

By: Senator(s) Burton

To: Spec Cmte for Elec Cont
of Senate Seats

COMMITTEE SUBSTITUTE
FOR
SENATE RESOLUTION NO. 3

1 A RESOLUTION TO ADOPT A REMEDY TO THE ELECTION CONTEST FOR
2 MISSISSIPPI SENATE DISTRICT 29 OF THE MISSISSIPPI STATE SENATE.

3 WHEREAS, on or about November 25, 2003, the Hinds County
4 Commissioners of Election certified the election of Dwayne Thomas
5 as Senator for Mississippi Senate District 29; and

6 WHEREAS, on December 5, 2003, Richard White filed with the
7 Secretary of the Senate a Petition to Contest the Election for
8 Mississippi State Senate District 29; and

9 WHEREAS, Section 38, Mississippi Constitution of 1890,
10 provides that each house of the Legislature "...shall judge of the
11 qualifications, return and election of its own members"; and

12 WHEREAS, Section 23-15-955 provides that the legislative
13 resolution of election contests involving Senate and House of
14 Representative seats "...shall be conducted in accordance with
15 procedures and precedents established by the House of
16 Representatives or the Senate as the case may be. Such procedures
17 and precedents may be found in the Journals of the House of
18 Representatives and of the State Senate and/or in the published
19 Rules of the House of Representatives and of the State Senate";
20 and

21 WHEREAS, on January 6, 2004, the Senate adopted Senate
22 Resolution No. 2 which established a special committee and charged
23 it with the duty of investigating and proposing to the Senate a
24 remedy to the election contest for District 29 in the form of a
25 resolution; and

26 WHEREAS, on January 7, 2004, pursuant to Senate Resolution
27 No. 2, the Lieutenant Governor appointed Senators Burton

28 (Chairman), Doxey, Hyde-Smith, Posey and Robertson to serve on the
29 Special Committee to Investigate the Election Contest for Senate
30 District 29 of the Mississippi Senate; and

31 WHEREAS, on January 8, 2004, the Special Committee met,
32 organized and scheduled hearings on the election contest for
33 Senate District 29 to begin on January 14, 2004; and

34 WHEREAS, the Special Committee conducted public hearings on
35 the election contest from Wednesday, January 14, 2004, through
36 Friday, January 16, 2004; and

37 WHEREAS, the parties to the election contest were ably
38 represented by counsel who presented facts and legal argument to
39 the Special Committee; and

40 WHEREAS, numerous witnesses were called to testify at the
41 hearing and these witnesses were examined by counsel and the
42 members of the Special Committee;

43 WHEREAS, the Special Committee to Investigate the Election
44 Contest for Senate District 29 of the Mississippi Senate has
45 concluded its hearing into the election contest and has filed a
46 report with the Secretary of the Senate as required by Senate
47 Resolution No. 2, 2004 Regular Session, that contains the relevant
48 facts of the contest, Mississippi law that is involved in the
49 election contest, the findings of the committee and the
50 recommendations of the committee; and

51 WHEREAS, the Special Committee to Investigate the Election
52 Contest for Senate District 29 of the Mississippi Senate has
53 concluded in its report that as a result of the numerous errors
54 that the committee found in the conduct of the November 4, 2003,
55 General Election, the committee finds that it is impossible to
56 determine the will of the voters in Senate District 29:

57 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF
58 MISSISSIPPI, That because it is impossible to determine the will
59 of the electorate in the Senate District 29 General Election, the
60 Senate finds that the Honorable Dwayne Thomas cannot be seated as

61 a member of the Senate and hereby orders that a Special Election
62 shall be held by the Hinds County Election Commission for the
63 office of State Senator for District 29 on Tuesday, February 10,
64 2004, between Honorable Dewayne Thomas and Honorable Richard
65 White.

66 BE IT FURTHER RESOLVED, That the Hinds County Election
67 Commission shall be responsible for conducting the special
68 election in accordance with the terms of this resolution and all
69 applicable state laws not in conflict with the terms of this
70 resolution.