

By: Representative Warren

To: Education;
Appropriations

HOUSE BILL NO. 532

1 AN ACT TO CREATE A NEW PROCESS FOR ESTABLISHING CHARTER
2 SCHOOLS; TO AUTHORIZE A CHARTER SCHOOL TO BE FORMED BY CREATING A
3 NEW SCHOOL OR BY CONVERSION OF A PUBLIC SCHOOL TO CHARTER STATUS
4 BY THE LOCAL SCHOOL DISTRICT; TO PRESCRIBE CERTAIN REQUIREMENTS
5 FOR CHARTER SCHOOLS; TO ESTABLISH ADMISSION REQUIREMENTS AND
6 POWERS AND DUTIES OF CHARTER SCHOOLS; TO SPECIFY THE TERMS
7 REQUIRED TO BE INCLUDED IN A SCHOOL'S CHARTER; TO ESTABLISH THE
8 PROCESS FOR APPLYING FOR CHARTER SCHOOL STATUS; TO REQUIRE THE
9 AUTOMATIC RENEWAL OF CHARTERS; TO PROVIDE THAT CHARTER SCHOOLS ARE
10 EXEMPT FROM ALL EDUCATION STATUTES, UNLESS STATED OTHERWISE, AND
11 RULES AND REGULATIONS OF THE STATE BOARD OF EDUCATION AND LOCAL
12 SCHOOL DISTRICTS; TO PROVIDE FOR THE EMPLOYMENT OF TEACHERS BY
13 CHARTER SCHOOLS; TO PROHIBIT UNLAWFUL REPRISALS AGAINST SCHOOL
14 DISTRICT EMPLOYEES WHO ARE INVOLVED IN AN APPLICATION FOR CHARTER
15 SCHOOL STATUS; TO PROVIDE FOR STATE AND LOCAL FUNDING OF CHARTER
16 SCHOOLS; TO AUTHORIZE SCHOOL DISTRICTS TO LEASE SPACE TO CHARTER
17 SCHOOLS; TO REQUIRE CHARTER SCHOOLS TO HAVE A TRANSPORTATION PLAN;
18 TO ESTABLISH THE CHARTER SCHOOLS STIMULUS REVOLVING LOAN FUND IN
19 THE STATE TREASURY TO PROVIDE SUPPORT TO CHARTER SCHOOLS FOR
20 START-UP COSTS; TO PROVIDE FOR THE ELECTION OF THE BOARD OF
21 DIRECTORS OF A CHARTER SCHOOL; TO REQUIRE THE STATE DEPARTMENT OF
22 EDUCATION TO DISSEMINATE INFORMATION ON HOW TO CREATE AND HOW TO
23 ENROLL STUDENTS IN CHARTER SCHOOLS; TO PROHIBIT CHARTER SCHOOLS
24 FROM LEVYING TAXES OR ISSUING BONDS SECURED BY TAX REVENUES; TO
25 AUTHORIZE THE CONTINUED OPERATION OF CHARTER SCHOOLS ESTABLISHED
26 UNDER THE ORIGINAL CHARTER SCHOOL STATUTES; TO AMEND SECTION
27 37-28-21, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE REPEAL,
28 EFFECTIVE JULY 1, 2002, OF SECTIONS 37-28-1 THROUGH 37-28-21,
29 MISSISSIPPI CODE OF 1972, WHICH ESTABLISH A MEANS FOR EXISTING
30 PUBLIC SCHOOLS TO APPLY FOR CHARTER STATUS; AND FOR RELATED
31 PURPOSES.

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

33 **SECTION 1.** The Legislature declares that the following are
34 the purposes of this act:

35 (a) To provide increased opportunities in the public
36 school system for students to learn in an educational environment
37 that best meets their needs;

38 (b) To provide new forms of accountability for schools;

39 (c) To encourage increased involvement of parents and
40 teachers in the operation and decision-making of a local public
41 school;



42 (d) To encourage innovative and effective teaching
43 methods; and

44 (e) To create new professional opportunities for
45 teachers.

