

By: Representative Pierce

To: Education

HOUSE BILL NO. 666

1 AN ACT TO AMEND SECTIONS 37-9-3, 37-9-21, 37-9-27, 37-9-41,
2 37-9-43, 37-9-49, 37-9-70, 37-15-8, 37-39-1, 37-41-1, 37-41-29,
3 37-41-97, 37-41-99, 37-61-3, 37-61-9, 37-61-17, 37-61-19,
4 37-61-21, 37-61-23 AND 37-61-27, MISSISSIPPI CODE OF 1972, AND
5 SECTION 1 OF CHAPTER 525, LAWS OF 1978, TO DELETE THE TERM
6 "ADMINISTRATIVE SUPERINTENDENT" FROM CERTAIN STATUTES RELATING TO
7 THE ADMINISTRATION OF PUBLIC SCHOOL DISTRICTS; AND FOR RELATED
8 PURPOSES.

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

10 **SECTION 1.** Section 37-9-3, Mississippi Code of 1972, is
11 amended as follows:

12 37-9-3. Within the limits of the available funds, the
13 superintendent of schools * * * of a school district shall
14 recommend to the school board thereof all noninstructional
15 employees to be employed and may prescribe the duties thereof.
16 Compensation for such employees may be paid from any lawful funds.

17 **SECTION 2.** Section 37-9-21, Mississippi Code of 1972, is
18 amended as follows:

19 37-9-21. It shall be illegal for any superintendent, * * *
20 principal or other licensed employee to be elected by the school
21 board if such superintendent, * * * principal or licensed employee
22 is related within the third degree by blood or marriage according
23 to the common law to a majority of the members of the school
24 board. No member of the school board shall vote for any person as
25 a superintendent, * * * principal or licensed employee who is
26 related to him within the third degree by blood or marriage or who
27 is dependent upon him in a financial way. Any contract entered
28 into in violation of the provisions of this section shall be null
29 and void.

30 **SECTION 3.** Section 37-9-27, Mississippi Code of 1972, is
31 amended as follows:

32 37-9-27. The superintendent * * * of any school district,
33 before entering upon the duties of his office, shall furnish a
34 good and sufficient surety bond in the penal sum of One Hundred
35 Thousand Dollars (\$100,000.00), with sufficient surety. Such bond
36 shall be filed and recorded in the office of the clerk of the
37 chancery court in which the school district is located, and shall
38 be payable, conditioned and approved in the manner provided by
39 law. The premium on said bond shall be paid out of the school
40 district maintenance fund.

41 **SECTION 4.** Section 37-9-41, Mississippi Code of 1972, is
42 amended as follows:

43 37-9-41. The salaries of superintendents, * * * principals
44 and licensed employees shall be paid by pay certificates issued by
45 the school district superintendent * * *. Such pay certificates
46 may be issued without additional authorization of the school board
47 where the amount of salary has been fixed and a contract entered
48 into as is provided in this chapter. All pay certificates shall
49 be preserved by him as a part of the official records of his
50 office for the same time and in the same manner as other records
51 are preserved. Except as is herein provided, the said warrants
52 shall be governed in all respects by the same laws regulating the
53 issuance of other warrants for other purposes. All pay
54 certificates and warrants issued shall show the gross amount of
55 the salary and all authorized deductions therefrom for income
56 taxes, Social Security, retirement contributions and other lawful
57 purposes.

58 **SECTION 5.** Section 37-9-43, Mississippi Code of 1972, is
59 amended as follows:

60 37-9-43. It shall be unlawful for any appointed
61 superintendent, principal or licensed employee to be paid for any
62 services as such until a written contract has been executed as is

63 provided and required by this chapter. If any school district
64 superintendent * * * shall make any such payment prior to the
65 execution of the contract he shall be civilly liable for the
66 amount thereof, and, in addition, shall be liable upon his bond.
67 If any licensed employee, appointed superintendent or principal
68 shall willfully and without just cause breach his contract and
69 abandon his employment he shall not be entitled to any further
70 salary payments either for services rendered prior to such breach
71 or for services which were thereafter to have been rendered.
72 Nothing in this section, however, shall prevent the employment and
73 payment of substitute teachers without a written contract.

