing Board may be removed by its original appointing  
316 authority for any cause that renders the member incapable or unfit  
317 to discharge the duties of the office. Whenever a vacancy on the  
318 Mississippi Public Charter School Authorizing Board exists, the



319 original appointing authority shall appoint a member for the  
320 remaining portion of the term.

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

327 (i) The Mississippi Public Charter School Authorizing  
328 Board shall appoint an executive director to serve at the  
329 discretion of the authorizer with qualifications established by  
330 the authorizer based on national best practices.

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

338 (4) Authorizer powers, duties and liabilities.

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

342 (i) Soliciting and evaluating charter  
343 applications;



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

347 (iii) Declining to approve weak or inadequate  
348 charter applications;

349 (iv) Negotiating and executing sound charter  
350 contracts with each approved public charter school;

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

354 (vi) Determining whether each charter contract  
355 merits renewal, nonrenewal or revocation.

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

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

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



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

381           (6) Authorizer funding.

382                 (a) To cover costs for overseeing a public charter  
383 school in accordance with this act, the authorizer shall receive  
384 from the State Department of Education three percent (3%) of  
385 annual per-pupil allocations received by a public charter school  
386 from state and local funds.

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

390           (7) Conflicts of interest. No employee, trustee, agent or  
391 representative of the authorizer may simultaneously serve as an



392 employee, trustee, agent, representative, vendor or contractor of  
393 a public charter school authorized by that entity.

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

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

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

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

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



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

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

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

427 (i) An executive summary;

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

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

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

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

437 (vi) Evidence of adequate community support for  
438 and interest in the public charter school sufficient to allow the  
439 school to reach its anticipated enrollment, and an assessment of



440 the projected programmatic and fiscal impact on other public and  
441 nonpublic schools in the area;

442 (vii) Background information on the proposed  
443 founding governing board members and, if identified, the proposed  
444 school leadership and management team;

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

448 (ix) A description of the academic program aligned  
449 with state standards;

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

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

458 (xii) The school's plans for identifying and  
459 successfully serving students with disabilities (including all of  
460 the school's proposed policies pursuant to the Individuals with  
461 Disabilities Education Improvement Act of 2004, 20 USC Section  
462 1400 et seq., Section 504 of the Rehabilitation Act of 1973, 29  
463 USC Section 794, and Title II of the Americans with Disabilities  
464 Act, 42 USC Section 12101 et seq., and the school's procedures for



465 securing and providing evaluations and related services pursuant  
466 to federal law), students who are English language learners,  
467 students who are academically behind, and gifted students,  
468 including, but not limited to, compliance with applicable laws and  
469 regulations;

470 (xiii) A description of co-curricular or  
471 extracurricular programs and how they will be funded and  
472 delivered;

473 (xiv) Plans and timelines for student recruitment  
474 and enrollment, including lottery policies and procedures that  
475 ensure that every student has an equal opportunity to be  
476 considered in the lottery and that ensure the lottery is  
477 equitable, randomized, transparent and impartial such that  
478 students are assigned to charter schools without regard to  
479 disability, income level, race, religion or national origin;

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

482 (xvi) An organization chart that clearly presents  
483 the school's organizational structure, including lines of  
484 authority and reporting between the governing board, staff, any  
485 related bodies (such as advisory bodies or parent and teacher  
486 councils), and any external organizations that will play a role in  
487 managing the school;

488 (xvii) A clear description of the roles and  
489 responsibilities for the governing board, the school's leadership



490 and management team, and any other entities shown in the  
491 organization chart;

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

494 (xix) Plans for recruiting and developing school  
495 leadership and staff;

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

498 (xxi) Proposed governing bylaws;

499 (xxii) Explanations of any partnerships or  
500 contractual relationships central to the school's operations or  
501 mission;

502 (xxiii) The school's plans for providing  
503 transportation, food service, and all other significant  
504 operational or ancillary services;

505 (xxiv) Opportunities and expectations for parent  
506 involvement;

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

509 (xxvi) A description of the school's financial  
510 plan and policies, including financial controls and audit  
511 requirements;

512 (xxvii) A description of the insurance coverage  
513 the school will obtain;



514 (xxviii) Start-up and five-year budgets with  
515 clearly stated assumptions;

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

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

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

522 (g) In the case of an application to establish a public  
523 charter school by converting an existing noncharter public school  
524 to public charter school status, the request for proposals shall  
525 additionally require the applicants to demonstrate support for the  
526 proposed public charter school conversion by a petition signed by  
527 a majority of teachers or a petition signed by a majority of  
528 parents of students in the existing noncharter public school, or  
529 by a majority vote of the local school board or, in the case of  
530 schools in districts under state conservatorship, by the State  
531 Board of Education.

532 (h) In the case of a proposed public charter school  
533 that intends to contract with an education service provider for  
534 substantial educational services, management services, or both  
535 types of services, the request for proposals shall additionally  
536 require the applicants to:

537 (i) Provide evidence of the education service  
538 provider's success in serving student populations similar to the



539 targeted population, including demonstrated academic achievement  
540 as well as successful management of nonacademic school functions  
541 if applicable;

542                   (ii) Provide a term sheet setting forth the  
543 proposed duration of the service contract; roles and  
544 responsibilities of the governing board, the school staff, and the  
545 service provider; scope of services and resources to be provided  
546 by the service provider; performance evaluation measures and  
547 timelines; compensation structure, including clear identification  
548 of all fees to be paid to the service provider; methods of  
549 contract oversight and enforcement; investment disclosure; and  
550 conditions for renewal and termination of the contract; and

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

554                   (i) In the case of a public charter school proposal  
555 from an applicant that currently operates one or more schools in  
556 any state or nation, the request for proposals shall additionally  
557 require the applicant to provide evidence of past performance and  
558 current capacity for growth. The applicant shall be required to  
559 submit clear evidence that it has produced statistically  
560 significant gains in student achievement or consistently produced  
561 proficiency levels as measured on state achievement tests.

562                   (j) The request for proposals shall require each  
563 charter school applicant to provide evidence that the applicant



564 sent a copy of its completed charter school application to the  
565 local school board in the district in which the charter school is  
566 proposed.

567 (2) Application decision-making process.

568 (a) In reviewing and evaluating charter applications,  
569 the authorizer shall employ procedures, practices and criteria  
570 consistent with nationally recognized principles and standards for  
571 quality charter authorizing. The application review process shall  
572 include thorough evaluation of each written charter application,  
573 an in-person interview with the applicant group, and an  
574 opportunity in a public forum at a reasonable time and place held  
575 in the county and school district where the proposed public  
576 charter school is to be located for local residents to learn about  
577 and provide input on each application.

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

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

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

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



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

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

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

601 (f) Within ten (10) days of taking action to approve or  
602 deny a charter application, the authorizer shall provide a report  
603 to the charter applicant. The report shall include a copy of the  
604 authorizer's resolution setting forth the action taken and reasons  
605 for the decision and assurances as to compliance with all of the  
606 procedural requirements and application elements set forth in  
607 Section 6 of this act.

608 (3) Purposes and limitations of charter applications. The  
609 purposes of the charter application are to present the proposed  
610 public charter school's academic and operational vision and plans,  
611 demonstrate the applicant's capacities to execute the proposed  
612 vision and plans, and provide the authorizer a clear basis for  
613 assessing the applicant's plans and capacities. An approved



614 charter application shall not serve as the school's charter  
615 contract.

616 (4) Initial charter term. An initial charter shall be  
617 granted for a term of five (5) operating years. The charter term  
618 shall commence on the public charter school's first day of  
619 operation. An approved public charter school may delay its  
620 opening for one (1) school year in order to plan and prepare for  
621 the school's opening. If the school requires an opening delay of  
622 more than one (1) school year, the school must request an  
623 extension from its authorizer. The authorizer may grant or deny  
624 the extension depending on the particular school's circumstances.

625 (5) Charter contracts.

626 (a) The authorizer and the governing board of the  
627 approved public charter school shall execute a charter contract  
628 that clearly sets forth the academic and operational performance  
629 expectations and measures by which the public charter school will  
630 be judged and the administrative relationship between the  
631 authorizer and public charter school, including each party's  
632 rights and duties. The performance expectations and measures set  
633 forth in the charter contract shall include, but need not be  
634 limited to, applicable federal and state accountability  
635 requirements. The performance provisions may be refined or  
636 amended by mutual agreement after the public charter school is  
637 operating and has collected baseline achievement data for its  
638 enrolled students.



639           (b) The charter contract shall be signed by the  
640 president of the authorizer's governing board and the president of  
641 the public charter school's governing board.

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

646           (d) The charter contract shall be executed within  
647 thirty (30) days of approval by the authorizer, unless  
648 extraordinary circumstances exist as determined by the authorizer.

649           (6) Pre-opening requirements or conditions. The authorizer  
650 may establish reasonable pre-opening requirements or conditions to  
651 monitor the start-up progress of newly approved public charter  
652 schools and ensure that they are prepared to open smoothly on the  
653 date agreed, and to ensure that each school meets all building,  
654 health, safety, insurance and other legal requirements for school  
655 opening.

656           (7) Conflict of interest.

657           (a) An individual is prohibited from serving as a  
658 member of the public charter school governing board if the  
659 individual, an immediate family member, or the individual's  
660 partner is an owner, employee or agent of, or a contractor with a  
661 for-profit or nonprofit entity or individual with whom the charter  
662 school contracts, directly or indirectly, for professional  
663 services, goods or facilities. A violation of this prohibition



664 renders a contract voidable at the option of the authorizer or the  
665 public charter school governing board. A member of the public  
666 charter school governing board who violates this prohibition is  
667 individually liable to the charter school for any damage caused by  
668 the violation.

669 (b) No member of the board of directors, employee,  
670 officer or agent of a charter school shall participate in  
671 selecting, awarding or administering a contract if a conflict of  
672 interest exists. A conflict exists when:

673 (i) The board member, employee, officer or agent;

674 (ii) The immediate family of the board member,  
675 employee, officer or agent;

676 (iii) The partner of the board member, employee,  
677 officer or agent; or

678 (iv) An organization that employs, or is about to  
679 employ any individual in subparagraphs (i) through (iii) of this  
680 paragraph,

681 has a financial or other interest in the entity with which the  
682 charter school is contracting. A violation of this prohibition  
683 renders the contract void.

684 (c) Any employee, agent or board member of the  
685 authorizer who participates in the initial review, approval,  
686 ongoing oversight, evaluation, or the charter renewal or  
687 nonrenewal process or decision is ineligible to serve on the



688 public charter school governing board of a school chartered by  
689 that authorizer.