46 **SECTION 2.** For purposes of this act, the term "charter
47 school" means a school that is operating under the terms of a
48 charter granted by a local school district or the State Board of
49 Education.

50 **SECTION 3.** (1) A charter school may be formed in one (1) of
51 the following manners:

52 (a) By creating a new school, upon application for a
53 new charter school made by any person, group of persons,
54 organization or public institution; or

55 (b) By a local school board, on its own motion,
56 converting one or more of its schools to charter status.

57 (2) The organizers of a proposed charter school may apply
58 to, and the school may be sponsored by, the school board of the
59 school district in which the proposed charter school is to be
60 located or the State Board of Education.

61 **SECTION 4.** In order for a school to be granted charter
62 status and to maintain charter status, the school must satisfy the
63 following requirements:

64 (a) The school may not charge tuition;

65 (b) The school may not discriminate on the basis of
66 ethnicity, national origin, gender, income level, disabling
67 condition or athletic ability;

68 (c) The school must meet all applicable health, safety
69 and civil rights requirements;

70 (d) The school must be subject to financial audits in
71 the same manner as public school districts;

72 (e) The school must be nonsectarian in its programs,
73 admission policies and employment practices;



74 (f) The school must be accountable to the chartering to
75 authority for performance as required under this act; and

76 (g) The school must issue annual reports to parents and
77 the chartering authority and must make the reports available to
78 the public. These reports must include a financial statement, a
79 description of the school's progress in reaching academic goals
80 and a measure of parental satisfaction. The school shall submit a
81 copy of the annual report to the State Department of Education.

82 **SECTION 5.** (1) A charter school sponsored by a local school
83 district must be open to admission to all students residing in
84 that district. Students from outside the school district may be
85 admitted if the chartering district and the charter school agree
86 to and establish in the school's charter a procedure for the
87 enrollment and admission of such students. If a student from
88 outside the school district enrolls in the charter school, the
89 school district from which the student comes may submit an amount
90 equal to that student's pro rata share of the school district's
91 local funds to the charter school.

92 (2) A charter school sponsored by the State Board of
93 Education must be open to any student residing in the state.

94 (3) A school district may not assign students to a charter
95 school.

96 (4) A charter school is subject to any desegregation court
97 orders in effect in the school district in which the charter
98 school is located.

99 (5) A charter school must enroll an eligible student who
100 submits a timely application for enrollment unless the number of
101 applications for enrollment in a program, class, grade level or
102 school building exceeds the capacity of that program, class, grade
103 level or school building. If an excess number of applications are
104 received by the charter school, all applicants must have an equal
105 chance of being admitted under the following guidelines:



106 (a) The school may not limit admission to students on
107 the basis of intellectual ability, measure of achievement or
108 aptitude unless directly related to the school's academic mission,
109 as identified in the charter.

110 (b) The school may give preference in enrollment in the
111 school's first year of operation to children of the founders and
112 teachers of the charter school. In subsequent years, preference
113 may be given to children of teachers and siblings of students
114 enrolled at the school during the previous year and who will be
115 enrolled in the current school year.

116 (c) The number of students given preference in
117 enrollment may not exceed fifty percent (50%) of the enrollment
118 capacity of a program, class, grade level or school building.

119 (d) Charter schools shall determine enrollment by a
120 random selection method. An applicant in a preference category is
121 eligible for inclusion in the general selection process if the
122 applicant is not selected from the preference category.

123 **SECTION 6.** (1) A charter school must organize as a
124 nonprofit corporation and must pursue, with due diligence,
125 tax-exempt status under 501(c)(3) of the Internal Revenue Code.

126 (2) A charter school may sue and be sued.