74 **SECTION 6.** Section 37-9-49, Mississippi Code of 1972, is
75 amended as follows:

76 37-9-49. It shall be unlawful for the superintendent of
77 schools * * * to deduct or permit to be deducted from the salary
78 of any superintendent, * * * principal or licensed employee any
79 dues, fines or penalties payable or alleged to be payable because
80 of the membership of such superintendent, * * * principal or
81 licensed employee in any organization or association. However,
82 dues or premiums in health associations or corporations and tax
83 sheltered annuity deductions authorized by the United States
84 Internal Revenue Code may be deducted upon written authorization
85 from the superintendent, * * * principal or licensed employee
86 involved. Any superintendent of schools * * * who shall make any
87 such deduction or permit any such deduction to be made, except
88 those herein provided, shall be guilty of a misdemeanor and upon
89 conviction shall be punished by a fine of not more than
90 Twenty-five Dollars (\$25.00) for each such deduction.

91 **SECTION 7.** Section 37-9-70, Mississippi Code of 1972, is
92 amended as follows:

93 37-9-70. (1) The superintendent * * * shall keep and
94 maintain an office as necessary for the discharge of his or her
95 duties and responsibilities in office. The cost of the operation

96 of said office shall be paid out of such funds as may be available
97 to the school board from all sources, except as provided for in
98 the following subsection.

99 (2) In all school districts in which the superintendent or
100 the administrative superintendent was, prior to July 1, 1986,
101 known and referred to as county superintendent of education under
102 the statutes of the State of Mississippi or as district
103 superintendent of a special municipal separate school district
104 which embraces all of the territory of a county, the board of
105 supervisors shall be responsible for providing an office together
106 with all necessary furniture and water, gas, electricity, and
107 other utilities necessary and required for the operation of his
108 said office, which shall be paid for out of the general fund of
109 the county upon allowance of the board of supervisors.

110 **SECTION 8.** Section 37-15-8, Mississippi Code of 1972, is
111 amended as follows:

112 37-15-8. The superintendent * * * of the school district
113 shall have the authority, with the approval of the school board of
114 the school district spread upon its minutes, to dispose of the
115 following records:

116 (a) After five (5) years:

117 (1) Bank statements;

118 (2) Cancelled warrants and pay certificates;

119 (3) School board paid bills;

120 (4) Bids received, either accepted or rejected,
121 for supplies, materials, equipment and construction;

122 (5) Depository receipt warrants;

123 (6) School board claims dockets, where claims are
124 recorded on the minutes of the board;

125 (7) Original of school board's orders after such
126 orders have been recorded in the minute book;

127 (8) Cancelled bonds and coupons;

128 (9) Tax collector's reports of tax collection to
129 superintendent of schools * * *;

130 (10) Transportation records.

131 (b) After three (3) years:

132 (1) Teacher contracts, computed from the
133 expiration date thereof;

134 (2) Bus purchase documents;

135 (3) Teachers' registers, principals' reports and
136 other evidence necessary to prepare the reports to the State Board
137 of Education.

138 (c) After period to be set by the State Board of
139 Education such other documents of a temporary or transitory nature
140 as the State Board of Education by regulation shall designate.

141 Notwithstanding any of the provisions of Sections 37-15-1
142 through 37-15-4, 37-15-8 and 37-15-10 to the contrary, no records
143 which are in the process of being audited by the State Department
144 of Audit, or which are the basis of litigation, shall be destroyed
145 until at least twelve (12) months after final completion of said
146 audits and litigation.

147 **SECTION 9.** Section 37-39-1, Mississippi Code of 1972, is
148 amended as follows:

149 37-39-1. The following words and phrases, when used in this
150 chapter, shall, for the purpose of this chapter, have the meanings
151 respectively ascribed to them in this section:

152 (a) "Perishables" shall mean items which have a
153 variable market price on which vendors are unable to submit a
154 long-range price such as fruits and vegetables;

155 (b) "Purchasing agent" shall mean the
156 superintendent, * * * or other individual or individuals
157 designated by the school board or by the school boards acting
158 jointly as its agent or agents to negotiate and make private
159 contract or to purchase;

160 (c) "School boards" shall mean the local governing
161 boards of all school districts in the state, whether they act
162 jointly or separately;

163 (d) "Services" shall mean maintenance, operational and
164 scholastic services utilized within and for the school district or
165 school districts.

