Chapter No. 540
10/SS26/R88SG
JN /Cal/TB

SENATE BILL NO. 2293

Originated in Senate _____ Secretary

SENATE BILL NO. 2293

AN ACT TO CREATE A NEW START SCHOOL PROGRAM TO BE ADMINISTERED BY THE MISSISSIPPI RECOVERY SCHOOL DISTRICT IN THE STATE DEPARTMENT OF EDUCATION; TO DEFINE THE TERM "NEW START SCHOOL"; TO REQUIRE A NEW START SCHOOL TO BE ESTABLISHED IN EACH PUBLIC SCHOOL THAT, DURING EACH OF THREE CONSECUTIVE SCHOOL YEARS, IS CONSIDERED FAILING; TO AUTHORIZE THE STATE BOARD OF EDUCATION TO GRANT A ONE-YEAR DELAY IN TRANSFORMING A SCHOOL INTO A NEW START SCHOOL WHEN MERITED; TO REQUIRE THE DEPUTY SUPERINTENDENT OF EDUCATION TO PROVIDE NOTICE TO THE PUBLIC AND ALL EMPLOYEES OF A FAILING SCHOOL OF ITS POTENTIAL TO BE TRANSFORMED INTO A NEW START SCHOOL; TO REQUIRE THE EVALUATION OF ALL LICENSED AND NONLICENSED EMPLOYEES IN A FAILING SCHOOL THAT IS TRANSFORMED INTO A NEW START SCHOOL BEFORE THE TERMINATION OF SUCH EMPLOYEES; TO REQUIRE THE STATE BOARD OF EDUCATION TO ADOPT RULES AND REGULATIONS RELATING TO THE NEW START SCHOOL PROGRAM; TO RESTRICT THE TRAVEL OF SUPERINTENDENTS AND MEMBERS OF LOCAL SCHOOL BOARDS HAVING A FAILING SCHOOL IN THEIR SCHOOL DISTRICTS; TO REDUCE THE AMOUNT OF THE PER DIEM RECEIVED BY MEMBERS OF LOCAL SCHOOL BOARDS HAVING A FAILING SCHOOL IN THEIR SCHOOL DISTRICTS BY ONE-HALF; TO AMEND SECTIONS 37-9-103 AND 37-9-3, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO CREATE THE "CONVERSION CHARTER SCHOOL ACT OF 2010"; TO ESTABLISH A PROCESS BY WHICH CHRONICALLY UNDER-PERFORMING PUBLIC SCHOOLS MAY BE CONVERTED TO CONVERSION CHARTER SCHOOL STATUS UPON A PETITION APPROVED BY MORE THAN 50% OF THE PARENTS OR GUARDIANS OF STUDENTS IN THOSE SCHOOLS, SUBJECT TO THE APPROVAL OF THE STATE BOARD OF EDUCATION; TO REQUIRE THAT A SCHOOL BE DESIGNATED LOW-PERFORMING, AT-RISK OF FAILING OR FAILING FOR THREE CONSECUTIVE YEARS BEFORE A PETITION MAY BE SUBMITTED REQUESTING CONVERSION; TO PRESCRIBE CERTAIN REQUIREMENTS FOR PETITIONS FOR THE CONVERSION OF PUBLIC SCHOOLS TO CONVERSION CHARTER SCHOOL STATUS; TO REQUIRE THE SPONSORS OF A PETITION TO CONDUCT A PUBLIC HEARING IN THE LOCAL SCHOOL DISTRICT IN WHICH THE PROPOSED SCHOOL TO BE CONVERTED TO CONVERSION CHARTER SCHOOL STATUS IS LOCATED BEFORE APPROVAL OF THE PETITION BY THE STATE BOARD OF EDUCATION; TO PROVIDE FOR A LOCAL MANAGEMENT BOARD OF A CONVERSION CHARTER SCHOOL AND FOR THE SELECTION OF ITS MEMBERS; TO REQUIRE THAT THE SELECTION OF MEMBERS TO THE LOCAL MANAGEMENT BOARD BE PERFORMED IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED BY THE STATE BOARD OF EDUCATION FOR SUCH PURPOSES; TO PRESCRIBE THE POWERS AND DUTIES OF THE LOCAL MANAGEMENT BOARD AS THEY RELATE TO THE GOVERNANCE OF A CONVERSION CHARTER SCHOOL; TO PROVIDE THAT ALL ACADEMIC FUNCTIONS AND DECISIONS OF THE LOCAL MANAGEMENT BOARD IMPACTING THE CONVERSION CHARTER SCHOOL SHALL BE SUBJECT TO THE REVIEWING AND APPROVAL AUTHORITY OF THE STATE BOARD OF EDUCATION; TO PROVIDE THAT ALL ADMINISTRATIVE FUNCTIONS AND DECISIONS OF THE LOCAL MANAGEMENT BOARD IMPACTING THE CONVERSION