690 (d) An individual may serve as a member of the public  
691 charter school governing board if no conflict of interest under  
692 paragraph (a) of this subsection exists.

693 (e) The conflict of interest provisions under this  
694 subsection do not apply to compensation paid to a teacher employed  
695 by the charter school who also serves as a member of the public  
696 charter school governing board.

697 (8) Continuing education for charter school board members.  
698 Every member of the public charter school governing board shall  
699 attend ongoing training throughout the member's term on board  
700 governance, including training on the board's role and  
701 responsibilities, employment policies and practices, and financial  
702 management. A board member who does not (a) begin the required  
703 initial training within six (6) months after being seated, and (b)  
704 complete that training within twelve (12) months of being seated  
705 on the board is ineligible to continue to serve as a board member.  
706 The school shall include in its annual report the training  
707 attended by each board member during the previous year. Required  
708 training may be provided by the Mississippi School Boards  
709 Association.

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

711 (a) The performance provisions within the charter  
712 contract shall be based on a performance framework that clearly



713 sets forth the academic and operational performance indicators,  
714 measures and metrics that will guide the authorizer's evaluations  
715 of each public charter school. The performance framework shall  
716 include indicators, measures and metrics for, at a minimum:

- 717 (i) Student academic proficiency;
- 718 (ii) Student academic growth;
- 719 (iii) Achievement gaps in both proficiency and  
720 growth between major student subgroups;
- 721 (iv) Attendance;
- 722 (v) Recurrent enrollment from year to year;
- 723 (vi) In-school and out-of-school suspension rates  
724 and expulsion rates;
- 725 (vii) Postsecondary readiness (for high schools),  
726 including the percentage of graduates submitting applications to  
727 postsecondary institutions, high school completion, postsecondary  
728 admission, and postsecondary enrollment or employment;
- 729 (viii) Financial performance and sustainability;
- 730 and
- 731 (ix) Board performance and stewardship, including  
732 compliance with all applicable laws, regulations and terms of the  
733 charter contract.

734 (b) Annual performance targets shall be set by each  
735 public charter school in conjunction with its authorizer, and  
736 shall be designed to help each school meet applicable federal,  
737 state and authorizer expectations.



738 (c) The performance framework shall allow the inclusion  
739 of additional rigorous, valid and reliable indicators proposed by  
740 a public charter school to augment external evaluations of its  
741 performance, provided that the authorizer approves the quality and  
742 rigor of such school-proposed indicators, and they are consistent  
743 with the purposes of this act.

744 (d) The performance framework shall require the  
745 disaggregation of all student performance data by major student  
746 subgroups (gender, race, poverty status, special education status,  
747 English Learner status, and gifted status).

748 (e) For each public charter school it oversees, the  
749 authorizer shall be responsible for collecting, analyzing and  
750 reporting all data from state assessments in accordance with the  
751 performance framework. Multiple schools overseen by a single  
752 governing board shall be required to report their performance as  
753 separate, individual schools, and each school shall be held  
754 independently accountable for its performance.

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

759 (2) Oversight and corrective actions.

760 (a) The authorizer shall annually monitor the  
761 performance and legal compliance of the public charter schools it  
762 oversees, including collecting and analyzing data to support



763 evaluations according to the charter contract. An authorizer  
764 shall have the authority to conduct or require oversight  
765 activities that enable the authorizer to fulfill its  
766 responsibilities under this act, including conducting appropriate  
767 inquiries and investigations, so long as those activities are  
768 consistent with the intent of this act, adhere to the terms of the  
769 charter contract, and do not unduly inhibit the autonomy granted  
770 to public charter schools.

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

780           (c) In the event that a public charter school's  
781 performance or legal compliance is unsatisfactory, the authorizer  
782 shall promptly notify the public charter school of the problem and  
783 provide reasonable opportunity for the school to remedy the  
784 problem, unless the problem warrants revocation in which case the  
785 revocation time frames will apply.

786           (d) The authorizer shall have the authority to exercise  
787 sanctions short of revocation in response to apparent deficiencies



788 in public charter school performance or legal compliance. Such  
789 sanctions may include, if warranted, requiring a school to develop  
790 and execute a corrective action plan within a specified time  
791 frame.

792 (3) Renewals, revocations and nonrenewals.

793 (a) A charter may be renewed for successive five-year  
794 terms of duration. The authorizer may grant renewal with specific  
795 conditions for necessary improvements to a public charter school,  
796 including a shorter renewal term based on the performance,  
797 demonstrated capacities, and particular circumstances of each  
798 public charter school.

799 (b) No later than September 30, the authorizer shall  
800 issue a public charter school performance report and charter  
801 renewal application guidance to any public charter school whose  
802 charter will expire the following year. The performance report  
803 shall summarize the public charter school's performance record to  
804 date, based on the data required by this act and the charter  
805 contract, and shall provide notice of any weaknesses or concerns  
806 perceived by the authorizer concerning the public charter school  
807 that may jeopardize its position in seeking renewal if not timely  
808 rectified. The public charter school shall have ninety (90) days  
809 to respond to the performance report and submit any corrections or  
810 clarifications for the report.

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



813 (i) Present additional evidence, beyond the data  
814 contained in the performance report, supporting its case for  
815 charter renewal;

816 (ii) Describe improvements undertaken or planned  
817 for the school; and

818 (iii) Detail the school's plans for the next  
819 charter term.

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

825 (e) No later than February 1, the governing board of a  
826 public charter school seeking renewal shall submit a renewal  
827 application to the charter authorizer pursuant to the renewal  
828 application guidance issued by the authorizer. The authorizer  
829 shall rule by resolution on the renewal application no later than  
830 ninety (90) days after the filing of the renewal application.

831 (f) In making charter renewal decisions, the authorizer  
832 shall:

833 (i) Base its decisions on evidence of the school's  
834 performance over the term of the charter contract in accordance  
835 with the performance framework set forth in the charter contract;

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



838 (iii) Provide a public report summarizing the  
839 evidence basis for each decision.

840 (g) A charter contract may not be renewed if, at the  
841 time of the renewal application, the charter school's performance  
842 falls in the bottom quintile of schools in the state, unless the  
843 charter school demonstrates exceptional circumstances that the  
844 authorizer finds justifiable. A charter contract may not be  
845 renewed and shall be revoked at any time if the charter school is  
846 rated an "F" for three (3) consecutive school years during the  
847 charter contract, unless the charter school demonstrates  
848 exceptional circumstances that the authorizer finds justifiable.

849 (h) A charter contract shall be revoked at any time or  
850 not renewed if the authorizer determines that the public charter  
851 school did any of the following or otherwise failed to comply with  
852 the provisions of this act:

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

856 (ii) Fails to meet or make sufficient progress  
857 toward the performance expectations set forth in the charter  
858 contract;

859 (iii) Fails to meet generally accepted standards  
860 of fiscal management; or

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



863 (i) The authorizer shall develop revocation and  
864 nonrenewal processes that:

865 (i) Provide the charter holders with a timely  
866 notification of the prospect of revocation or nonrenewal and of  
867 the reasons for such possible closure;

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

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

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

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

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

880 (j) If the authorizer revokes or does not renew a  
881 charter, the authorizer shall clearly state, in a resolution of  
882 its governing board, the reasons for the revocation or nonrenewal.

883 (k) Within ten (10) days of taking action to renew, not  
884 renew, or revoke a charter, the authorizer shall provide a copy of  
885 a report to the public charter school. The report shall include a  
886 copy of the authorizer governing board's resolution setting forth



887 the action taken and reasons for the decision and assurances as to  
888 compliance with all of the requirements set forth in this act.

889 (4) School closure and dissolution.

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

902 (b) If a charter school closes, all unspent government  
903 funds, unspent earnings from those funds, and assets purchased  
904 with government funds will revert to the Mississippi Public  
905 Charter School Authorizing Board which shall determine the  
906 appropriate disbursement of the unspent government funds to the State  
907 Treasury or the local taxing authority, as is appropriate.  
908 Unspent funds from nongovernmental sources, unspent earnings from  
909 those funds, assets purchased with those funds, and debts of the  
910 school (unless otherwise provided for in the charter or debt  
911 instrument) shall revert to the nonprofit entity created to



912 operate the school and may be disposed of according to applicable  
913 laws for nonprofit corporations.

914 (5) Desegregation orders. Any charter school applicant  
915 shall state in the application whether an active desegregation  
916 order or plan applies to the school district where it will be  
917 located or to the district(s) from which it intends to recruit  
918 students. If a desegregation order or plan applies to the school  
919 district where a proposed charter school will be located or in the  
920 district(s) from which it will recruit students, a charter school  
921 applicant shall include a copy of the order or plan in the  
922 application. The charter school applicant shall and the local  
923 school district may submit a written evaluation of how the  
924 proposed charter school will affect the district's duty to comply  
925 with a desegregation order or plan and the district's ability to  
926 achieve unitary status. The charter school applicant shall and  
927 the local school district may submit a written evaluation of how  
928 the proposed charter school will affect the minority and majority  
929 percentages of student enrollment in the public school districts  
930 located within the school's proposed recruitment area. The  
931 Mississippi Public Charter School Authorizing Board shall not  
932 approve a charter school application that negatively affects a  
933 district's duty to comply with a desegregation order or plan or  
934 the district's ability to achieve unitary status.

935 (6) Annual report. On or before September 30 of each year  
936 beginning in the first year after the state will have had public



937 charter schools operating for a full school year, the Mississippi  
938 Public Charter School Authorizing Board shall issue to the  
939 Governor, the Legislature, the State Board of Education and the  
940 public at large, an annual report on the state's public charter  
941 schools, for the school year ending in the preceding calendar  
942 year. The annual report shall include a comparison of the  
943 performance of public charter school students with the performance  
944 of academically, ethnically and economically comparable groups of  
945 students in public schools in the resident school district. In  
946 addition, the annual report shall include the authorizer's  
947 assessment of the successes, challenges and areas for improvement  
948 in meeting the purposes of this act, including a report by the  
949 Joint Legislative Committee on Performance Evaluation and  
950 Expenditure Review Committee (PEER) on an assessment of the  
951 sufficiency of funding for public charter schools, the efficacy of  
952 the state formula for authorizer funding, and any suggested  
953 changes in state law or policy necessary to strengthen the state's  
954 public charter schools. The report shall also assess whether the  
955 creation of public charter schools is sufficient to meet demand,  
956 as calculated according to admissions data and the number of  
957 students denied enrollment as based on lottery results. The  
958 reports due from the authorizer to the Legislature and the public  
959 shall be coordinated with reports due from public charter school  
960 boards, as near as possible, to decrease or eliminate duplication.