166 **SECTION 10.** Section 37-41-1, Mississippi Code of 1972, is
167 amended as follows:

168 37-41-1. The State Board of Education is authorized,
169 empowered and directed to promulgate rules and regulations for:

170 (a) Setting standards for public school bus routes;

171 (b) Approving or disapproving plans for public school
172 routes;

173 (c) Setting standards for public school buses;

174 (d) Setting standards for public school bus drivers;

175 (e) Formulating procedure for selecting public school
176 bus drivers;

177 (f) Formulating courses of training for public school
178 bus drivers and mechanics, and assist in administering and
179 financing such courses;

180 (g) Providing operation procedure for public school
181 buses to insure safety of pupils;

182 (h) Furnishing consultative supervision for the
183 operation of county school bus garages, and approving plans for
184 such garages and the proposed expenditure of transportation funds
185 therefor;

186 (i) Formulating specifications for use in purchasing
187 public school buses; getting bids on public school buses;
188 equipment and supplies; and fixing prices based upon said bids
189 which school districts may not exceed in purchasing said
190 equipment;

191 (j) Formulating specifications for use by school
192 districts in purchasing used school buses;

193 (k) Providing a system of records and reports for the
194 purpose of carrying out the provisions of Sections 37-41-1 through
195 37-41-51, and providing the superintendent of schools * * * with a
196 sufficient supply of report forms;

197 (l) Conduct upon said buses; and

198 (m) The method by which, and the circumstances in
199 which, any individual who is not a student scheduled to be a
200 passenger upon that particular bus, a member of the public school
201 administration or faculty, or a law enforcement official may
202 obtain entry upon said buses.

203 All rules and regulations adopted and promulgated by the
204 State Board of Education relating to school bus drivers shall also
205 be applicable to drivers of privately-owned buses transporting
206 public school children.

207 All rules and regulations adopted and promulgated by the
208 State Board of Education pursuant to the authority conferred by
209 this section shall be spread at large upon the minutes of the
210 State Board of Education and copies thereof shall be furnished to
211 all school boards not less than thirty (30) days prior to the
212 effective date of such rules and regulations.

213 **SECTION 11.** Section 37-41-29, Mississippi Code of 1972, is
214 amended as follows:

215 37-41-29. It shall be the duty of the school boards, as
216 existing private contracts providing for transportation of school
217 pupils expire, to replace such private transportation with
218 publicly owned transportation unless publicly owned transportation
219 is deemed impractical. The school boards may acquire, when so
220 requested by holders of private transportation contracts, from
221 such holders of private transportation contracts, all buses which,
222 in the opinion of the school boards, can be practicably operated
223 as units of the public transportation system. The actual market
224 value shall be paid therefor, said value to be determined by an
225 appraisal by three (3) experienced and impartial citizens, the

226 selection of whom shall be mutually agreed upon by the parties
227 thereto.

228 With the approval of the State Board of Education, present
229 private contracts providing for transportation of school pupils
230 may be continued, or new contracts may be entered into whenever it
231 is deemed that the needs of the pupils can best be served by such
232 method of transportation. However, in no case shall the amount
233 allotted per pupil from state funds for transportation in
234 facilities provided by private contracts exceed the amount allowed
235 per pupil from state funds for public transportation in the same
236 county and district.

237 Before any money is allocated or disbursed from the state
238 transportation funds to any school board which is transporting
239 children under private contracts, written contracts shall be
240 entered into by and between the respective carriers and school
241 boards. A copy of each contract shall be filed with the
242 superintendent of schools * * *. The aforesaid contract shall
243 show the length of the route, the amount of money to be paid the
244 carrier, the type and condition of the bus, and any other
245 information which may be required by the State Board of Education.