CHARTER SCHOOL SHALL BE SUBJECT TO THE REVIEWING AND APPROVAL AUTHORITY OF THE LOCAL SCHOOL BOARD; TO PROVIDE CERTAIN IMMUNITY TO THE LOCAL MANAGEMENT BOARD, LOCAL SCHOOL BOARD AND STATE BOARD OF EDUCATION; TO REQUIRE THE LOCAL SCHOOL BOARD TO PROVIDE THE LOCAL MANAGEMENT BOARD WITH THE SAME LEGAL REPRESENTATION AS IS PROVIDED TO THE LOCAL SCHOOL BOARD; TO PRESCRIBE THE POWERS AND DUTIES OF THE STATE BOARD OF EDUCATION AS THEY RELATE TO THE ADMINISTRATION OF THIS ACT; TO PRESCRIBE THE PERIOD OF TIME IN WHICH THE STATE BOARD OF EDUCATION HAS TO REVIEW AND APPROVE OR DENY AN APPLICATION FOR CONVERSION CHARTER SCHOOL STATUS; TO PRESCRIBE CERTAIN PROCEDURES TO BE FOLLOWED BY THE STATE BOARD OF EDUCATION UPON REJECTION OF AN APPLICATION; TO PERMIT THE STATE BOARD OF EDUCATION TO EXERCISE THE OPTION TO TRANSFORM A FAILING SCHOOL INTO A NEW START SCHOOL IF THE PETITION FOR CONVERSION TO CONVERSION CHARTER SCHOOL STATUS IS REJECTED; TO PROVIDE THAT A CONVERSION CHARTER SCHOOL SHALL CONTINUE TO BE CONSIDERED A PUBLIC SCHOOL UNDER THE AUTHORITY OF THE LOCAL SCHOOL DISTRICT FOR CERTAIN FUNDING AND SERVICE PURPOSES; TO PROVIDE THAT STUDENTS WITHIN THE ATTENDANCE ZONE OF A PUBLIC SCHOOL CONVERTED TO CONVERSION CHARTER SCHOOL STATUS WHEN THE PETITION IS MADE FOR CONVERSION CHARTER SCHOOL STATUS SHALL BE ELIGIBLE FOR ENROLLMENT IN THE CONVERSION CHARTER SCHOOL; TO PROHIBIT THE ENROLLMENT OF TRANSFER STUDENTS; TO REQUIRE THAT STUDENTS WITHIN THE ATTENDANCE ZONE NOT ELECTING TO ATTEND THE CONVERSION CHARTER SCHOOL BE ALLOWED TO ATTEND ANOTHER PUBLIC SCHOOL IN THE LOCAL SCHOOL DISTRICT; TO PROVIDE THAT AN APPROVED CONTRACT FOR THE CONVERSION OF A PUBLIC SCHOOL TO CONVERSION CHARTER SCHOOL STATUS SHALL BE VALID FOR AN INITIAL MINIMUM TERM OF THREE SCHOOL YEARS; TO PROVIDE THE PROCESS BY WHICH A SCHOOL MAY BE REMOVED FROM CONVERSION CHARTER SCHOOL STATUS; TO PROVIDE THAT EMPLOYEES OF THE CONVERSION CHARTER SCHOOL ARE EMPLOYEES OF THE LOCAL SCHOOL DISTRICT FOR PURPOSES OF RECEIVING CERTAIN BENEFITS; TO LIMIT THE NUMBER OF CONVERSION CHARTER SCHOOLS TO THREE PER CONGRESSIONAL DISTRICT; TO PROHIBIT UNLAWFUL REPRISAL AGAINST SCHOOL DISTRICT EMPLOYEES WHO ARE INVOLVED IN A PETITION FOR THE CONVERSION OF A PUBLIC SCHOOL TO CONVERSION CHARTER SCHOOL STATUS; TO PROVIDE AN EXEMPTION TO THE EDUCATION EMPLOYMENT PROCEDURES LAW FOR CONVERSION CHARTER SCHOOLS DURING A SCHOOL'S FIRST YEAR; TO PRESCRIBE THE VARIOUS SOURCES OF FUNDING WHICH A CONVERSION CHARTER SCHOOL IS ELIGIBLE TO APPLY FOR AND ACCEPT; TO PROVIDE FOR THE REPEAL OF SECTIONS 1 THROUGH 16 OF THIS ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) This section applies only to those public schools in the State of Mississippi which, during each of three (3) consecutive school years, are considered failing, as determined by the State Department of Education.