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

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

965           (b) A public charter school shall be subject to all  
966 federal laws and authorities enumerated herein or arranged by  
967 charter contract with the school's authorizer, where such  
968 contracting is consistent with applicable laws, rules and  
969 regulations.

970           (c) A charter contract may consist of one or more  
971 schools, to the extent approved by the authorizer and consistent  
972 with applicable law. Each public charter school that is part of a  
973 charter contract shall be separate and distinct from any others.

974           (d) A single governing board may hold one or more  
975 charter contracts. Each public charter school that is part of a  
976 charter contract shall be separate and distinct from any others.

977           (2) Local educational agency status.

978           (a) The public charter school functions for all  
979 purposes as a local educational agency. Local educational agency  
980 status does not preclude a public charter school from developing  
981 links to local school districts for services, resources and  
982 programs, by mutual agreement or by formal contract;

983           (b) Consistent with federal, state or local laws, the  
984 public charter school is responsible for meeting the requirements  
985 of local educational agencies under applicable federal, state and



986 local laws, including those relating to special education, receipt  
987 of funds, and compliance with funding requirements; and

988 (c) Consistent with federal, state or local laws, the  
989 public charter school has primary responsibility for special  
990 education at the school, including identification and provision of  
991 service, and is responsible for meeting the needs of enrolled  
992 students with disabilities.

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

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

997 (b) To secure appropriate insurance and to enter into  
998 contracts and leases;

999 (c) To contract with an education service provider for  
1000 the management and operation of the public charter school so long  
1001 as the school's governing board retains oversight authority over  
1002 the school;

1003 (d) To incur debt in reasonable anticipation of the  
1004 receipt of public or private funds;

1005 (e) To pledge, assign or encumber its assets to be used  
1006 as collateral for loans or extensions of credit;

1007 (f) To solicit and accept any gifts or grants for  
1008 school purposes subject to applicable laws and the terms of its  
1009 charter contract;



1010 (g) To acquire real property for use as its facility or  
1011 facilities, from public or private sources; and

1012 (h) To sue and be sued in its own name.

1013 (4) General requirements.

1014 (a) A public charter school shall not discriminate  
1015 against any person on the basis of race, creed, color, sex,  
1016 disability, or national origin or any other category that would be  
1017 unlawful if done by a noncharter public school.

1018 (b) No public charter school may engage in any  
1019 sectarian practices in its educational program, admissions or  
1020 employment policies, or operations.

1021 (c) A public charter school shall not discriminate  
1022 against any student on the basis of national origin, minority  
1023 status, or limited proficiency in English. Consistent with  
1024 federal civil rights laws, public charter schools shall provide  
1025 limited English proficient students with appropriate services  
1026 designed to teach them English and the general curriculum.

1027 (d) A public charter school shall not charge tuition  
1028 and shall abide by Section 37-7-335, Mississippi Code of 1972, in  
1029 the establishment and waiver of fees.

1030 (e) The terms of each public charter school shall  
1031 include a transportation plan for students that will be attending  
1032 the charter school. Charter schools shall comply with  
1033 transportation regulations applicable to all other school  
1034 districts under Section 37-41-3. The transportation must be



1035 provided by the public charter school within the district in which  
1036 the public charter school is located.

1037 (f) The powers, obligations and responsibilities set  
1038 forth in the charter contract cannot be delegated or assigned by  
1039 either party.

1040 (5) Applicability of other laws, rules and regulations.

1041 (a) Public charter schools shall be subject to the same  
1042 civil rights, health and safety requirements applicable to other  
1043 public schools in the state, except as otherwise specifically  
1044 provided in this act.

1045 (b) Public charter schools shall be subject to the  
1046 student assessment and accountability requirements applicable to  
1047 other public schools in the state, but nothing herein shall  
1048 preclude a public charter school from establishing additional  
1049 student assessment measures that go beyond state requirements if  
1050 the school's authorizer approves such measures.

1051 (c) Public charter school governing boards shall be  
1052 subject to and comply with state open meetings and public records  
1053 laws.

1054 (6) Public charter school employees.

1055 (a) Public charter schools shall comply with applicable  
1056 federal laws, rules and regulations regarding the qualification of  
1057 teachers and other instructional staff. Up to twenty-five percent  
1058 (25%) of teachers in a public charter school may be exempt from  
1059 state teacher certification requirements at the time the initial



1060 application is approved by the authorizer. Administrators of  
1061 public charter schools are exempt from state administrator  
1062 certification requirements. However, teachers shall have a  
1063 bachelor's degree and have demonstrated subject-matter competency  
1064 as a minimum requirement, and administrators shall have a  
1065 bachelor's degree as a minimum requirement; and within three (3)  
1066 years of the date of initial application approval by the  
1067 authorizer, all teachers shall have, at a minimum, alternative  
1068 certification approved by the Mississippi Commission on Teacher  
1069 and Administrator Education, Certification and Licensure and  
1070 Development.

1071 (b) For the purpose of eligibility for participation in  
1072 the Public Employees' Retirement System, a public charter school  
1073 is considered to be a political subdivision of the state.  
1074 Employees in public charter schools are eligible for participation  
1075 in other benefits programs if the public charter school governing  
1076 board chooses to participate.

1077 (c) Teachers and other school personnel, as well as  
1078 governing board trustees, shall be subject to criminal history  
1079 record checks and fingerprinting requirements applicable to other  
1080 public schools.

1081 (d) Teachers and administrators shall be subject to  
1082 disqualification or termination for sexual misconduct as is  
1083 applicable to other public schools under Section 37-3-2(g) (h) and  
1084 (i).



1085 (7) Access to interscholastic activities. A public charter  
1086 school shall be eligible for state-sponsored or district-sponsored  
1087 interscholastic leagues, competitions, awards, scholarships and  
1088 recognition programs for students, educators, administrators and  
1089 schools to the same extent as noncharter public schools.

1090 **SECTION 9. Funding.** (1) Enrollment.

1091 (a) Each public charter school shall certify to the  
1092 State Department of Education its student enrollment, by student  
1093 address, date of birth and social security number, the average  
1094 daily attendance, and student participation in the national school  
1095 lunch program, special education, vocational education, gifted  
1096 education, alternative school program and federal programs in the  
1097 same manner as public school districts or as determined by the  
1098 State Department of Education.

1099 (b) Each public charter school shall certify monthly to  
1100 the local school district in which a public charter school student  
1101 resides the number of enrolled public charter school students  
1102 residing in that local school district.

1103 (2) Operational funding.

1104 (a) The State Department of Education shall make  
1105 payments to public charter schools for each student in average  
1106 daily attendance at the public charter school equal to the state  
1107 share of the adequate education program payments for each student  
1108 in average daily attendance at the public school district in which  
1109 a student resides who is enrolling in a public charter school.



1110 For purposes of this paragraph (a), the state share shall mean the  
1111 adequate education formula amount only, and shall not include the  
1112 add-on allocations for special education, vocational education,  
1113 gifted education, alternative education, and transportation.

1114 (b) The local school district in which a public charter  
1115 school student resides shall pay directly to the public charter  
1116 school an amount for each student enrolled in the public charter  
1117 school equal to the ad valorem tax receipts and in-lieu receipts  
1118 per pupil for the support of the local school district in which  
1119 the student resides. The monthly amount is calculated by  
1120 determining the net membership for each month for both the public  
1121 school district and the charter school. The public school  
1122 district shall transfer the pro rata share of that month's ad  
1123 valorem (operations only) receipts and in-lieu receipts to the  
1124 charter school based on the percentage of charter school students.  
1125 The public school district and charter school shall settle at the  
1126 end of the year based on the average enrollment for the year for  
1127 both entities. The pro rata ad valorem receipts and in-lieu  
1128 receipts to be transferred to the public charter school shall  
1129 include all levies for the support of the local school district  
1130 under Sections 37-57-1 (local contribution to the adequate  
1131 education program) and 37-57-105 (school district operational  
1132 levy) and shall not include any taxes levied for the retirement of  
1133 local school district bonded indebtedness or short-term notes or  
1134 any taxes levied for the support of vocational-technical education



1135 programs. Payments made pursuant to this section by the local  
1136 school district to the charter schools shall be made at the same  
1137 time and manner as funds are distributed to the local school  
1138 districts on a per-pupil basis. It shall be the duty of the  
1139 public charter schools to verify that payments of local school  
1140 district ad valorem and in-lieu receipts made to public charter  
1141 schools and withheld from local school districts are based on the  
1142 number of students actually attending the public charter school.

1143 (3) Payment schedule. Payments made pursuant to this  
1144 section by the State Department of Education shall be made to the  
1145 public charter school in the same manner as adequate education  
1146 program payments are made to local school districts. Amounts  
1147 payable under this section shall be determined by the State  
1148 Department of Education. Amounts payable to a public charter  
1149 school in its first year of operation shall be based on the  
1150 projections of initial-year enrollment and federal school level  
1151 funding set forth in the charter contracts. Such projections  
1152 shall be reconciled with the average daily attendance at the end  
1153 of the school's first year of operation, and any necessary  
1154 adjustments shall be made to payments during the school's second  
1155 year of operation.

1156 (4) Categorical funding.

1157 (a) The state shall direct monies generated under  
1158 federal and state categorical aid programs, including special  
1159 education, vocational, gifted and alternative school programs, to



1160 public charter schools serving students eligible for such aid, on  
1161 the same basis and in the same manner as such funding is  
1162 distributed to the public school districts. The state shall  
1163 ensure that public charter schools with rapidly expanding  
1164 enrollments are treated equitably in the calculation and  
1165 disbursement of all federal and state categorical aid program  
1166 dollars. Each public charter school that serves students who may  
1167 be eligible to receive services provided through such programs  
1168 shall comply with all reporting requirements to receive the aid.

1169 (b) A public charter school shall pay to a local school  
1170 district any federal or state aid attributable to a student with a  
1171 disability attending a public charter school in proportion to the  
1172 level of services for such student that the local school district  
1173 provides directly or indirectly.

1174 (5) Generally accepted accounting principles independent  
1175 audit.

1176 (a) A public charter school shall adhere to generally  
1177 accepted accounting principles.

1178 (b) A public charter school shall annually engage an  
1179 external auditor to do an independent audit of the school's  
1180 finances. A public charter school shall file a copy of each audit  
1181 report and accompanying management letter to the authorizer by  
1182 September 30.

1183 (6) Transportation funding.



1184 (a) The State Department of Education shall disburse  
1185 state transportation funding to a public charter school on the  
1186 same basis and in the same manner as it is paid to school  
1187 districts under the adequate education program.