246 Local school boards are not required to file a copy of any
247 private contract for the transportation of exceptional children or
248 the transportation of children under extraordinary circumstances
249 with the State Board of Education.

250 **SECTION 12.** Section 37-41-97, Mississippi Code of 1972, is
251 amended as follows:

252 37-41-97. The proceeds of all notes or bonds issued under
253 the authority of Section 37-41-89 shall be deposited in the proper
254 county or municipal treasury to the credit of a special school
255 transportation equipment fund and shall be used and expended by
256 the school board for the purpose or purposes for which they were
257 issued under such rules and regulations as may be prescribed by
258 the State Board of Education, and for no other purposes.

259 All such funds shall be paid out on warrants issued by the
260 clerk of the board of supervisors or the municipal clerk, as the
261 case may be, on pay certificates issued by the superintendent of
262 schools * * * upon order of the school board.

263 **SECTION 13.** Section 37-41-99, Mississippi Code of 1972, is
264 amended as follows:

265 37-41-99. The principal of and interest upon all notes or
266 bonds issued under the authority of Section 37-41-89 shall be paid
267 out of such transportation funds of the school district as may be
268 available for such purpose. It shall be the duty of the school
269 board to set aside each year out of such transportation funds a
270 sufficient amount to pay the principal of and interest upon said
271 notes or bonds as and when the same shall respectively mature and
272 accrue. It shall be the duty of the superintendent of
273 schools * * * to include in the school budget each year separate
274 items showing the amount required for the payment of the principal
275 of and the interest upon all notes or bonds issued under the
276 authority of said section.

277 **SECTION 14.** Section 37-61-3, Mississippi Code of 1972, is
278 amended as follows:

279 37-61-3. The adequate education program allotments of the
280 public school districts and the funds derived from the
281 supplemental school district tax levies authorized by law shall be
282 used exclusively for the support, maintenance and operation of the
283 schools in the manner provided by law for the fiscal years for
284 which such funds were appropriated, collected or otherwise made
285 available, and no part of said funds or allotments shall be used
286 in paying any expenses incurred during any preceding fiscal year.
287 However, this shall not be construed to prohibit the payment of
288 expenses incurred during the fiscal year after the close of such
289 fiscal year from amounts remaining on hand at the end of such
290 fiscal year, provided that such expenses were properly payable
291 from such amounts. Moreover, this shall not be construed to

292 prohibit the payment of the salaries of superintendents, * * *
293 principals and teachers and other school employees whose salaries
294 are payable in twelve (12) monthly installments after the close of
295 the fiscal year from amounts on hand for such purpose at the end
296 of the fiscal year.

297 **SECTION 15.** Section 37-61-9, Mississippi Code of 1972, is
298 amended as follows:

299 37-61-9. (1) On or before the fifteenth day of August of
300 each year, the local school board of each school district, with
301 the assistance of the superintendent of schools * * *, shall
302 prepare and file with the levying authority for the school
303 district, as defined in Section 37-57-1, Mississippi Code of 1972,
304 at least two (2) copies of a budget of estimated expenditures for
305 the support, maintenance and operation of the public schools of
306 the school district for the fiscal year commencing on July 1 of
307 such year. Such budget shall be prepared on forms prescribed and
308 provided by the State Auditor and shall contain such information
309 as the State Auditor may require.

310 (2) In addition, on or before the fifteenth day of August of
311 each year, the local school board of each school district, with
312 the assistance of the superintendent of schools * * *, shall
313 prepare and file with the State Department of Education such
314 budgetary information as the State Board of Education may require.
315 The State Board of Education shall prescribe and provide forms to
316 each school district for this purpose.

317 (3) Prior to the adoption of a budget pursuant to this
318 section, the school board of each school district shall hold at
319 least one (1) public hearing to provide the general public with an
320 opportunity to comment on the taxing and spending plan
321 incorporated in the proposed budget. The public hearing shall be
322 held at least one (1) week prior to the adoption of the budget
323 with advance notice. After final adoption of the budget, a
324 synopsis of such budget in a form prescribed by the State

325 Department of Audit shall be published in a newspaper having
326 general circulation in the school district on a date different
327 from the date on which the county or any municipality therein may
328 publish its budget.