For purposes of this section, the term "new start school" means the successor school to a public school in the State of Mississippi which, during each of three (3) consecutive school

years, is considered failing, as determined by the State Department of Education.

(2) There is established the New Start School Program for the purpose of transforming certain failing schools into quality educational options. Under the program, a new start school must be established in each public school that, during each of three (3) consecutive school years, is considered failing, as determined by the State Department of Education. The New Start School Program shall be under the administration of the Mississippi Recovery School District established under Section 37-17-6(11)(f).

(3) (a) Whenever a school is classified by the State Department of Education as a failing school for two (2) or more consecutive years, the Mississippi Recovery School District shall provide written notice to the principal and each licensed and nonlicensed employee in the school that if the school receives a classification of failing for the succeeding school year, the school will be transformed into a new start school and the person's employment with the local school district shall be terminated. The notice shall be sent by the deputy superintendent responsible for the Mississippi Recovery School District as soon as practicable after the school is classified as failing.

(b) In addition to the notice required under paragraph (a) of this subsection (3), the Mississippi Recovery School District shall provide notice to the public in a newspaper of general circulation in the local county that if the school receives a classification of failing for the succeeding school year, the school will be transformed into a new start school. The advertisement may not be placed in any portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall appear in a newspaper that is published at least five (5) days a week, unless the only newspaper in the county is published less than five (5) days a week, in such case, the advertisement shall be published once a week for three (3)

consecutive weeks. The newspaper selected must be one of general interest, readership and circulation in all areas of the community.

(4) If a school that has been classified by the State Department of Education as a failing school for two (2) or more consecutive years is determined to be a failing school during the next succeeding school year, the Mississippi Recovery School District shall take such steps as may be necessary to facilitate the transformation of the failing school into a new start school. However, the school board of the local school district in which such a school is located may appeal to the State Board of Education for an additional year before the school must be transformed into a new start school. The State Board of Education, in its discretion, may grant a one-year delay if it determines circumstances merit giving the school an additional year to achieve academic improvement. If, during the additional year, the school is classified again as a failing school, the Mississippi Recovery School District shall proceed to transform the failing school into a new start school.

(5) The State Board of Education shall adopt rules and regulations governing the transformation of chronically failing schools into new start schools. The State Board of Education shall adopt rules and regulations that ensure that all students who were enrolled in, in attendance at and residing in the attendance zone of the public school before a new start school is instituted shall continue being eligible for and shall be deemed to be enrolled in the new start school without any required application process for the school. The rules and regulations must include, but not necessarily be limited to, the following provisions:

(a) The State Board of Education shall adopt rules and regulations to evaluate the performance of all licensed and nonlicensed employees in schools that are to be transformed into a

new start school. The performance evaluation shall be conducted by the State Department of Education at the conclusion of the second consecutive year in which a school is classified as failing. For all licensed employees the said rules and regulations shall use qualitative and quantitative data, which shall include using the measures of student achievement, to assess the effectiveness of the educator. Any employee that receives an unsatisfactory evaluation may be terminated by the school district in which the school is located. Upon completion of an improvement plan, a person employed other than as a teacher who is terminated may apply for a position at the new start school or at another location in the school district; however, the school district may exercise its discretion in determining whether or not the person will be offered continued employment with the district. Upon completion of an improvement plan, a teacher terminated under this paragraph (a) may apply for employment in the new start school or for a position at another location in the school district. A teacher terminated under this paragraph (a) may be reemployed by the school district in the new start school, subject to the approval of that teacher's reemployment by the deputy superintendent responsible for the Mississippi Recovery School District.