1188 (b) A public charter school may enter into an agreement  
1189 with a school district or a contract with a private provider to  
1190 provide transportation to the school's students.

1191 (7) Budget reserves. Any monies received by a public  
1192 charter school from any source and remaining in the public charter  
1193 school's accounts at the end of any budget year shall remain in  
1194 the public charter school's accounts for use by the public charter  
1195 school during subsequent budget years.

1196 (8) Ability to accept gifts, donations and grants. Nothing  
1197 in this act shall be construed to prohibit any person or  
1198 organization from providing funding or other assistance to the  
1199 establishment or operation of a public charter school. The  
1200 governing board of a public charter school is authorized to accept  
1201 gifts, donations and grants of any kind made to the public charter  
1202 school and to expend or use such gifts, donations and grants in  
1203 accordance with the conditions prescribed by the donor; provided,  
1204 however, that no gift, donation or grant may be accepted if  
1205 subject to a condition that is contrary to any provision of law or  
1206 term of the charter contract.

1207 **SECTION 10. Facilities.** (1) Access to district facilities  
1208 and land. A public charter school shall have a right of first



1209 refusal to purchase or lease at or below fair market value a  
1210 closed public school facility or property or unused portions of a  
1211 public school facility or property located in a school district  
1212 from which it draws its students if the school district decides to  
1213 sell or lease the public school facility or property.

1214 (2) Contracting for use of facilities. A public charter  
1215 school may negotiate and contract at or below fair market value  
1216 with a school district, the governing body of a state college or  
1217 university or public community college, or any other public or  
1218 for-profit or nonprofit private entity for the use of facility for  
1219 a school building.

1220 (3) Use of other facilities under preexisting zoning and  
1221 land use designations. Library, community service, museum,  
1222 performing arts, theatre, cinema, church, community college,  
1223 college and university facilities may provide space to public  
1224 charter schools within their facilities under their preexisting  
1225 zoning and land use designations.

1226 **SECTION 11.** Section 37-151-5, Mississippi Code of 1972, is  
1227 amended as follows:

1228 37-151-5. As used in Sections 37-151-5 and 37-151-7:

1229 (a) "Adequate program" or "adequate education program"  
1230 or "Mississippi Adequate Education Program (MAEP)" shall mean the  
1231 program to establish adequate current operation funding levels  
1232 necessary for the programs of such school district to meet at  
1233 least a successful Level III rating of the accreditation system as



1234 established by the State Board of Education using current  
1235 statistically relevant state assessment data.

1236 (b) "Educational programs or elements of programs not  
1237 included in the adequate education program calculations, but which  
1238 may be included in appropriations and transfers to school  
1239 districts" shall mean:

1240 (i) "Capital outlay" shall mean those funds used  
1241 for the constructing, improving, equipping, renovating or major  
1242 repairing of school buildings or other school facilities, or the  
1243 cost of acquisition of land whereon to construct or establish such  
1244 school facilities.

1245 (ii) "Pilot programs" shall mean programs of a  
1246 pilot or experimental nature usually designed for special purposes  
1247 and for a specified period of time other than those included in  
1248 the adequate education program.

1249 (iii) "Adult education" shall mean public  
1250 education dealing primarily with students above eighteen (18)  
1251 years of age not enrolled as full-time public school students and  
1252 not classified as students of technical schools, colleges or  
1253 universities of the state.

1254 (iv) "Food service programs" shall mean those  
1255 programs dealing directly with the nutritional welfare of the  
1256 student, such as the school lunch and school breakfast programs.

1257 (c) "Base student" shall mean that student  
1258 classification that represents the most economically educated



1259 pupil in a school system meeting the definition of successful, as  
1260 determined by the State Board of Education.

1261 (d) "Base student cost" shall mean the funding level  
1262 necessary for providing an adequate education program for one (1)  
1263 base student, subject to any minimum amounts prescribed in Section  
1264 37-151-7(1).

1265 (e) "Add-on program costs" shall mean those items which  
1266 are included in the adequate education program appropriations and  
1267 are outside of the program calculations:

1268 (i) "Transportation" shall mean transportation to  
1269 and from public schools for the students of Mississippi's public  
1270 schools provided for under law and funded from state funds.

1271 (ii) "Vocational or technical education program"  
1272 shall mean a secondary vocational or technical program approved by  
1273 the State Department of Education and provided for from state  
1274 funds.

1275 (iii) "Special education program" shall mean a  
1276 program for exceptional children as defined and authorized by  
1277 Sections 37-23-1 through 37-23-9, and approved by the State  
1278 Department of Education and provided from state funds.

1279 (iv) "Gifted education program" shall mean those  
1280 programs for the instruction of intellectually or academically  
1281 gifted children as defined and provided for in Section 37-23-175  
1282 et seq.



1283 (v) "Alternative school program" shall mean those  
1284 programs for certain compulsory-school-age students as defined and  
1285 provided for in Sections 37-13-92 and 37-19-22.

1286 (vi) "Extended school year programs" shall mean  
1287 those programs authorized by law which extend beyond the normal  
1288 school year.

1289 (vii) "University-based programs" shall mean those  
1290 university-based programs for handicapped children as defined and  
1291 provided for in Section 37-23-131 et seq.

1292 (viii) "Bus driver training" programs shall mean  
1293 those driver training programs as provided for in Section 37-41-1.

1294 (f) "Teacher" shall include any employee of a local  
1295 school who is required by law to obtain a teacher's license from  
1296 the State Board of Education and who is assigned to an  
1297 instructional area of work as defined by the State Department of  
1298 Education.

1299 (g) "Principal" shall mean the head of an attendance  
1300 center or division thereof.

1301 (h) "Superintendent" shall mean the head of a school  
1302 district.

1303 (i) "School district" shall mean any type of school  
1304 district in the State of Mississippi, and shall include  
1305 agricultural high schools and shall include public charter  
1306 schools.



1307           (j) "Minimum school term" shall mean a term of at least  
1308 one hundred eighty (180) days of school in which both teachers and  
1309 pupils are in regular attendance for scheduled classroom  
1310 instruction for not less than sixty percent (60%) of the normal  
1311 school day. It is the intent of the Legislature that any tax  
1312 levies generated to produce additional local funds required by any  
1313 school district to operate school terms in excess of one hundred  
1314 seventy-five (175) days shall not be construed to constitute a new  
1315 program for the purposes of exemption from the limitation on tax  
1316 revenues as allowed under Sections 27-39-321 and 37-57-107 for new  
1317 programs mandated by the Legislature.

1318           (k) The term "transportation density" shall mean the  
1319 number of transported children in average daily attendance per  
1320 square mile of area served in a school district, as determined by  
1321 the State Department of Education.

1322           (l) The term "transported children" shall mean children  
1323 being transported to school who live within legal limits for  
1324 transportation and who are otherwise qualified for being  
1325 transported to school at public expense as fixed by Mississippi  
1326 state law.

1327           (m) The term "year of teaching experience" shall mean  
1328 nine (9) months of actual teaching in the public or private  
1329 schools. In no case shall more than one (1) year of teaching  
1330 experience be given for all services in one (1) calendar or school  
1331 year. In determining a teacher's experience, no deduction shall



1332 be made because of the temporary absence of the teacher because of  
1333 illness or other good cause, and the teacher shall be given credit  
1334 therefor. Beginning with the 2003-2004 school year, the State  
1335 Board of Education shall fix a number of days, not to exceed  
1336 forty-five (45) consecutive school days, during which a teacher  
1337 may not be under contract of employment during any school year and  
1338 still be considered to have been in full-time employment for a  
1339 regular scholastic term. If a teacher exceeds the number of days  
1340 established by the State Board of Education that a teacher may not  
1341 be under contract but may still be employed, that teacher shall  
1342 not be credited with a year of teaching experience. In  
1343 determining the experience of school librarians, each complete  
1344 year of continuous, full-time employment as a professional  
1345 librarian in a public library in this or some other state shall be  
1346 considered a year of teaching experience. If a full-time school  
1347 administrator returns to actual teaching in the public schools,  
1348 the term "year of teaching experience" shall include the period of  
1349 time he or she served as a school administrator. In determining  
1350 the salaries of teachers who have experience in any branch of the  
1351 military, the term "year of teaching experience" shall include  
1352 each complete year of actual classroom instruction while serving  
1353 in the military. In determining the experience of speech-language  
1354 pathologists and audiologists, each complete year of continuous  
1355 full-time postmaster's degree employment in an educational setting  
1356 in this or some other state shall be considered a year of teaching



1357 experience. Provided, however, that school districts are  
1358 authorized, in their discretion, to negotiate the salary levels  
1359 applicable to certificated employees employed after July 1, 2009,  
1360 who are receiving retirement benefits from the retirement system  
1361 of another state, and the annual experience increment provided in  
1362 Section 37-19-7 shall not be applicable to any such retired  
1363 certificated employee.

1364 (n) The term "average daily attendance" shall be the  
1365 figure which results when the total aggregate attendance during  
1366 the period or months counted is divided by the number of days  
1367 during the period or months counted upon which both teachers and  
1368 pupils are in regular attendance for scheduled classroom  
1369 instruction less the average daily attendance for self-contained  
1370 special education classes and, prior to full implementation of the  
1371 adequate education program the department shall deduct the average  
1372 daily attendance for the alternative school program provided for  
1373 in Section 37-19-22.

1374 (o) The term "local supplement" shall mean the amount  
1375 paid to an individual teacher over and above the adequate  
1376 education program salary schedule for regular teaching duties.

1377 (p) The term "aggregate amount of support from ad  
1378 valorem taxation" shall mean the amounts produced by the  
1379 district's total tax levies for operations.

1380 (q) The term "adequate education program funds" shall  
1381 mean all funds, both state and local, constituting the



1382 requirements for meeting the cost of the adequate program as  
1383 provided for in Section 37-151-7.

1384 (r) "Department" shall mean the State Department of  
1385 Education.

1386 (s) "Commission" shall mean the Mississippi Commission  
1387 on School Accreditation created under Section 37-17-3.

1388 (t) The term "successful school district" shall mean a  
1389 Level III school district as designated by the State Board of  
1390 Education using current statistically relevant state assessment  
1391 data.

1392 (u) "Dual enrollment-dual credit programs" shall mean  
1393 programs for potential or recent high school student dropouts to  
1394 dually enroll in their home high school and a local community  
1395 college in a dual credit program consisting of high school  
1396 completion coursework and a credential, certificate or degree  
1397 program at the community college, as provided in Section  
1398 37-15-38(19).