127 (3) A charter school may borrow funds and invest funds.
128 Funds received and earnings from investments on gifts from
129 nongovernmental entities may be accounted for separately. If a
130 charter school closes, all unspent government funds, unspent
131 earnings from those funds and assets purchased with government
132 funds will revert to the state. Unspent funds from
133 nongovernmental sources, unspent earnings from those funds, assets
134 purchased with those funds and debts of the school (unless
135 otherwise provided for in the charter or debt instrument) shall
136 revert to the nonprofit entity created to operate the school and
137 may be disposed of according to applicable laws for nonprofit
138 corporations. A government entity shall not be liable for any



139 debt of the charter school unless that entity explicitly
140 authorized the debt and agreed to be liable for nonpayment of the
141 debt. A sponsor's approval of a charter school budget that
142 includes debt does not constitute the sponsor's liability for that
143 debt.

144 (4) Members of a local school board or the State Board of
145 Education are immune from civil or criminal liability with respect
146 to all activities of a charter school approved or sponsored by the
147 local school board or State Board of Education. The local school
148 board or the State Board of Education, in its official capacity as
149 sponsor of a charter school, may be held liable only for matters
150 with which the respective board has been involved directly.

151 **SECTION 7.** (1) The term of a charter shall be five (5)
152 school years.

153 (2) The charter must include the following:

154 (a) Assurances that:

155 (i) The school will not charge tuition or other
156 fees except in those instances when tuition or fees are allowed by
157 law to be charged by public school districts;

158 (ii) The school will comply with federal, state
159 and local rules, regulations and statutes relating to safety,
160 civil rights and insurance. The State Department of Education
161 shall publish a list of relevant rules, regulations and statutes
162 to notify charter schools of their responsibilities under this
163 item;

164 (iii) The school will be nonsectarian in programs,
165 admission policies and employment practices;

166 (iv) The school will comply with the same audit
167 requirements as public school districts and will cooperate fully
168 in audits conducted under the direction of the State Auditor; and

169 (v) The school will comply with all federal and
170 state laws relating to the education of children with
171 disabilities;



172 (b) A description of the governing body that is
173 responsible for the policy and operational decisions of the
174 charter school, including the names of that body's initial members
175 and a description of the method by which subsequent members will
176 be elected and the method by which fairness and objectivity of
177 those elections will be assured;

178 (c) A description of the objective method or methods
179 that will be used to measure student progress;

180 (d) A description of the school's plan for the
181 transportation of students;

182 (e) A description of the school's plan for handling
183 disruptive students;

184 (f) A description of the school's plan to provide
185 reasonable public notice of the existence, nature and application
186 requirements of the charter school. This notice must include at
187 least one (1) informational meeting to which the public is
188 invited. Local school districts shall provide reasonable
189 assistance, if requested by the charter school, in providing such
190 notice in their districts. However, the actual expenses incurred
191 by the districts in providing the requested assistance must be
192 paid by the charter school;

193 (g) Any other matters required by this act to be
194 included in a charter; and

195 (h) Any other matters that the sponsor and charter
196 school agree to include. Failure to agree on such additional
197 matters shall not constitute grounds for rejection of a charter
198 application.

199 (3) The charter must include the following attachments:

200 (a) A description of the program of instruction. A
201 charter school must provide a comprehensive program of instruction
202 for at least one (1) complete grade level of kindergarten,
203 elementary or secondary education. A school may offer this
204 program of instruction with an emphasis on a specific learning



205 philosophy, style or certain subject area. If the school is a
206 high school, the program of instruction must ensure that in order
207 to be eligible for graduation, a student must have earned the
208 minimum number of units required for graduation from public high
209 schools by the State Board of Education. A school may add grade
210 levels during any year of the charter, if notice of the additional
211 grade levels is submitted to the sponsor of the charter school at
212 least six (6) months before the beginning of the school year in
213 which those grade levels will be offered; and

214 (b) A budget encompassing all necessary items for
215 operating the school, based on one or more projections of the
216 number of students the school anticipates serving in the year for
217 which the budget is prepared.

218 (4) Provisions of the charter may be amended at any time by
219 agreement between the school and the sponsor of the charter
220 school. The attachments must be submitted to the sponsor by the
221 school on an annual basis and may not be revised by the sponsor
222 unless the information in the submissions indicates a violation of
223 the charter, this act or any other law.