(b) The deputy superintendent responsible for the Mississippi Recovery School District, with the assistance of an advisory committee of parents, guardians and community leaders, shall select a person to be employed as the principal of the new start school. Upon the request of the deputy superintendent, the superintendent of the school district in which the new start school is located shall enter into a contract with the person selected to be the principal in the same manner that contracts with principals are executed under Section 37-9-23. The principal of the new start school shall be an employee of the school district but shall report and be accountable directly to the

deputy superintendent responsible for the Mississippi Recovery School District. All decisions impacting the academic, finance or any other managerial or operational functions of the new start school shall be subject to the review and approval of the Mississippi Recovery School District.

(c) The principal of the new start school, chosen by the deputy superintendent under paragraph (b) of this subsection (5), shall select and recommend for employment all licensed and nonlicensed personnel for the school in the same manner as provided for other schools. The principal shall endeavor to select only the most qualified applicants for employment in the new start school. Each teacher recommended for employment in the new start school must be approved by the Deputy Superintendent of the Mississippi Recovery School District before a contract for employment may be executed with the teacher.

(d) The State Board of Education shall develop professional development courses of training specifically designed for licensed personnel in a new start school. All licensed employees of the new start school shall be required to participate in the professional development courses.

(e) The principal of a new start school shall establish an advisory council to assist in the transformation of the new start school. The advisory council may be composed of parents, students, educators and other community members who are interested in the success of the new start school.

(f) Subject to the availability of funds for such purposes, the campus of the new start school may be refurbished in efforts to distinguish the new start school from the failing school it is replacing. A new start school may receive donations or grants from any public or private source for making improvements to the new start school.

(g) The State Board of Education shall prescribe the circumstances under which a new start school shall cease to be

designated a new start school subject to the requirements of this section and the rules and regulations of the State Board of Education relating to new start schools.

(6) The 2009-2010 school year shall be the first year that a school's classification may be considered for purposes of this section, and a classification as a failing school in any year preceding the 2009-2010 school year may not be considered in determining if a particular school must be transformed into a new start school.

(7) If a local school district has one or more schools designated as failing for two (2) or more consecutive years as determined by the performance classifications of the state accountability rating system, as defined and adopted by the State Board of Education, the superintendent of that local school district shall be restricted only to travel that is mandated by law or prescribed by the State Department of Education.

(8) If a local school district has one or more schools designated as failing for two (2) or more consecutive years as determined by the performance classifications of the state accountability rating system, as defined and adopted by the State Board of Education, the members of the local school board of that school district shall be restricted only to travel that is mandated by law or prescribed by the State Department of Education, and shall have the amount of their per diem reduced by one-half (1/2).

SECTION 2. Section 37-9-103, Mississippi Code of 1972, is amended as follows:

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

(a) Any teacher, principal, superintendent or other professional personnel employed by the local school district for a continuous period of two (2) years with that district and required

to have a valid license issued by the State Department of Education as a prerequisite of employment; or

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

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

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

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

SECTION 3. Section 37-9-3, Mississippi Code of 1972, is amended as follows:

37-9-3. Except as otherwise provided in Section 1 of this act, within the limits of the available funds, the superintendent of schools of a school district shall recommend to the school board thereof all noninstructional employees to be employed and may prescribe the duties thereof. Compensation for such employees may be paid from any lawful funds.

SECTION 4. Sections 4 through 16 of this act shall be known and may be cited as the "Conversion Charter School Act of 2010."

SECTION 5. It is the intent of the Legislature that Sections 4 through 16 of this act provide a means whereby the parents or guardians of students enrolled in eligible local public schools may choose to enter into a binding academic or vocational, or both, performance-based contract approved by the State Board of Education, called a "contract."

SECTION 6. For purposes of Sections 4 through 16 of this act, the following words and phrases shall have the meanings respectively ascribed in this section unless the context clearly indicates otherwise:

(a) "Conversion charter school" means a public school that has converted to operating under the terms of a contract entered into between the local management board of a conversion charter school and the State Board of Education.

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

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

(d) "Sponsor" means the group of parents or guardians of students enrolled in a public school rated as Low-Performing, At-Risk of Failing or Failing or an organization selected or appointed by the sponsoring group of parents or guardians to represent those parents or guardians submitting a petition to the State Board of Education for the conversion of a chronically under-performing public school into a conversion charter school, provided that during the petitioning process and the subsequent approval of a contract, that group of parents or guardians shall remain the sponsor of the conversion charter school.