1399 **SECTION 12.** Section 37-57-107, Mississippi Code of 1972, is  
1400 amended as follows:

1401 37-57-107. (1) Beginning with the tax levy for the 1997  
1402 fiscal year and for each fiscal year thereafter, the aggregate  
1403 receipts from taxes levied for school district purposes pursuant  
1404 to Sections 37-57-105 and 37-57-1 shall not exceed the aggregate  
1405 receipts from those sources during any one (1) of the immediately  
1406 preceding three (3) fiscal years, as determined by the school



1407 board, plus an increase not to exceed seven percent (7%). \* \* \*

1408 In addition, when a school district has at least ten (10) students

1409 residing within the district but attending a public charter school

1410 located within the district or in another district, then the

1411 school district's aggregate receipts shall not be in such amount

1412 that the levying authority must increase its millage to generate

1413 such receipts sufficient to fund the budget submitted by the

1414 school district, unless the levying authority consents to such an

1415 increased millage for this purpose. For these purposes, the term

1416 "aggregate receipts" shall not include excess receipts required by

1417 law to be deposited into a special account, however, the term

1418 "aggregate receipts" shall include any receipts by law to be

1419 diverted to a public charter school. The additional revenue from

1420 the ad valorem tax on any newly constructed properties or any

1421 existing properties added to the tax rolls or any properties

1422 previously exempt which were not assessed in the next preceding

1423 year may be excluded from the seven percent (7%) increase

1424 limitation set forth herein. Taxes levied for payment of

1425 principal of and interest on general obligation school bonds

1426 issued heretofore or hereafter shall be excluded from the seven

1427 percent (7%) increase limitation set forth herein. Any additional

1428 millage levied to fund any new program mandated by the Legislature

1429 shall be excluded from the limitation for the first year of the

1430 levy and included within such limitation in any year thereafter.

1431 For the purposes of this section, the term "new program" shall



1432 include, but shall not be limited to, (a) the Early Childhood  
1433 Education Program required to commence with the 1986-1987 school  
1434 year as provided by Section 37-21-7 and any additional millage  
1435 levied and the revenue generated therefrom, which is excluded from  
1436 the limitation for the first year of the levy, to support the  
1437 mandated Early Childhood Education Program shall be specified on  
1438 the minutes of the school board and of the governing body making  
1439 such tax levy; (b) any additional millage levied and the revenue  
1440 generated therefrom which shall be excluded from the limitation  
1441 for the first year of the levy, for the purpose of generating  
1442 additional local contribution funds required for the adequate  
1443 education program for the 2003 fiscal year and for each fiscal  
1444 year thereafter under Section 37-151-7(2); and (c) any additional  
1445 millage levied and the revenue generated therefrom which shall be  
1446 excluded from the limitation for the first year of the levy, for  
1447 the purpose of support and maintenance of any agricultural high  
1448 school which has been transferred to the control, operation and  
1449 maintenance of the school board by the board of trustees of the  
1450 community college district under provisions of Section 37-29-272.

1451       (2) The seven percent (7%) increase limitation prescribed in  
1452 this section may be increased an additional amount only when the  
1453 school board has determined the need for additional revenues and  
1454 has held an election on the question of raising the limitation  
1455 prescribed in this section. The limitation may be increased only  
1456 if three-fifths (3/5) of those voting in the election shall vote



1457 for the proposed increase. The resolution, notice and manner of  
1458 holding the election shall be as prescribed by law for the holding  
1459 of elections for the issuance of bonds by the respective school  
1460 boards. Revenues collected for the fiscal year in excess of the  
1461 seven percent (7%) increase limitation pursuant to an election  
1462 shall be included in the tax base for the purpose of determining  
1463 aggregate receipts for which the seven percent (7%) increase  
1464 limitation applies for subsequent fiscal years.

1465       (3) Except as otherwise provided for excess revenues  
1466 generated pursuant to an election, if revenues collected as the  
1467 result of the taxes levied for the fiscal year pursuant to this  
1468 section and Section 37-57-1 exceed the increase limitation, then  
1469 it shall be the mandatory duty of the school board of the school  
1470 district to deposit such excess receipts over and above the  
1471 increase limitation into a special account and credit it to the  
1472 fund for which the levy was made. It will be the further duty of  
1473 such board to hold said funds and invest the same as authorized by  
1474 law. Such excess funds shall be calculated in the budgets for the  
1475 school districts for the purpose for which such levies were made,  
1476 for the succeeding fiscal year. Taxes imposed for the succeeding  
1477 year shall be reduced by the amount of excess funds available.  
1478 Under no circumstances shall such excess funds be expended during  
1479 the fiscal year in which such excess funds are collected.

1480       (4) For the purposes of determining ad valorem tax receipts  
1481 for a preceding fiscal year under this section, the term "fiscal



1482 year" means the fiscal year beginning October 1 and ending  
1483 September 30.

1484 (5) Effective with the 2013-2014 school year, the local  
1485 school district in which a public charter school student resides  
1486 shall pay directly to the public charter school an amount for each  
1487 student enrolled in the public charter school equal to the ad  
1488 valorem tax receipts and in-lieu receipts per pupil for the  
1489 support of the local school district in which the student resides.  
1490 The monthly amount is calculated by determining the net membership  
1491 for each month for both the public school district and the charter  
1492 school. The public school district shall transfer the pro rata  
1493 share of that month's ad valorem (operations only) receipts and  
1494 in-lieu receipts to the charter school based on the percentage of  
1495 charter school students. The public school district and charter  
1496 school shall settle at the end of the year based on the average  
1497 enrollment for the year for both. The pro rata ad valorem  
1498 receipts and in lieu receipts to be transferred to the public  
1499 charter school shall include all levies for the support of the  
1500 local school district under Sections 37-57-1 (local contribution  
1501 to the adequate education program) and 37-57-105 (school district  
1502 operational levy) and shall not include any taxes levied for the  
1503 retirement of local school district bonded indebtedness or  
1504 short-term notes or any taxes levied for the support of  
1505 vocational-technical education programs. Payments made pursuant  
1506 to this section by the local school district to the charter



1507 schools shall be made at the same time and manner as funds are  
1508 distributed to the local school districts on a per-pupil basis.  
1509 It shall be the duty of the public charter schools to verify that  
1510 payments of local school district ad valorem and in-lieu receipts  
1511 made to public charter schools and withheld from local school  
1512 districts are based on the number of students actually attending  
1513 the public charter school.

1514 (6) Any funds withheld from the local school district for  
1515 the purpose of making pro rata payments of ad valorem taxes levied  
1516 in the local school district to any public charter school located  
1517 in the local school district shall not be considered a revenue  
1518 shortfall in the budget of the school district.

1519 **SECTION 13.** Section 37-9-103, Mississippi Code of 1972, is  
1520 amended as follows:

1521 37-9-103. (1) As used in Sections 37-9-101 through  
1522 37-9-113, the word "employee" shall include:

1523 (a) Any teacher, principal, superintendent or other  
1524 professional personnel employed by the local school district for a  
1525 continuous period of two (2) years with that district and required  
1526 to have a valid license issued by the State Department of  
1527 Education as a prerequisite of employment; or

1528 (b) Any teacher, principal, superintendent or other  
1529 professional personnel who has completed a continuous period of  
1530 two (2) years of employment in a Mississippi public school  
1531 district and one (1) full year of employment with the school



1532 district of current employment, and who is required to have a  
1533 valid license issued by the State Department of Education as a  
1534 prerequisite of employment.

1535 (2) (a) The Education Employment Procedures Law shall not  
1536 apply to any category of employee as defined in this section  
1537 employed in any school district after the Governor declares a  
1538 state of emergency under the provisions of Section 37-17-6(11).  
1539 The Education Employment Procedures Law shall not be applicable in  
1540 any school district for the full period of time that those  
1541 conditions, as defined in Section 37-17-6(11), exist.

1542 (b) The Education Employment Procedures Law shall not  
1543 apply to any category of employee as defined in this section  
1544 employed in any school that is a new start school, as provided for  
1545 under Section 37-167-1.

1546 (c) The Education Employment Procedures Law shall not  
1547 apply to any category of teacher, administrator or employee of a  
1548 public charter school established under the terms and provisions  
1549 of this act.

1550 (3) For purposes of Sections 37-9-101 through 37-9-113, the  
1551 term "days" means calendar days.

1552 **SECTION 14.** Section 37-13-63, Mississippi Code of 1972, is  
1553 amended as follows:

1554 37-13-63. (1) Except as otherwise provided, all public  
1555 schools in the state and public charter schools shall be kept in



1556 session for at least one hundred eighty (180) days in each  
1557 scholastic year.

1558 (2) If the school board of any school district or the  
1559 governing board of the public charter school shall determine that  
1560 it is not economically feasible or practicable to operate any  
1561 school within the district for the full one hundred eighty (180)  
1562 days required for a scholastic year as contemplated due to an  
1563 enemy attack, a man-made, technological or natural disaster or  
1564 extreme weather emergency in which the Governor has declared a  
1565 disaster or state of emergency under the laws of this state or the  
1566 President of the United States has declared an emergency or major  
1567 disaster to exist in this state, the school board may notify the  
1568 State Department of Education of the disaster or weather  
1569 emergency, and the local governing board of the public charter  
1570 school may notify the Mississippi Public Charter School  
1571 Authorizing Board, and submit a plan for altering the school term.  
1572 If the State Board of Education, or the Mississippi Public Charter  
1573 School Authorizing Board, as the case may be, finds the disaster  
1574 or extreme weather emergency to be the cause of the school not  
1575 operating for the contemplated school term and that such school  
1576 was in a school district covered by the Governor's or President's  
1577 disaster or state of emergency declaration, it may permit that  
1578 school board to operate the schools in its district for less than  
1579 one hundred eighty (180) days; however, in no instance of a  
1580 declared disaster or state of emergency under the provisions of



1581 this subsection shall a school board or a public charter school  
1582 receive payment from the State Department of Education for  
1583 per\_pupil expenditure for pupils in average daily attendance in  
1584 excess of ten (10) days.

1585         **SECTION 15.** Section 37-13-91, Mississippi Code of 1972, is  
1586 amended as follows:

1587             37-13-91. (1) This section shall be referred to as the  
1588 "Mississippi Compulsory School Attendance Law."

1589             (2) The following terms as used in this section are defined  
1590 as follows:

1591             (a) "Parent" means the father or mother to whom a child  
1592 has been born, or the father or mother by whom a child has been  
1593 legally adopted.