224 **SECTION 8.** (1) An application for a charter consists of a
225 proposed charter and all attachments required under Section 7 of
226 this act.

227 (2) The State Board of Education or a local school board to
228 which an application for a charter has been submitted must respond
229 to the application within thirty (30) days after receiving the
230 application. The response may be in the form of approval of the
231 application as submitted, rejection, or approval of the
232 application subject to negotiation of details, which negotiation
233 must be conducted in good faith.

234 (3) An application for a charter must be approved unless:

235 (a) The application does not contain all items required
236 by this act;



237 (b) One or more of the application's provisions are not
238 in compliance with applicable law; or

239 (c) The sponsor determines that the applicants are
240 incompetent to carry out one or more of the plans described in the
241 application, in which case the incompetence must be documented by
242 the State Board of Education or the local school district to which
243 the application was submitted.

244 (4) If an application for a charter is rejected, the
245 chartering authority must provide written notice to the applicant
246 of the basis for the rejection.

247 (5) The rejection of an application by the State Board of
248 Education or by a local school district to which the application
249 was submitted does not bar submission of the same application to a
250 different chartering authority. The State Board of Education must
251 provide technical assistance to an applicant whose application has
252 been rejected.

253 **SECTION 9.** (1) At the end of a charter school's fourth year
254 of operation, the sponsor of the school must renew the agreement,
255 with any modifications that are the product of a good faith
256 negotiation, for an additional five (5) years if the following
257 conditions have been met:

258 (a) The school substantially has met the requirements
259 for student performance stated in the agreement; and

260 (b) The school substantially has complied with other
261 provisions of the charter.

262 (2) A charter issued under this act may be revoked by the
263 sponsor, and the charter school must be closed, if the sponsor
264 determines that one or more of the following have occurred:

265 (a) Repeated or substantial failure of the charter
266 school to maintain applicable safety standards;

267 (b) Substantial failure of the charter school to meet
268 auditing or other financial standards as required under this act;



269 (c) Blatant and recurrent violations of provisions of
270 the charter; or

271 (d) The existence of one or more grounds for revocation
272 as specified in the charter.

273 (3) If a charter is revoked, the charter school must remain
274 open until the end of the school year in which the revocation
275 takes effect unless the State Department of Education determines
276 that an extreme emergency situation that jeopardizes the safety
277 and security of the students of the school exists.

278 (4) The revocation or nonrenewal of a charter must be
279 accompanied by a list of specific reasons for the action. The
280 charter school may seek judicial review of the decision to revoke
281 or not to renew a charter.

282 **SECTION 10.** (1) Except as otherwise provided under
283 subsection (2) of this section, all schools chartered under this
284 act are exempt from those statutes applicable to the public
285 schools and the rules, regulations, policies and procedures of the
286 State Board of Education and the local school district. A charter
287 school must comply with general health and safety standards.

288 (2) Charter schools are not exempt from the following
289 statutes:

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

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

293 (c) Section 37-11-21, which prohibits parental abuse of
294 school staff;

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

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

300 (f) Section 37-19-53, which prohibits false reporting
301 of student counts by school officials.



302 **SECTION 11.** (1) A school district may not assign teachers
303 employed by the district to a charter school. A charter school
304 may hire the teachers to be employed by the school and negotiate
305 contracts.

306 (2) Teachers in charter schools are employees of the school.

307 (3) The governing body of a charter school must disclose the
308 qualifications of the teachers in the charter school to the
309 students' parents.

310 (4) Charter school teachers are eligible for the same health
311 and retirement benefits as other public school teachers. Charter
312 schools may pay for all or part of a teacher's health insurance
313 premiums, including family coverage, as part of the teacher's
314 compensation package.