329 (4) Beginning with the fiscal year 1995-1996, there shall be
330 imposed limitations on budgeted expenditures for certain
331 administration costs, as defined hereinafter, in an amount not
332 greater than One Hundred Fifty Thousand Dollars (\$150,000.00) plus
333 four percent (4%) of the expenditures of all school districts each
334 year. For purposes of this subsection, "administration costs"
335 shall be defined as expenditures for salaries and fringe benefits
336 paid for central administration costs from all sources of revenue
337 in the following expenditure functions as defined in the
338 MISSISSIPPI PUBLIC SCHOOL DISTRICT FINANCIAL ACCOUNTING MANUAL:

339 2300 = Support Services - General Administration
340 2310 = Board of Education Services
341 2320 = Executive Administration Services
342 2330 = Special Area Administration Services
343 2500 = Business Services
344 2510 = Fiscal Services
345 2520 = Purchasing Services
346 2530 = Warehousing and Distributing Services
347 2540 = Printing, Publishing and Duplicating Services
348 2590 = Other Support Services - Business
349 2800 = Support Services - Central
350 2810 = Planning, Research, Development and Evaluation
351 2820 = Information Services
352 2830 = Staff Services
353 2840 = Data Processing Services

354 Any costs classified as "administration costs" for purposes
355 of this subsection which can be demonstrated by the local school
356 district to be an expenditure that results in a net cost savings
357 to the district that may otherwise require budget expenditures for

358 functions not covered under the definition of administration costs
359 herein may be excluded from the limitations imposed herein. The
360 local school board shall make a specific finding of such costs and
361 spread such finding upon its minutes, which shall be subject to
362 the approval of the Office of Educational Accountability of the
363 State Department of Education. Any school district required to
364 make expenditure cuts, as a result of application of this
365 subsection, shall not be required to reduce such expenditures more
366 than twenty-five percent (25%) in any year in order to comply with
367 this mandate.

368 The State Auditor shall ensure that functions in all
369 expenditure categories to which this administrative limitation
370 applies shall be properly classified.

371 This section shall not apply to central administration with
372 five (5) or less full-time employees, or to those school districts
373 which can substantiate that comparable reductions have occurred in
374 administrative costs for the five-year period immediately prior to
375 school year 1993-1994. In the event the application of this
376 section may jeopardize the fiscal integrity or operations of the
377 school district, have an adverse impact on the ability of the
378 district to deliver educational services, or otherwise restrict
379 the district from achieving or maintaining a quality education
380 program, the State Board of Education shall be authorized to
381 exempt the application of this section to such school district
382 pursuant to rules and regulations of the State Board of Education
383 consistent with the intent of this section.

384 **SECTION 16.** Section 37-61-17, Mississippi Code of 1972, is
385 amended as follows:

386 37-61-17. It shall be the duty of the State Auditor to
387 prescribe the forms for the budgets provided for in this chapter.
388 It shall be the duty of such superintendents of schools * * * and
389 school boards to use such forms in preparing said budgets. No

390 distribution of school funds shall be made to any school district
391 until the budgets required by this chapter shall be filed.

392 **SECTION 17.** Section 37-61-19, Mississippi Code of 1972, is
393 amended as follows:

394 37-61-19. It shall be the duty of the superintendents of
395 schools * * * and the school boards of all school districts to
396 limit the expenditure of school funds during the fiscal year to
397 the resources available. It shall be unlawful for any school
398 district to budget expenditures from a fund in excess of the
399 resources available within that fund. Furthermore, it shall be
400 unlawful for any contract to be entered into or any obligation
401 incurred or expenditure made in excess of the resources available
402 for such fiscal year. Any member of the school board,
403 superintendent of schools, or other school official, who shall
404 knowingly enter into any contract, incur any obligation, or make
405 any expenditure in excess of the amount available for the fiscal
406 year shall be personally liable for the amount of such excess.
407 However, no school board member, superintendent or other school
408 official shall be personally liable (a) in the event of any
409 reduction in adequate education program payments by action of the
410 Governor acting through the Department of Finance and
411 Administration, or (b) for claims, damages, awards or judgments,
412 on account of any wrongful or tortious act or omission or breach
413 of implied term or condition of any warranty or contract;
414 provided, however, that the foregoing immunity provisions shall
415 not be a defense in cases of fraud, criminal action or an
416 intentional breach of fiduciary obligations imposed by statute.

