

By: Representative Warren

To: Education;  
Appropriations

HOUSE BILL NO. 238

1 AN ACT TO REENACT SECTIONS 37-28-1 THROUGH 37-28-19,  
2 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE ESTABLISHMENT AND  
3 OPERATION OF CHARTER SCHOOLS; TO REENACT AND AMEND SECTION  
4 37-28-21, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON  
5 THOSE SECTIONS; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 37-28-1, Mississippi Code of 1972, is  
8 reenacted as follows:

9 37-28-1. It is the intent of the Legislature that this  
10 chapter provide a means whereby local public schools may choose to  
11 substitute a binding academic or vocational, or both, performance  
12 based contract approved by the State Board of Education and the  
13 school board of the school district in which the school is  
14 located, called a "charter," for rules, regulations, policies and  
15 procedures of the State Board of Education and the local school  
16 district and, except as otherwise provided, the provisions of  
17 Title 37 of the Mississippi Code of 1972 which are applicable to  
18 schools and school districts and their employees and students.

19 **SECTION 2.** Section 37-28-3, Mississippi Code of 1972, is  
20 reenacted as follows:

21 37-28-3. For purposes of this chapter, the following words  
22 and phrases shall have the meanings respectively ascribed in this  
23 section unless the context clearly indicates otherwise:

24 (a) "Charter" means an academic or vocational, or both,  
25 performance based contract between the State Board of Education,  
26 the school board of the local school district, and a local school  
27 which exempts the school from rules, regulations, policies and  
28 procedures of the State Board of Education and the local school

29 district and, except as otherwise provided, the provisions of  
30 Title 37 of the Mississippi Code of 1972 which are applicable to  
31 schools and school districts and their employees and students.

32 (b) "Charter school" means a school that is operating  
33 under the terms of a charter granted by the State Board of  
34 Education.

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

38 (d) "Petition" means a proposal to enter into an  
39 academic or vocational, or both, performance based contract  
40 between the State Board of Education and a local school whereby  
41 the local school obtains charter school status.

42 **SECTION 3.** Section 37-28-5, Mississippi Code of 1972, is  
43 reenacted as follows:

44 37-28-5. Any local school may submit a petition to the State  
45 Board of Education requesting charter school status. The petition  
46 must:

47 (a) Be approved by the school board of the school  
48 district in which the school is located;

49 (b) Be agreed to freely by a majority of the faculty  
50 and instructional staff members, by secret ballot, at the school  
51 initiating the petition;

52 (c) Be agreed to by a majority of the parents of  
53 students enrolled in the school who are present at a meeting  
54 called for the specific purpose of deciding whether or not to  
55 initiate the petition;

56 (d) Describe a plan for school improvement that  
57 addresses how the school proposes to work toward improving student  
58 learning and meeting state education goals;

59 (e) Outline proposed academic or vocational, or both,  
60 performance criteria that will be used during the initial period

61 of the charter to measure progress of the school in improving  
62 student learning and in meeting state education goals;

63 (f) Describe how the faculty, instructional staff and  
64 parents of students enrolled in the school have been involved in  
65 developing the petition and will be involved in developing and  
66 implementing the improvement plan and identifying academic or  
67 vocational, or both, performance criteria; and

68 (g) Describe how the concerns of faculty, instructional  
69 staff and parents of students enrolled in the school will be  
70 solicited and addressed in evaluating the effectiveness of the  
71 improvement plan.

72 **SECTION 4.** Section 37-28-7, Mississippi Code of 1972, is  
73 reenacted as follows:

74 37-28-7. (1) The State Board of Education shall establish  
75 rules and regulations for the submission of petitions for charter  
76 school status and criteria and procedures for the operation of  
77 charter schools. The board shall receive and review petitions for  
78 charter school status from local public schools and may approve  
79 petitions and grant charter school status, on a pilot program  
80 basis, to up to six (6) local schools throughout the state. One  
81 (1) local public school in each congressional district, as such  
82 districts exist on the effective date of this chapter, and at  
83 least one (1) local public school situated in the Delta region of  
84 the state shall be granted charter school status by the board,  
85 unless there are no petitions submitted from a particular  
86 congressional district or the Delta region, as the case may be,  
87 which are proper under the terms of this chapter and the rules and  
88 regulations established by the board under this subsection. At  
89 least three (3) local public schools that are granted charter  
90 school status shall be in school districts having an accreditation  
91 level of three (3) or below at the time the school submits its  
92 initial petition for charter school status unless there are no  
93 petitions submitted from such schools which are proper under the

94 terms of this chapter and the rules and regulations established by  
95 the board. In order to be approved, a petition for charter school  
96 status, in the opinion of the State Board of Education, must  
97 adequately include:

98 (a) A plan for improvement at the school level for  
99 improving student learning and for meeting state education goals;

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

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

110 (d) A proposal to directly and substantially involve  
111 the parents of students enrolled in the school as well as the  
112 faculty, instructional staff and the broader community in the  
113 process of modifying the petition, if necessary for approval, and  
114 carrying out the terms of the charter.

115 (2) The State Board of Education may allow local schools to  
116 resubmit petitions for charter school status if the original  
117 petition, in the opinion of the board, is deficient in one or more  
118 respects. The State Department of Education may provide technical  
119 assistance to the faculty and instructional staff of local schools  
120 in the creation or modification of the petitions.