(e) "Chronically under-performing public school" means a public school that, during each of three (3) consecutive school years, is rated as Low-Performing, At-Risk of Failing or Failing, as determined by the State Department of Education. For the purposes of Sections 4 through 16 of this act, the 2009-2010 school year shall be the first year that a school's classification may be considered.

(f) "Board" means the State Board of Education.

(g) "Department" means the State Department of Education.

(h) "Local management board" means the five-member governing board of a conversion charter school composed of the parents or guardians of students enrolled in the conversion charter school responsible for the academic and administrative functions and decisions of the conversion charter school. The academic responsibilities are subject to the authority of the State Board of Education and the administrative responsibilities are subject to the authority of the local school board.

SECTION 7. (1) The provisions of Sections 4 through 16 of this act shall be applicable to only those chronically under-performing public schools in the State of Mississippi which seek to be converted, and ultimately may be converted, to conversion charter schools upon approval of a petition for conversion charter school status by the State Board of Education.

(2) The State Board of Education, subject to the requirements of the Mississippi Administrative Procedures Law, shall establish rules and regulations for the submission of petitions for the conversion of a public school to conversion charter school status and criteria and procedures for the operation of conversion charter schools. The board shall receive and review each petition for the conversion of a public school to conversion charter school status from the school's sponsors and,

in its discretion, may approve the petition and grant conversion charter school status.

(3) In order to be approved, a petition for conversion charter school status must adequately include:

(a) A plan for improvement at the school level for improving student learning and achieving a Successful rating or higher under the State Accountability Model;

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

(c) An agreement to provide a yearly report to parents, the school board of the school district in which the conversion charter school is located, and the State Board of Education which indicates the progress made by the conversion charter school in the previous year in meeting the academic or vocational, or both, performance objectives;

(d) An agreement that the conversion charter school shall be nonsectarian;

(e) An agreement that the conversion charter school shall not charge tuition; and

(f) An agreement requiring the conversion charter school to be subject to financial audits in the same manner as public school districts.

(4) The procedures and process for the conversion of a public school to conversion charter school status shall be as follows:

(a) A petition shall be developed by a sponsor or its appointed representative and shall be made available to all parents or guardians of students enrolled in a public school that is chronically Low-Performing, At-Risk of Failing or Failing, as determined by the State Department of Education, with a copy of

the proposed conversion plan attached to the petition for their inspection and signing;

(b) The petition and conversion plan must be approved by more than fifty percent (50%) of the families of the students enrolled in a chronically under-performing public school during the third consecutive year in which the school has been designated as Low-Performing, At-Risk of Failing or Failing, as determined by the State Department of Education. The family of a student enrolled in a chronically under-performing public school proposed to be converted to conversion charter school status shall be entitled to one (1) vote per family without regard to the number of children a family may have enrolled as students at the school. The group of parents or guardians submitting or having the petition submitted on their behalf shall be considered the sponsor of the conversion charter school;

(c) The sponsor shall prepare and submit the petition and the conversion plan for conversion charter school status approved by the parents or guardians of students enrolled in a chronically under-performing public school to the State Board of Education upon forms prescribed by or in a format specified by the board;

(d) Before the petition for conversion granting a public school conversion charter school status is submitted to the State Board of Education for approval, the sponsor shall conduct a public hearing in the local school district in which the school proposed for conversion is located to allow the parents or guardians of students enrolled in the chronically under-performing public school affected by the conversion to be informed of the conversion process and to address any concerns relating to the process and subsequent operation of the conversion charter school; and

(e) After the State Board of Education approves a petition for conversion charter school status, the parents or

guardians of the students enrolled in the conversion charter school shall select members to serve on the conversion charter school's local management board, which members shall be selected in accordance with the rules and regulations promulgated by the State Board of Education for the selection of conversion charter school local management board members.