1594             (b) "Guardian" means a guardian of the person of a  
1595 child, other than a parent, who is legally appointed by a court of  
1596 competent jurisdiction.

1597             (c) "Custodian" means any person having the present  
1598 care or custody of a child, other than a parent or guardian of the  
1599 child.

1600             (d) "School day" means not less than five (5) and not  
1601 more than eight (8) hours of actual teaching in which both  
1602 teachers and pupils are in regular attendance for scheduled  
1603 schoolwork.

1604             (e) "School" means any public school in this state or  
1605 any nonpublic school in this state which is in session each school



1606 year for at least one hundred eighty (180) school days, except  
1607 that the "nonpublic" school term shall be the number of days that  
1608 each school shall require for promotion from grade to grade.

1609 (f) "Compulsory-school-age child" means a child who has  
1610 attained or will attain the age of six (6) years on or before  
1611 September 1 of the calendar year and who has not attained the age  
1612 of seventeen (17) years on or before September 1 of the calendar  
1613 year; and shall include any child who has attained or will attain  
1614 the age of five (5) years on or before September 1 and has  
1615 enrolled in a full-day public school kindergarten program.  
1616 Provided, however, that the parent or guardian of any child  
1617 enrolled in a full-day public school kindergarten program shall be  
1618 allowed to disenroll the child from the program on a one-time  
1619 basis, and such child shall not be deemed a compulsory-school-age  
1620 child until the child attains the age of six (6) years.

1621 (g) "School attendance officer" means a person employed  
1622 by the State Department of Education pursuant to Section 37-13-89.

1623 (h) "Appropriate school official" means the  
1624 superintendent of the school district, or his designee, or, in the  
1625 case of a nonpublic school, the principal or the headmaster.

1626 (i) (i) "Nonpublic school" means an institution for  
1627 the teaching of children, consisting of a physical plant, whether  
1628 owned or leased, including a home, instructional staff members and  
1629 students, and which is in session each school year. This



1630 definition shall include, but not be limited to, private, church,  
1631 parochial and home instruction programs.

1632 (ii) "Public charter school" means a public  
1633 charter school as defined in Section 3 of this act and approved to  
1634 operate by the Mississippi Public Charter School Authorizing  
1635 Board.

1636 (3) A parent, guardian or custodian of a  
1637 compulsory-school-age child in this state shall cause the child to  
1638 enroll in and attend a public school \* \* \*, a legitimate nonpublic  
1639 school or a public charter school for the period of time that the  
1640 child is of compulsory school age, except under the following  
1641 circumstances:

1642 (a) When a compulsory-school-age child is physically,  
1643 mentally or emotionally incapable of attending school as  
1644 determined by the appropriate school official based upon  
1645 sufficient medical documentation.

1646 (b) When a compulsory-school-age child is enrolled in  
1647 and pursuing a course of special education, remedial education or  
1648 education for handicapped or physically or mentally disadvantaged  
1649 children.

1650 (c) When a compulsory-school-age child is being  
1651 educated in a legitimate home instruction program.

1652 The parent, guardian or custodian of a compulsory-school-age  
1653 child described in this subsection, or the parent, guardian or  
1654 custodian of a compulsory-school-age child attending any nonpublic



1655 school or a public charter school, or the appropriate school  
1656 official for any or all children attending a nonpublic school or a  
1657 public charter school shall complete a "certificate of enrollment"  
1658 in order to facilitate the administration of this section.

1659         The form of the certificate of enrollment shall be prepared  
1660 by the Office of Compulsory School Attendance Enforcement of the  
1661 State Department of Education and shall be designed to obtain the  
1662 following information only:

1663                 (i) The name, address, telephone number and date  
1664 of birth of the compulsory-school-age child;

1665                 (ii) The name, address and telephone number of the  
1666 parent, guardian or custodian of the compulsory-school-age child;

1667                 (iii) A simple description of the type of  
1668 education the compulsory-school-age child is receiving and, if the  
1669 child is enrolled in a nonpublic school, the name and address of  
1670 the school; and

1671                 (iv) The signature of the parent, guardian or  
1672 custodian of the compulsory-school-age child or, for any or all  
1673 compulsory-school-age child or children attending a nonpublic  
1674 school or a public charter school, the signature of the  
1675 appropriate school official and the date signed.

1676         The certificate of enrollment shall be returned to the school  
1677 attendance officer where the child resides on or before September  
1678 15 of each year. Any parent, guardian or custodian found by the  
1679 school attendance officer to be in noncompliance with this section



1680 shall comply, after written notice of the noncompliance by the  
1681 school attendance officer, with this subsection within ten (10)  
1682 days after the notice or be in violation of this section.  
1683 However, in the event the child has been enrolled in a public  
1684 school within fifteen (15) calendar days after the first day of  
1685 the school year as required in subsection (6), the parent or  
1686 custodian may, at a later date, enroll the child in a legitimate  
1687 nonpublic school or legitimate home instruction program or a  
1688 public charter school and send the certificate of enrollment to  
1689 the school attendance officer and be in compliance with this  
1690 subsection.

1691 For the purposes of this subsection, a legitimate nonpublic  
1692 school, a public charter school or legitimate home instruction  
1693 program shall be those not operated or instituted for the purpose  
1694 of avoiding or circumventing the compulsory attendance law.

1695 (4) An "unlawful absence" is an absence during a school day  
1696 by a compulsory-school-age child, which absence is not due to a  
1697 valid excuse for temporary nonattendance. Days missed from school  
1698 due to disciplinary suspension shall not be considered an  
1699 "excused" absence under this section. This subsection shall not  
1700 apply to children enrolled in a nonpublic school.

1701 Each of the following shall constitute a valid excuse for  
1702 temporary nonattendance of a compulsory-school-age child enrolled  
1703 in a public school, provided satisfactory evidence of the excuse



1704 is provided to the superintendent of the school district, or his  
1705 designee:

1706           (a) An absence is excused when the absence results from  
1707 the compulsory-school-age child's attendance at an authorized  
1708 school activity with the prior approval of the superintendent of  
1709 the school district, or his designee. These activities may  
1710 include field trips, athletic contests, student conventions,  
1711 musical festivals and any similar activity.

1712           (b) An absence is excused when the absence results from  
1713 illness or injury which prevents the compulsory-school-age child  
1714 from being physically able to attend school.

1715           (c) An absence is excused when isolation of a  
1716 compulsory-school-age child is ordered by the county health  
1717 officer, by the State Board of Health or appropriate school  
1718 official.

1719           (d) An absence is excused when it results from the  
1720 death or serious illness of a member of the immediate family of a  
1721 compulsory-school-age child. The immediate family members of a  
1722 compulsory-school-age child shall include children, spouse,  
1723 grandparents, parents, brothers and sisters, including  
1724 stepbrothers and stepsisters.

1725           (e) An absence is excused when it results from a  
1726 medical or dental appointment of a compulsory-school-age child.

1727           (f) An absence is excused when it results from the  
1728 attendance of a compulsory-school-age child at the proceedings of



1729 a court or an administrative tribunal if the child is a party to  
1730 the action or under subpoena as a witness.

1731 (g) An absence may be excused if the religion to which  
1732 the compulsory-school-age child or the child's parents adheres,  
1733 requires or suggests the observance of a religious event. The  
1734 approval of the absence is within the discretion of the  
1735 superintendent of the school district, or his designee, but  
1736 approval should be granted unless the religion's observance is of  
1737 such duration as to interfere with the education of the child.

1738 (h) An absence may be excused when it is demonstrated  
1739 to the satisfaction of the superintendent of the school district,  
1740 or his designee, that the purpose of the absence is to take  
1741 advantage of a valid educational opportunity such as travel,  
1742 including vacations or other family travel. Approval of the  
1743 absence must be gained from the superintendent of the school  
1744 district, or his designee, before the absence, but the approval  
1745 shall not be unreasonably withheld.

1746 (i) An absence may be excused when it is demonstrated  
1747 to the satisfaction of the superintendent of the school district,  
1748 or his designee, that conditions are sufficient to warrant the  
1749 compulsory-school-age child's nonattendance. However, no absences  
1750 shall be excused by the school district superintendent, or his  
1751 designee, when any student suspensions or expulsions circumvent  
1752 the intent and spirit of the compulsory attendance law.



1753           (5) Any parent, guardian or custodian of a  
1754 compulsory-school-age child subject to this section who refuses or  
1755 willfully fails to perform any of the duties imposed upon him or  
1756 her under this section or who intentionally falsifies any  
1757 information required to be contained in a certificate of  
1758 enrollment, shall be guilty of contributing to the neglect of a  
1759 child and, upon conviction, shall be punished in accordance with  
1760 Section 97-5-39.

1761           Upon prosecution of a parent, guardian or custodian of a  
1762 compulsory-school-age child for violation of this section, the  
1763 presentation of evidence by the prosecutor that shows that the  
1764 child has not been enrolled in school within eighteen (18)  
1765 calendar days after the first day of the school year of the public  
1766 school which the child is eligible to attend, or that the child  
1767 has accumulated twelve (12) unlawful absences during the school  
1768 year at the public school in which the child has been enrolled,  
1769 shall establish a prima facie case that the child's parent,  
1770 guardian or custodian is responsible for the absences and has  
1771 refused or willfully failed to perform the duties imposed upon him  
1772 or her under this section. However, no proceedings under this  
1773 section shall be brought against a parent, guardian or custodian  
1774 of a compulsory-school-age child unless the school attendance  
1775 officer has contacted promptly the home of the child and has  
1776 provided written notice to the parent, guardian or custodian of  
1777 the requirement for the child's enrollment or attendance.



1778 (6) If a compulsory-school-age child has not been enrolled  
1779 in a school within fifteen (15) calendar days after the first day  
1780 of the school year of the school which the child is eligible to  
1781 attend or the child has accumulated five (5) unlawful absences  
1782 during the school year of the public school in which the child is  
1783 enrolled, the school district superintendent or his designee shall  
1784 report, within two (2) school days or within five (5) calendar  
1785 days, whichever is less, the absences to the school attendance  
1786 officer. The State Department of Education shall prescribe a  
1787 uniform method for schools to utilize in reporting the unlawful  
1788 absences to the school attendance officer. The superintendent, or  
1789 his designee, also shall report any student suspensions or student  
1790 expulsions to the school attendance officer when they occur.