315 **SECTION 12.** (1) A school district, school district employee
316 or any other person who has control over personnel actions may not
317 take unlawful reprisal against an employee of the school district
318 because the employee is directly or indirectly involved in an
319 application to establish a charter school. A school district
320 employee may not take unlawful reprisal against an educational
321 program of the school or the school district because an
322 application to establish a charter school proposes the conversion
323 of all or a portion of the educational program to a charter
324 school.

325 (2) As used in this section, the term "unlawful reprisal"
326 means:

327 (a) With respect to a school district employee, an
328 action that is taken by another school district employee as a
329 direct result of a lawful application to establish a charter
330 school and which is adverse to the employee and results in one or
331 more of the following for the employee:

332 (i) Disciplinary or corrective action;

333 (ii) Detail, transfer or reassignment;

334 (iii) Suspension, demotion or dismissal;



335 (iv) An unfavorable performance evaluation;
336 (v) A reduction in pay, benefits or awards;
337 (vi) Elimination of the employee's position
338 without a reduction in force by reason of lack of monies or work;
339 or

340 (vii) Other significant changes in duties or
341 responsibilities which are inconsistent with the employee's salary
342 or employment classification; and

343 (b) With respect to an educational program, an action
344 that is taken by a school district employee as a direct result of
345 a lawful application to establish a charter school and which is
346 adverse to the educational program and results in one or more of
347 the following:

348 (i) Suspension or termination of the program;

349 (ii) Transfer or reassignment of the program to a
350 less favorable department;

351 (iii) Relocation of the program to a less
352 favorable site within the school or school district; or

353 (iv) Significant reduction or termination of
354 funding for the program.

355 **SECTION 13.** (1) A charter school's funding must be based on
356 the number of students enrolled in and in attendance at the
357 school.

358 (2) For a school sponsored by a local district, local
359 funding must be negotiated between the school district and the
360 school. State funding shall be calculated by multiplying the
361 average daily attendance at the charter school by the state's
362 portion of the district's per-pupil expenditures two (2) school
363 years preceding the school year being funded. Federal funds must
364 be distributed as dictated by federal law.

365 (3) A charter school sponsored by the State Board of
366 Education shall notify and request state, local and federal funds
367 from each school district in which a student attending the school



368 resides. Those school districts shall include such students in
369 their average daily attendance reports in a manner determined by
370 the State Board of Education. The charter school also shall send
371 a copy of each notification and request for funding to the State
372 Department of Education. Local and state per-pupil funding shall
373 be equal to the local and state portion, respectively, of the
374 per-pupil expenditures two (2) school years preceding the school
375 year being funded in the district in which the student resides.

376 (4) The State Board of Education shall define the means by
377 which a school district may require verification of residency and
378 attendance at a charter school. A district must remit requested
379 funds in a timely fashion, as defined by the State Board of
380 Education. When contributions are not forwarded in a timely
381 manner, the state shall assess a ten percent (10%) penalty payable
382 to the charter school for failure to forward the contribution.

383 (5) For a new charter school, pre-enrollment or other
384 reasonable information shall be the basis for initial funding.
385 The State Board of Education shall define the types of information
386 that may be used for this purpose, as well as methods of
387 correcting any discrepancies between the original estimates on
388 which funding is based and the actual average daily attendance.

389 (6) The charter school may receive gifts and grants from any
390 public or private sources.

391 **SECTION 14.** (1) A school district may lease space or sell
392 services to a charter school. A school district must make unused
393 buildings available to a charter school and must bargain in good
394 faith over the terms of the lease.

395 (2) A charter school may lease space or secure services from
396 another public body, nonprofit organization or private
397 organization or individual.

398 (3) A sponsor may issue a charter to a charter school
399 applicant before the applicant has secured space, equipment and



400 personnel if the applicant indicates authorization is necessary
401 for the school to raise working capital.

402 **SECTION 15.** The charter school must include a transportation
403 plan for its students as part of the charter. The state will
404 provide transportation funds to the charter school at the same
405 rate as provided for other public school students.