121 **SECTION 5.** Section 37-28-9, Mississippi Code of 1972, is  
122 reenacted as follows:

123 37-28-9. The terms of each charter shall include the  
124 following:

125 (a) A mechanism for declaring the charter null and void  
126 if a majority of the faculty, instructional staff of the school,

127 and parents of students enrolled in the school who are present at  
128 a meeting called for the specific purpose of deciding whether or  
129 not to declare the charter null and void request the State Board  
130 of Education to withdraw the charter;

131 (b) A mechanism for declaring the charter null and void  
132 if, at any time, in the opinion of the State Board of Education,  
133 the school operating under charter status fails to fulfill the  
134 terms of the charter;

135 (c) Clear academic or vocational, or both, performance  
136 based and student achievement based objectives and the means to  
137 measure those objectives on no less than an annual basis;

138 (d) A mechanism for updating the terms of each charter,  
139 agreed to by all parties and subject to the approval of a majority  
140 of the faculty, instructional staff and parents of students  
141 enrolled in the school who are present at a meeting called for the  
142 specific purpose of updating the terms of the charter, based upon  
143 the yearly progress reports submitted to the State Board of  
144 Education by the charter school;

145 (e) A provision that the charter school shall not have  
146 any authority to request an ad valorem tax levy independent of  
147 such authority exercised by the school district in which the  
148 charter school is located;

149 (f) A provision that no person shall be denied  
150 admission to the charter school on the basis of race, color, creed  
151 or national origin;

152 (g) A provision to exempt the school from the rules,  
153 regulations, policies and procedures of the State Board of  
154 Education and the local school board and from the provisions of  
155 Title 37 of the Mississippi Code of 1972 which are not included in  
156 this act, unless the code sections are specifically made  
157 applicable to charter schools by the State Board of Education in  
158 the charter;

159           (h) A provision that the performance variables  
160 established by the State Board of Education, acting through the  
161 Commission on School Accreditation, in the performance based  
162 accreditation system are fully applicable to the charter school;  
163 and

164           (i) A provision to exempt the charter school from  
165 process standards.

166           **SECTION 6.** Section 37-28-11, Mississippi Code of 1972, is  
167 reenacted as follows:

168           37-28-11. Any request for a petition to obtain charter  
169 school status sent by a local school to the school board of the  
170 school district in which the school is located shall be forwarded  
171 by the local school board to the State Board of Education. If a  
172 local school board disapproves of a local school's request for a  
173 petition, the local school board shall inform the faculty of the  
174 local school of the reasons for the disapproval and shall forward  
175 a copy of the reasons to the State Board of Education. The State  
176 Board of Education, in its discretion, may request a hearing to  
177 receive further information from the local school board and the  
178 faculty of the local school.

179           **SECTION 7.** Section 37-28-13, Mississippi Code of 1972, is  
180 reenacted as follows:

181           37-28-13. Initial charters issued by the State Board of  
182 Education shall be on a pilot program basis and for a term of four  
183 (4) years. Thereafter, the State Board of Education may renew  
184 charters on a one-year or multiyear basis, not to exceed four (4)  
185 years, for local schools, if all parties to the original charter  
186 approve the renewal with a vote of a majority of the faculty,  
187 instructional staff and parents of students enrolled in the school  
188 who are present at a meeting called for the specific purpose of  
189 deciding whether or not to renew the charter.

190           **SECTION 8.** Section 37-28-15, Mississippi Code of 1972, is  
191 reenacted as follows:

192           37-28-15. (1) A charter school may be funded by: federal  
193 grants, grants, gifts, devises or donations from any private  
194 sources; and state funds appropriated for the support of the  
195 charter school; and any other funds that may be received by the  
196 school district. Schools applying for charter status and charter  
197 schools are encouraged to apply for federal funds appropriated  
198 specifically for the support of charter schools under the Omnibus  
199 Consolidated Appropriations Act, 1997 (Public Law No. 104-208  
200 [H.R. 3610] (1996)).

201           (2) The State Board of Education may give charter schools  
202 special preference when allocating grant funds other than state  
203 funds for alternative school programs, classroom technology,  
204 school improvement programs, mentoring programs or other grant  
205 programs designed to improve local school performance.

206           **SECTION 9.** Section 37-28-17, Mississippi Code of 1972, is  
207 reenacted as follows:

208           37-28-17. Employees of a charter school shall be considered  
209 employees of the school district in which the charter school is  
210 located. Charter school employees shall be entitled to the same  
211 rights, privileges and benefits to which all other employees of  
212 the school district are entitled.

213           **SECTION 10.** Section 37-28-19, Mississippi Code of 1972, is  
214 reenacted as follows:

215           37-28-19. Before January 1, 1999, and each year thereafter,  
216 the State Board of Education shall submit a report to the  
217 Legislature on the status of the charter school program. This  
218 report minimally shall include: (a) a review and compilation of  
219 comprehensive reports and evaluations issued by local school  
220 boards concerning successes or failures of charter schools and  
221 formulated recommendations; (b) a comparison of the academic  
222 performance of charter school students with the performance of  
223 ethnically and economically comparable groups of students in other  
224 public schools who are enrolled in academically comparable

225 courses; (c) the current and projected impact of charter schools  
226 on the delivery of services by the public schools; (d) an  
227 assessment of the students' academic progress in the charter  
228 school as measured, where available, against the academic year  
229 immediately preceding the first year of the charter school's  
230 operation; and (e) the best practices resulting from charter  
231 school operations.

232       **SECTION 11.** Section 37-28-21, Mississippi Code of 1972, is  
233 reenacted and amended as follows:

234       37-28-21. Sections 37-28-1 through 37-28-21 shall stand  
235 repealed from and after July 1, 2007.

236       **SECTION 12.** This act shall take effect and be in force from  
237 and after July 1, 2005.