1791 (7) When a school attendance officer has made all attempts  
1792 to secure enrollment and/or attendance of a compulsory-school-age  
1793 child and is unable to effect the enrollment and/or attendance,  
1794 the attendance officer shall file a petition with the youth court  
1795 under Section 43-21-451 or shall file a petition in a court of  
1796 competent jurisdiction as it pertains to parent or child.  
1797 Sheriffs, deputy sheriffs and municipal law enforcement officers  
1798 shall be fully authorized to investigate all cases of  
1799 nonattendance and unlawful absences by compulsory-school-age  
1800 children, and shall be authorized to file a petition with the  
1801 youth court under Section 43-21-451 or file a petition or  
1802 information in the court of competent jurisdiction as it pertains



1803 to parent or child for violation of this section. The youth court  
1804 shall expedite a hearing to make an appropriate adjudication and a  
1805 disposition to ensure compliance with the Compulsory School  
1806 Attendance Law, and may order the child to enroll or re-enroll in  
1807 school. The superintendent of the school district to which the  
1808 child is ordered may assign, in his discretion, the child to the  
1809 alternative school program of the school established pursuant to  
1810 Section 37-13-92.

1811 (8) The State Board of Education shall adopt rules and  
1812 regulations for the purpose of reprimanding any school  
1813 superintendents who fail to timely report unexcused absences under  
1814 the provisions of this section.

1815 (9) Notwithstanding any provision or implication herein to  
1816 the contrary, it is not the intention of this section to impair  
1817 the primary right and the obligation of the parent or parents, or  
1818 person or persons in loco parentis to a child, to choose the  
1819 proper education and training for such child, and nothing in this  
1820 section shall ever be construed to grant, by implication or  
1821 otherwise, to the State of Mississippi, any of its officers,  
1822 agencies or subdivisions any right or authority to control,  
1823 manage, supervise or make any suggestion as to the control,  
1824 management or supervision of any private or parochial school or  
1825 institution for the education or training of children, of any kind  
1826 whatsoever that is not a public school according to the laws of  
1827 this state; and this section shall never be construed so as to



1828 grant, by implication or otherwise, any right or authority to any  
1829 state agency or other entity to control, manage, supervise,  
1830 provide for or affect the operation, management, program,  
1831 curriculum, admissions policy or discipline of any such school or  
1832 home instruction program.

1833         **SECTION 16.** Section 37-15-29, Mississippi Code of 1972, is  
1834 amended as follows:

1835         37-15-29. (1) Except as provided in subsections (2), (3)  
1836 and (4) of this section, no minor child may enroll in or attend  
1837 any school except in the school district of his residence, unless  
1838 such child be lawfully transferred from the school district of his  
1839 residence to a school in another school district in accord with  
1840 the statutes of this state now in effect or which may be hereafter  
1841 enacted.

1842         (2) Those children whose parent(s) or legal guardian(s) are  
1843 instructional personnel or certificated employees of a school  
1844 district may at such employee's discretion enroll and attend the  
1845 school or schools of their parent's or legal guardian's employment  
1846 regardless of the residence of the child.

1847         (3) No child shall be required to be transported in excess  
1848 of thirty (30) miles on a school bus from his or her home to  
1849 school, or in excess of thirty (30) miles from school to his or  
1850 her home, if there is another school in an adjacent school  
1851 district located on a shorter school bus transportation route by  
1852 the nearest traveled road. Those children residing in such



1853 geographical situations may, at the discretion of their parent(s)  
1854 or legal guardian(s), enroll and attend the nearer school,  
1855 regardless of the residence of the child. In the event the parent  
1856 or legal guardian of such child and the school board are unable to  
1857 agree on the school bus mileage required to transport the child  
1858 from his or her home to school, an appeal shall lie to the State  
1859 Board of Education, or its designee, whose decision shall be  
1860 final. The school districts involved in the appeal shall provide  
1861 the Mississippi Department of Education with any school bus route  
1862 information requested, including riding the buses as necessary, in  
1863 order to measure the bus routes in question, as needed by the  
1864 State Board of Education in considering the appeal.

1865 (4) Those children lawfully transferred from the school  
1866 district of his residence to a school in another school district  
1867 prior to July 1, 1992, may, at the discretion of their parent(s)  
1868 or legal guardian(s), continue to enroll and attend school in the  
1869 transferee school district. Provided further, that the brother(s)  
1870 and sister(s) of said children lawfully transferred prior to July  
1871 1, 1992, may also, at the discretion of their parent(s) or legal  
1872 guardian(s), enroll and attend school in the transferee school  
1873 district.

1874 (5) Those students who are attending a public charter school  
1875 approved by the Mississippi Public Charter School Authorizing  
1876 Board under the provisions of the Mississippi Public Charter  
1877 Schools Act of 2013 shall be exempt from the provisions of this



1878 section and there shall be no requirement that the local school  
1879 board of the student's home school district release the student to  
1880 attend the public charter school.

1881           **SECTION 17.** Section 25-11-103, Mississippi Code of 1972, is  
1882 amended as follows:

1883           25-11-103. (1) The following words and phrases as used in  
1884 Articles 1 and 3, unless a different meaning is plainly required  
1885 by the context, have the following meanings:

1886                   (a) "Accumulated contributions" means the sum of all  
1887 the amounts deducted from the compensation of a member and  
1888 credited to his or her individual account in the annuity savings  
1889 account, together with regular interest as provided in Section  
1890 25-11-123.

1891                   (b) "Actuarial cost" means the amount of funds  
1892 presently required to provide future benefits as determined by the  
1893 board based on applicable tables and formulas provided by the  
1894 actuary.

1895                   (c) "Actuarial equivalent" means a benefit of equal  
1896 value to the accumulated contributions, annuity or benefit, as the  
1897 case may be, when computed upon the basis of such mortality tables  
1898 as adopted by the board of trustees, and regular interest.

1899                   (d) "Actuarial tables" means such tables of mortality  
1900 and rates of interest as adopted by the board in accordance with  
1901 the recommendation of the actuary.



1902 (e) "Agency" means any governmental body employing  
1903 persons in the state service.

1904 (f) "Average compensation" means the average of the  
1905 four (4) highest years of earned compensation reported for an  
1906 employee in a fiscal or calendar year period, or combination  
1907 thereof that do not overlap, or the last forty-eight (48)  
1908 consecutive months of earned compensation reported for an  
1909 employee. The four (4) years need not be successive or joined  
1910 years of service. In computing the average compensation for  
1911 retirement, disability or survivor benefits, any amount lawfully  
1912 paid in a lump sum for personal leave or major medical leave shall  
1913 be included in the calculation to the extent that the amount does  
1914 not exceed an amount that is equal to thirty (30) days of earned  
1915 compensation and to the extent that it does not cause the  
1916 employee's earned compensation to exceed the maximum reportable  
1917 amount specified in paragraph (k) of this section; however, this  
1918 thirty-day limitation shall not prevent the inclusion in the  
1919 calculation of leave earned under federal regulations before July  
1920 1, 1976, and frozen as of that date as referred to in Section  
1921 25-3-99. In computing the average compensation, no amounts shall  
1922 be used that are in excess of the amount on which contributions  
1923 were required and paid, and no nontaxable amounts paid by the  
1924 employer for health or life insurance premiums for the employee  
1925 shall be used. If any member who is or has been granted any  
1926 increase in annual salary or compensation of more than eight



1927 percent (8%) retires within twenty-four (24) months from the date  
1928 that the increase becomes effective, then the board shall exclude  
1929 that part of the increase in salary or compensation that exceeds  
1930 eight percent (8%) in calculating that member's average  
1931 compensation for retirement purposes. The board may enforce this  
1932 provision by rule or regulation. However, increases in  
1933 compensation in excess of eight percent (8%) per year granted  
1934 within twenty-four (24) months of the date of retirement may be  
1935 included in the calculation of average compensation if  
1936 satisfactory proof is presented to the board showing that the  
1937 increase in compensation was the result of an actual change in the  
1938 position held or services rendered, or that the compensation  
1939 increase was authorized by the State Personnel Board or was  
1940 increased as a result of statutory enactment, and the employer  
1941 furnishes an affidavit stating that the increase granted within  
1942 the last twenty-four (24) months was not contingent on a promise  
1943 or agreement of the employee to retire. Nothing in Section  
1944 25-3-31 shall affect the calculation of the average compensation  
1945 of any member for the purposes of this article. The average  
1946 compensation of any member who retires before July 1, 1992, shall  
1947 not exceed the annual salary of the Governor.

1948 (g) "Beneficiary" means any person entitled to receive  
1949 a retirement allowance, an annuity or other benefit as provided by  
1950 Articles 1 and 3. The term "beneficiary" may also include an  
1951 organization, estate, trust or entity; however, a beneficiary



1952 designated or entitled to receive monthly payments under an  
1953 optional settlement based on life contingency or under a statutory  
1954 monthly benefit may only be a natural person. In the event of the  
1955 death before retirement of any member who became a member of the  
1956 system before July 1, 2007, and whose spouse and/or children are  
1957 not entitled to a retirement allowance on the basis that the  
1958 member has less than four (4) years of service credit, or who  
1959 became a member of the system on or after July 1, 2007, and whose  
1960 spouse and/or children are not entitled to a retirement allowance  
1961 on the basis that the member has less than eight (8) years of  
1962 service credit, and/or has not been married for a minimum of one  
1963 (1) year or the spouse has waived his or her entitlement to a  
1964 retirement allowance under Section 25-11-114, the lawful spouse of  
1965 a member at the time of the death of the member shall be the  
1966 beneficiary of the member unless the member has designated another  
1967 beneficiary after the date of marriage in writing, and filed that  
1968 writing in the office of the executive director of the board of  
1969 trustees. No designation or change of beneficiary shall be made  
1970 in any other manner.

1971 (h) "Board" means the board of trustees provided in  
1972 Section 25-11-15 to administer the retirement system created under  
1973 this article.

1974 (i) "Creditable service" means "prior service,"  
1975 "retroactive service" and all lawfully credited unused leave not  
1976 exceeding the accrual rates and limitations provided in Section



1977 25-3-91 et seq., as of the date of withdrawal from service plus  
1978 "membership service" and other service for which credit is  
1979 allowable as provided in Section 25-11-109. Except to limit  
1980 creditable service reported to the system for the purpose of  
1981 computing an employee's retirement allowance or annuity or  
1982 benefits provided in this article, nothing in this paragraph shall  
1983 limit or otherwise restrict the power of the governing authority  
1984 of a municipality or other political subdivision of the state to  
1985 adopt such vacation and sick leave policies as it deems necessary.

1986 (j) "Child" means either a natural child of the member,  
1987 a child that has been made a child of the member by applicable  
1988 court action before the death of the member, or a child under the  
1989 permanent care of the member at the time of the latter's death,  
1990 which permanent care status shall be determined by evidence  
1991 satisfactory to the board.