406 **SECTION 16.** (1) There is established in the State Treasury
407 a fund to be known as the "Charter Schools Stimulus Revolving Loan
408 Fund." The purpose of the fund is to provide financial support to
409 charter school applicants and charter schools for start-up costs
410 and costs associated with renovating or remodeling existing
411 buildings and structures. The fund shall consist of monies
412 appropriated by the Legislature, repaid loans from borrowers and
413 grants, gifts, devises and donations from any public or private
414 source. The State Board of Education shall administer the fund
415 and may apply for any grants from the federal government or
416 private sources.

417 (2) The State Board of Education shall adopt rules and
418 regulations necessary for the implementation of this section,
419 including application and notification requirements. If
420 sufficient funds are available for this purpose, monies from the
421 Charter Schools Stimulus Revolving Loan Fund will be distributed
422 to qualifying charter school applicants and charter schools in the
423 following manner:

424 (a) Each qualifying charter school applicant or charter
425 school will be awarded an initial loan of not more than Fifty
426 Thousand Dollars (\$50,000.00) before or during the first year of
427 the charter school's operation. This loan must be repaid over a
428 period of no more than five (5) years. If any applicant for a
429 charter school receives an initial loan pursuant to this paragraph
430 and fails to begin operating a charter school within the following
431 eighteen (18) months, the applicant shall reimburse the Charter
432 Schools Stimulus Revolving Loan Fund for the amount of the initial



433 loan plus interest calculated at a rate of ten percent (10%) per
434 year.

435 (b) Applicants for charter schools and charter schools
436 that receive initial loans pursuant to paragraph (a) of this
437 subsection may apply for an additional loan of not more than Fifty
438 Thousand Dollars (\$50,000.00). This loan must be repaid over a
439 period of no more than five (5) years. If an applicant for a
440 charter school receives an additional loan pursuant to this
441 paragraph and fails to begin operating a charter school within the
442 following eighteen (18) months, the applicant shall reimburse the
443 Charter Schools Stimulus Revolving Loan Fund for the amount of the
444 additional loan, plus interest calculated at a rate of ten percent
445 (10%) per year. A reimbursement required by this paragraph is in
446 addition to any reimbursement required under paragraph (a).

447 **SECTION 17.** (1) The initial board of directors of a charter
448 school must be designated by the applicants who have been granted
449 the charter. This initial board shall govern the school's first
450 year of operation.

451 (2) Not less than six (6) months before the beginning of the
452 charter school's second school year, the school shall hold an
453 election for members of the school's board of directors. The term
454 of office for this board shall be set according to the charter.

455 (3) Administrative and instructional personnel of the
456 charter school and all parents of children enrolled in the school
457 shall be eligible to participate in any election of members of the
458 board of directors.

459 (4) Meetings of the charter school's board of directors will
460 be subject to Sections 25-41-1 through 25-41-17 governing open
461 meetings.

462 **SECTION 18.** The State Department of Education must
463 disseminate information to the public, directly and through
464 sponsors, on how to form and operate a charter school and how
465 students can enroll in charter schools once they are created.



466 **SECTION 19.** A charter school may not levy taxes or issue
467 bonds secured by tax revenues.

468 **SECTION 20.** Any charter school that is operating under the
469 terms of a charter granted under the authority of Sections 37-28-1
470 through 37-28-21 may continue to operate under the terms of that
471 charter for the duration of its term, notwithstanding the repeal
472 of Sections 37-28-1 through 37-28-21. Upon the expiration of the
473 charter, the charter school's sponsor may seek to renew the
474 school's charter by modifying the charter so that the school fully
475 complies with the requirements for being awarded, maintaining and
476 renewing charter status under Sections 1 through 20 of House Bill
477 No. _____, 2002 Regular Session.

478 **SECTION 21.** Section 37-28-1, Mississippi Code of 1972, is
479 amended as follows:

480 37-28-1. Sections 37-28-1 through 37-28-21 shall stand
481 repealed from and after July 1, 2002.

482 **SECTION 22.** This act shall take effect and be in force from
483 and after July 1, 2002.