(5) The conversion plan to be attached to the petition must include the following:

(a) A description of the plan for school improvement that addresses how the school proposes to work toward improving student learning and achieving a Successful rating or higher under the State Accountability Model;

(b) An outline of proposed academic or vocational, or both, performance criteria to be used during the initial period of the contract to measure progress of the school in improving student learning and achieving a Successful rating or higher under the State Accountability Model requiring that:

(i) Academic performance criteria must include specific and measureable benchmarks of academic performance on state assessments; and

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

(c) A provision requiring the conversion charter school to comply with all rules, regulations, policies and procedures of the State Board of Education and the local school board and the provisions of the Mississippi Code of 1972 relating to the elementary and secondary education of students, except those rules, regulations, policies or procedures from which the conversion charter school specifically requests to be exempted and which have been agreed upon by the State Board of Education as

specified in the school's contract. Conversion charter schools must comply with general health and safety standards, state test assessments and accountability requirements, financial accountability and auditing requirements, and all reporting and data collecting requirements in the same manner as public schools in the local school district;

(d) The local management board shall not directly or indirectly communicate to a parent or guardian that the conversion charter school is unable to meet the needs of a child, but shall provide a free and public education to every student in the attendance zone;

(e) Conversion charter schools may not be exempted from the following statutes:

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

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

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

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

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

(vi) Section 37-151-107, which prohibits false reporting of student counts by school officials;

(vii) Applicable State Department of Health regulations;

(viii) Applicable federal No Child Left Behind requirements and any additional federal education programs; and

(ix) Applicable federal and state requirements for special education, gifted education and vocational education programs;

(f) A detailed budget and a clear business plan, including any projected costs that extend beyond the regular operational costs of the conversion charter school;

(g) A plan of governance and the process by which the members of the local management board of the conversion charter school shall be selected to serve as the governing administrative authority, provided that:

(i) The local management board shall be composed of parents or guardians of students enrolled in and in attendance at the conversion charter school, selected by other parents or guardians of students enrolled in and in attendance at that school;

(ii) Members of the local management board may serve a term of three (3) years; however, a member's term of service on the local management board is contingent upon that member having a child continuously enrolled as a student at the conversion charter school during each school year that the member serves on the board. If a student no longer attends the conversion charter school and the board member has no other child enrolled in and attending the school, the term of the member-parent or guardian shall expire immediately and a new member selected. If a student is promoted and the board member has no other child enrolled in and attending the conversion charter school, the term of the member-parent or guardian shall expire immediately and a new member selected, unless the member-parent or guardian has another child who will be enrolled in the conversion charter school in the next succeeding scholastic year;

(iii) Members of the local management board shall serve without compensation;

(iv) No member of the local school board of any public or private school district may serve on the local management board of a conversion charter school;

(v) Procedures for the subsequent selection of members and filling vacancies that occur on the local management board are included; and

(vi) The selection of members to the local management board of conversion charter schools shall be performed in accordance with the rules and regulations promulgated by the State Board of Education for the selection of conversion charter school local management board members;

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

(i) Student progress concerning academic achievement;

(ii) Student attendance;

(iii) Student grades and scores on assessment instruments;

(iv) Incidents involving student discipline;

(v) Student socioeconomic data; and

(vi) Parent satisfaction with the schools;

(i) An agreement to provide a yearly financial report to parents, the local school board of any school district from which the conversion charter school draws students and the State Board of Education, which discloses all public and private funds received by the conversion charter school, and how those funds were expended;

(j) An agreement requiring all student records, financial documentation, and all other pertinent records of

student and school data shall be accessible by the local school board;

(k) An agreement requiring members of the local management board of a conversion charter school to attend the training required under Section 37-3-4, provided by the Mississippi School Boards Association for local school board members and public school superintendents of this state, in order for those individuals to carry out their duties more effectively. Members of the local management board shall be reimbursed for the necessary expenses and mileage in attending any required training and shall be paid a per diem for each day in attendance at the training by the local school district in the amount authorized by Section 37-6-13 for members of the local school board;

(l) A transcript of the public hearing required under subsection (4)(d) of this section; and

(m) A description of the discipline policy to be adopted by the local management board, or alternatively, an agreement that the local management board shall adhere to the discipline policy implemented for the school district by the local school board.