1992 (k) "Earned compensation" means the full amount earned  
1993 during a fiscal year by an employee including any maintenance  
1994 furnished not to exceed the employee compensation limit set  
1995 pursuant to Section 401(a)(17) of the Internal Revenue Code for  
1996 the calendar year in which the fiscal year begins and  
1997 proportionately for less than one (1) year of service. The value  
1998 of that maintenance when not paid in money shall be fixed by the  
1999 employing state agency, and, in case of doubt, by the board of  
2000 trustees as defined in Section 25-11-15. Earned compensation  
2001 shall not include any nontaxable amounts paid by the employer for



2002 health or life insurance premiums for an employee. In any case,  
2003 earned compensation shall be limited to the regular periodic  
2004 compensation paid, exclusive of litigation fees, bond fees, and  
2005 other similar extraordinary nonrecurring payments. In addition,  
2006 any member in a covered position, as defined by Public Employees'  
2007 Retirement System laws and regulations, who is also employed by  
2008 another covered agency or political subdivision shall have the  
2009 earnings of that additional employment reported to the Public  
2010 Employees' Retirement System regardless of whether the additional  
2011 employment is sufficient in itself to be a covered position. In  
2012 addition, computation of earned compensation shall be governed by  
2013 the following:

2014                   (i) In the case of constables, the net earnings  
2015 from their office after deduction of expenses shall apply, except  
2016 that in no case shall earned compensation be less than the total  
2017 direct payments made by the state or governmental subdivisions to  
2018 the official.

2019                   (ii) In the case of chancery or circuit clerks,  
2020 the net earnings from their office after deduction of expenses  
2021 shall apply as expressed in Section 25-11-123(f) (4).

2022                   (iii) In the case of members of the State  
2023 Legislature, all remuneration or amounts paid, except mileage  
2024 allowance, shall apply.

2025                   (iv) The amount by which an eligible employee's  
2026 salary is reduced under a salary reduction agreement authorized



2027 under Section 25-17-5 shall be included as earned compensation  
2028 under this paragraph, provided this inclusion does not conflict  
2029 with federal law, including federal regulations and federal  
2030 administrative interpretations under the federal law, pertaining  
2031 to the Federal Insurance Contributions Act or to Internal Revenue  
2032 Code Section 125 cafeteria plans.

2033 (v) Compensation in addition to an employee's base  
2034 salary that is paid to the employee under the vacation and sick  
2035 leave policies of a municipality or other political subdivision of  
2036 the state that employs him or her that exceeds the maximums  
2037 authorized by Section 25-3-91 et seq. shall be excluded from the  
2038 calculation of earned compensation under this article.

2039 (vi) The maximum salary applicable for retirement  
2040 purposes before July 1, 1992, shall be the salary of the Governor.

2041 (vii) Nothing in Section 25-3-31 shall affect the  
2042 determination of the earned compensation of any member for the  
2043 purposes of this article.

2044 (l) "Employee" means any person legally occupying a  
2045 position in the state service, and shall include the employees of  
2046 the retirement system created under this article.

2047 (m) "Employer" means the State of Mississippi or any of  
2048 its departments, agencies or subdivisions from which any employee  
2049 receives his or her compensation.

2050 (n) "Executive director" means the secretary to the  
2051 board of trustees, as provided in Section 25-11-15(9), and the



2052 administrator of the Public Employees' Retirement System and all  
2053 systems under the management of the board of trustees. Wherever  
2054 the term "Executive Secretary of the Public Employees' Retirement  
2055 System" or "executive secretary" appears in this article or in any  
2056 other provision of law, it shall be construed to mean the  
2057 Executive Director of the Public Employees' Retirement System.

2058 (o) "Fiscal year" means the period beginning on July 1  
2059 of any year and ending on June 30 of the next succeeding year.

2060 (p) "Medical board" means the board of physicians or  
2061 any governmental or nongovernmental disability determination  
2062 service designated by the board of trustees that is qualified to  
2063 make disability determinations as provided for in Section  
2064 25-11-119.

2065 (q) "Member" means any person included in the  
2066 membership of the system as provided in Section 25-11-105. For  
2067 purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111,  
2068 25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the  
2069 system withdrew from state service and received a refund of the  
2070 amount of the accumulated contributions to the credit of the  
2071 member in the annuity savings account before July 1, 2007, and the  
2072 person reenters state service and becomes a member of the system  
2073 again on or after July 1, 2007, and repays all or part of the  
2074 amount received as a refund and interest in order to receive  
2075 creditable service for service rendered before July 1, 2007, the  
2076 member shall be considered to have become a member of the system



2077 on or after July 1, 2007, subject to the eight-year membership  
2078 service requirement, as applicable in those sections. For  
2079 purposes of Sections 25-11-103, 25-11-111, 25-11-114 and  
2080 25-11-115, if a member of the system withdrew from state service  
2081 and received a refund of the amount of the accumulated  
2082 contributions to the credit of the member in the annuity savings  
2083 account before July 1, 2011, and the person reenters state service  
2084 and becomes a member of the system again on or after July 1, 2011,  
2085 and repays all or part of the amount received as a refund and  
2086 interest in order to receive creditable service for service  
2087 rendered before July 1, 2011, the member shall be considered to  
2088 have become a member of the system on or after July 1, 2011.

2089 (r) "Membership service" means service as an employee  
2090 in a covered position rendered while a contributing member of the  
2091 retirement system.

2092 (s) "Position" means any office or any employment in  
2093 the state service, or two (2) or more of them, the duties of which  
2094 call for services to be rendered by one (1) person, including  
2095 positions jointly employed by federal and state agencies  
2096 administering federal and state funds. The employer shall  
2097 determine upon initial employment and during the course of  
2098 employment of an employee who does not meet the criteria for  
2099 coverage in the Public Employees' Retirement System based on the  
2100 position held, whether the employee is or becomes eligible for  
2101 coverage in the Public Employees' Retirement System based upon any



2102 other employment in a covered agency or political subdivision. If  
2103 or when the employee meets the eligibility criteria for coverage  
2104 in the other position, then the employer must withhold  
2105 contributions and report wages from the noncovered position in  
2106 accordance with the provisions for reporting of earned  
2107 compensation. Failure to deduct and report those contributions  
2108 shall not relieve the employee or employer of liability thereof.  
2109 The board shall adopt such rules and regulations as necessary to  
2110 implement and enforce this provision.

2111 (t) "Prior service" means:

2112 (i) For persons who became members of the system  
2113 before July 1, 2007, service rendered before February 1, 1953, for  
2114 which credit is allowable under Sections 25-11-105 and 25-11-109,  
2115 and which shall allow prior service for any person who is now or  
2116 becomes a member of the Public Employees' Retirement System and  
2117 who does contribute to the system for a minimum period of four (4)  
2118 years.

2119 (ii) For persons who became members of the system  
2120 on or after July 1, 2007, service rendered before February 1,  
2121 1953, for which credit is allowable under Sections 25-11-105 and  
2122 25-11-109, and which shall allow prior service for any person who  
2123 is now or becomes a member of the Public Employees' Retirement  
2124 System and who does contribute to the system for a minimum period  
2125 of eight (8) years.



2126 (u) "Regular interest" means interest compounded  
2127 annually at such a rate as determined by the board in accordance  
2128 with Section 25-11-121.

2129 (v) "Retirement allowance" means an annuity for life as  
2130 provided in this article, payable each year in twelve (12) equal  
2131 monthly installments beginning as of the date fixed by the board.  
2132 The retirement allowance shall be calculated in accordance with  
2133 Section 25-11-111. However, any spouse who received a spouse  
2134 retirement benefit in accordance with Section 25-11-111(d) before  
2135 March 31, 1971, and those benefits were terminated because of  
2136 eligibility for a social security benefit, may again receive his  
2137 or her spouse retirement benefit from and after making application  
2138 with the board of trustees to reinstate the spouse retirement  
2139 benefit.

2140 (w) "Retroactive service" means service rendered after  
2141 February 1, 1953, for which credit is allowable under Section  
2142 25-11-105(b) and Section 25-11-105(k).

2143 (x) "System" means the Public Employees' Retirement  
2144 System of Mississippi established and described in Section  
2145 25-11-101.

2146 (y) "State" means the State of Mississippi or any  
2147 political subdivision thereof or instrumentality of the state.

2148 (z) "State service" means all offices and positions of  
2149 trust or employment in the employ of the state, or any political  
2150 subdivision or instrumentality of the state, that elect to



2151 participate as provided by Section 25-11-105(f), including the  
2152 position of elected or fee officials of the counties and their  
2153 deputies and employees performing public services or any  
2154 department, independent agency, board or commission thereof, and  
2155 also includes all offices and positions of trust or employment in  
2156 the employ of joint state and federal agencies administering state  
2157 and federal funds and service rendered by employees of the public  
2158 schools. Effective July 1, 1973, all nonprofessional public  
2159 school employees, such as bus drivers, janitors, maids,  
2160 maintenance workers and cafeteria employees, shall have the option  
2161 to become members in accordance with Section 25-11-105(b), and  
2162 shall be eligible to receive credit for services before July 1,  
2163 1973, provided that the contributions and interest are paid by the  
2164 employee in accordance with that section; in addition, the county  
2165 or municipal separate school district may pay the employer  
2166 contribution and pro rata share of interest of the retroactive  
2167 service from available funds. From and after July 1, 1998,  
2168 retroactive service credit shall be purchased at the actuarial  
2169 cost in accordance with Section 25-11-105(b).

2170 (aa) "Withdrawal from service" or "termination from  
2171 service" means complete severance of employment in the state  
2172 service of any member by resignation, dismissal or discharge.

2173 (bb) The masculine pronoun, wherever used, includes the  
2174 feminine pronoun.



2175           (2) For purposes of this article, the term "political  
2176 subdivision" shall have the meaning ascribed to such term in  
2177 Section 25-11-5 and shall also include public charter schools.

2178           **SECTION 18.** Sections 37-165-1, 37-165-3, 37-165-5, 37-165-7,  
2179 37-165-9, 37-165-11, 37-165-13, 37-165-15, 37-165-17, 37-165-19,  
2180 37-165-21, 37-165-23, 37-165-25 and 37-165-27, Mississippi Code of  
2181 1972, which are the "Conversion Charter School Act of 2010," and  
2182 Section 37-167-1, Mississippi Code of 1972, which is the New Start  
2183 School Program, are repealed.

2184           **SECTION 19.** This act shall take effect and be in force from  
2185 and after its passage, provided that Sections 1 through 10 shall  
2186 stand repealed from and after July 1, 2021.