417 **SECTION 18.** Section 37-61-21, Mississippi Code of 1972, is
418 amended as follows:

419 37-61-21. If it should appear to the superintendent of
420 schools * * * or the school board of any school district that the
421 amounts to be received from state appropriations, taxation or any
422 other source will be more than the amount estimated in the budget

423 filed and approved, or if it should appear that such amounts shall
424 be less than the amount estimated, the school board of the school
425 district, with assistance from the superintendent, may revise the
426 budget at any time during the fiscal year by increasing or
427 decreasing the fund budget, in proportion to the increase or
428 decrease in the estimated amounts. If it should appear to the
429 superintendent of schools * * * or the school board of a school
430 district that some function of the budget as filed is in excess of
431 the requirement of that function and that the entire amount
432 budgeted for such function will not be needed for expenditures
433 therefor during the fiscal year, the school board of the school
434 district, with assistance from the superintendent, may transfer
435 resources to and from functions and funds within the budget when
436 and where needed; however, no such transfer shall be made from
437 fund to fund or from function to function which will result in the
438 expenditure of any money for any purpose different from that for
439 which the money was appropriated, allotted, collected or otherwise
440 made available or for a purpose which is not authorized by law.
441 No revision of any budget under the provisions hereof shall be
442 made which will permit a fund expenditure in excess of the
443 resources available for such purpose. The revised portions of the
444 budgets shall be incorporated in the minutes of the school board
445 by spreading them on the minutes or by attaching them as an
446 addendum. Final budget revisions, pertinent to a fiscal year,
447 shall be approved on or before the date set by the State Board of
448 Education for the school district to submit its financial
449 information for that fiscal year.

450 **SECTION 19.** Section 37-61-23, Mississippi Code of 1972, is
451 amended as follows:

452 37-61-23. The superintendent of schools of each school
453 district * * * shall open and keep regular sets of books, as
454 prescribed by the State Auditor, which shall be subject to
455 inspection during office hours by any citizen so desiring to

456 inspect the same. The books for each fiscal year shall be kept
457 separately and same shall be safely preserved by the
458 superintendent of schools * * *.

459 **SECTION 20.** Section 37-61-27, Mississippi Code of 1972, is
460 amended as follows:

461 37-61-27. If any member of the school board or the
462 superintendent of schools * * * disbursing and handling school
463 funds shall fail, refuse or neglect to comply with the provisions
464 of Section 37-61-9, he shall, upon conviction, be guilty of a
465 misdemeanor and shall be fined not more than Five Hundred Dollars
466 (\$500.00) for such failure, refusal or neglect for each offense.
467 In addition thereto, he shall be liable to a penalty of Five
468 Hundred Dollars (\$500.00) recoverable on his official bond by suit
469 filed by any county or district attorney or any interested
470 citizen, upon his official bond.

471 **SECTION 21.** Section 1 of Chapter 525, Laws of 1978, is
472 amended as follows:

473 Section 1. For purposes of this act, the following terms
474 shall have the meaning ascribed herein, unless the context shall
475 otherwise require.

476 (a) "Board of education" shall mean that school board
477 of the school district in whose present jurisdiction (i) is
478 situated a sixteenth section of land, or (ii) was originally
479 situated a sixteenth section of land for which land has been
480 granted in lieu thereof. Provided, however, that in the event a
481 sixteenth section is situated within two (2) or more school
482 districts, the term "board of education" shall mean that school
483 board whose school district embraces the greatest land area within
484 the township in which said sixteenth section is located.

485 (b) "Superintendent of education" shall mean that
486 superintendent of schools * * * of a school district whose board
487 of education has control and jurisdiction over any sixteenth
488 section lands or lands granted in lieu thereof.

489 **SECTION 22.** This act shall take effect and be in force from
490 and after July 1, 2004.