(6) If a petition for the conversion of a public school to conversion charter school status is approved, the local management board, subject to the utilization of any available resources, may:

(a) Extend the school day or length of the scholastic year;

(b) Develop and establish a curriculum that is consistent with the Mississippi Curriculum Framework which provides courses that promote postsecondary education and vocational preparation and/or admission;

(c) Select, purchase and use textbooks, literature and other instructional materials that would improve educational attainment by students in the school, subject to the approval of the State Board of Education;

(d) Select a person to be employed as the principal of the conversion charter school or may contract with a profit or nonprofit organization which has operated a successful public school in any state or the District of Columbia for the daily administrative management of the conversion charter school, provided that daily administrative management shall not include the authority to employ or terminate conversion charter school administrators, teachers or other personnel, establish curriculum or adopt a budget. The person selected by the local management board to serve as principal of the conversion charter school must attend or must have attended a principal leadership program approved by the State Department of Education. If the local management board contracts with a profit or nonprofit organization for daily administrative management functions, that contract shall not abrogate or preempt any provisions of the contract entered into between the local management board and the State Board of Education for the conversion of the public school to conversion charter school status; and

(e) Select licensed teachers who are highly qualified under the No Child Left Behind Act for employment in the conversion charter school and determine the salaries of those teachers employed. The minimum salaries for licensed teachers employed in the conversion charter school shall be in accordance with the scale for teachers' salaries provided under the Teacher Opportunity Program, as established under Section 37-19-7.

(7) (a) All functions and decisions of the local management board impacting the academic curriculum, student progress and assessment, and the accountability standards of a conversion charter school shall be subject to the reviewing and approval authority of the State Board of Education.

(b) All administrative functions and decisions of the local management board impacting the financial or any other managerial or operational functions of a conversion charter school

shall be subject to the reviewing and approval authority of the local school board.

(8) Meetings of the local management board shall be subject to the requirements of Sections 25-41-1 through 25-41-17 governing open meetings.

(9) Nothing in Sections 4 through 16 of this act prohibits conversion charter schools from offering virtual service pursuant to state law and regulations defining virtual schools.

SECTION 8. (1) Members of the local management board, local school board and the State Board of Education are immune from civil and criminal liability with respect to all activities of a conversion charter school approved by the State Board of Education; however, the local management board, local school board or the State Board of Education, in its official capacity, may be held liable only for matters with which the respective board has been involved directly, including the misappropriation of funds, the appropriation of funds beyond the scope of its authority, abridging the due process rights of a student attending the conversion charter school, gross negligence, intentional and willful misconduct, malfeasance and nonfeasance.

(2) The local school board shall provide the local management board of a conversion charter school with the same legal representation as is provided to the local school board.

SECTION 9. (1) The State Board of Education shall establish a time line for accepting petitions requesting the conversion of a public school to conversion charter school status. The board and the Commission on School Accreditation shall review and rate all petitions for a conversion charter school.

(2) After initial review and rating, the board, with the advice of the Commission on School Accreditation, may approve or deny a petition based on criteria adopted by the board, which shall include criteria relating to improving student performance and encouraging new and innovative programs. The board must

provide a written response to each sponsor submitting a petition in writing within forty-five (45) days after the closing date for receiving petitions in the form of an approval or rejection. The response to rejected petitions shall include notification to the sponsors of the reasons for rejection.

(3) The board shall allow each sponsor, who submits a petition for a conversion charter school within thirty (30) days before the closing date for receiving petitions to resubmit the petition, if the original petition was found to be deficient by the board, after the sponsor has corrected any deficiencies.

(4) If a public school has been designated as a chronically failing school for three (3) consecutive years, as determined by the State Department of Education, and the petition for conversion to conversion charter school status is rejected by the State Board of Education, the board, on its own motion, may initiate the procedure to transform the failing school into a new start school under the New Start School Program authorized under Section 1 of this act.

SECTION 10. (1) A public school converted to conversion charter school status, upon approval by the State Board of Education, shall continue to be considered a public school under the authority of the local school district for purposes of receiving transportation services and funding, state funding for students based on per-pupil expenditures, classroom supplies resources, other adequate education program funds, including at-risk funding and any additional operational services provided to local schools by the district.

(2) The local school board, when providing transportation services to students enrolled in and attending a conversion charter school, shall comply with all statutes governing the transportation of students required of public school districts under Chapter 41, Title 37, Mississippi Code of 1972.

(3) All students enrolled in, in attendance at and residing in the attendance zone of a public school when a petition is submitted for conversion charter school status shall be deemed to be enrolled in the conversion charter school when the petition is approved by the State Board of Education without any required application process for the school. Enrollment in a conversion charter school is limited to those students residing in the attendance zone of the conversion charter school, and shall not be open for the enrollment of transfer students unless any openings are available, at which time students within the local public school district may apply for admission into the conversion charter school. A conversion charter school is subject to any desegregation court orders in effect in the school district in which the conversion charter school is located. In the event that openings are available in a conversion charter school, the local management board, with the approval of the State Board of Education, shall establish an application process for students in the local school district, who reside outside of the attendance zone of the public school granted conversion charter school status, to seek enrollment in the conversion charter school, provided that the process is in compliance with rules and regulations promulgated by the State Board of Education. The parent of any student granted admission to the conversion charter school who resides outside the attendance zone of the school shall be responsible for transporting the student to and from the school.

(4) Any student enrolled in a public school converted to conversion charter school status who elects not to attend the conversion charter school shall be permitted by the local school board to attend another public school in the local school district that the student otherwise would be eligible to attend if not enrolled at the conversion charter school. If there is not another public school in the local school district that the

student would be eligible to attend serving the student's current grade level, the local school board shall grant the student a release to seek enrollment in another school district.

SECTION 11. (1) The initial contract issued by the State Board of Education for a public school converted to conversion charter school status shall be for a minimum term of three (3) years. Thereafter, the State Board of Education may renew the contract for a conversion charter school on a one-year or multiyear basis, not to exceed three (3) years, if all parties to the original contract approve the renewal with a vote of a majority of the parents or guardians of students enrolled in the conversion charter school.

(2) After a school has been in conversion charter school status for three (3) years, the parents or guardians of students enrolled in the conversion charter school may request removal from conversion charter school status upon the submission of a petition of more than fifty percent (50%) of those parents or guardians to the State Board of Education.

(3) The State Board of Education shall prescribe the circumstances under which a conversion charter school shall cease to be designated a conversion charter school subject to the rules and regulations of the State Board of Education relating to conversion charter schools.

SECTION 12. All employees of a conversion charter school shall be deemed employees of the local school district for purposes of receiving certain state-funded employee benefits, including membership in the Public Employees' Retirement System and the State and School Employees Life and Health Insurance Plan. Conversion charter schools are public schools, and the employees of conversion charter schools are public school employees.

SECTION 13. The State Board of Education with the advice of the Commission on School Accreditation may approve up to twelve (12) conversion charter schools during a period of six (6) years,

under the authority provided under Section 9 of this act, which such conversion charter schools shall not begin operations before July 1, 2013; however, no more than three (3) petitions for conversion charter school status in each of the four (4) congressional districts may be approved. After the sixth year, the board shall evaluate the existing process of converting public schools to conversion charter school status and shall make a recommendation to the Legislature on the feasibility of increasing the number of conversion charter schools in the state.

SECTION 14. A school district, school district employee or any other person who has control over personnel actions may not take unlawful reprisal against an employee of the school district because the employee is directly or indirectly involved in a petition to convert a public school to conversion charter school status. As used in this section, the term "unlawful reprisal" means an action that is taken by another school district employee as a direct result of a lawful application to convert a public school to conversion charter school status and which is adverse to the employee and results in one or more of the following for the employee:

(a) Disciplinary or corrective action;

(b) Detail, transfer or reassignment;

(c) Suspension, demotion or dismissal;

(d) An unfavorable performance evaluation;

(e) A reduction in pay, benefits or awards;

(f) Elimination of the employee's position without a reduction in force by reason of lack of monies or work; or

(g) Other significant changes in duties or responsibilities which are inconsistent with the employee's salary or employment classification.

SECTION 15. The Education Employment Procedures Law shall not apply to any category of employee employed in any school that

is converted to a conversion charter school under Sections 4 through 16 of this act.

SECTION 16. In addition to receiving state funds for operations, public schools converted to conversion charter school status may accept bequests, devises, donations and grants from any public or private source and may apply for federal funding under the federal "Race to the Top" program. It is the intent of the Legislature that in accordance with the conditions of federal funding under the federal "Race to the Top" program, public schools converted to conversion charter school status in Mississippi are authorized to operate conversion charter and autonomous public school programs that are high-performing. It is further the intent of the Legislature that public schools converted to conversion charter school status receive equitable state and federal funding compared to traditional public schools, as required by the federal "Race to the Top" program, and that the state shall not impose any school facility-related requirements on conversion charter schools which are more restrictive than those applied to traditional public schools.

SECTION 17. Sections 1 through 16 of this act shall stand repealed on July 1, 2016.

SECTION 18. This act shall take effect and be in force from and after July 1, 2010.

PASSED BY THE SENATE
March 27, 2010

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 27, 2010

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

GOVERNOR

4/27/10 9:12 am