

By: Senator(s) Pickering, Flowers, Hewes,  
Doxey, Brown, Michel, Davis, White, Lee  
(35th), Ross, Chaney, Nunnelee

To: Education;  
Appropriations

SENATE BILL NO. 2775

1 AN ACT TO CODIFY SECTION 37-7-104, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE FOR A MANDATORY ADMINISTRATIVE REORGANIZATION OF  
3 CERTAIN SCHOOL DISTRICTS WITH SMALL STUDENT ENROLLMENT AND WHICH  
4 DO NOT MEET CERTAIN ACCREDITATION STANDARDS AND LOCAL FUNDING  
5 REQUIREMENTS; TO PROVIDE DEFINITIONS; TO PROVIDE THAT SUCH SCHOOL  
6 DISTRICTS SUBJECT TO MANDATORY ADMINISTRATIVE CONSOLIDATION SHALL  
7 BE IDENTIFIED BY THE STATE BOARD OF EDUCATION; TO PRESCRIBE A  
8 PROCEDURE FOR VOLUNTARY CONSOLIDATION AND A PROCEDURE FOR  
9 MANDATORY CONSOLIDATION; TO PROVIDE THAT SUCH ADMINISTRATIVE  
10 CONSOLIDATION SHALL NOT REQUIRE THE CLOSING OF ANY SCHOOL OR  
11 SCHOOL FACILITY OR THE CHANGE IN ANY SCHOOL ATTENDANCE ZONE; TO  
12 PROVIDE THAT SUCH CONSOLIDATED SCHOOL DISTRICT SHALL HAVE ONE  
13 SUPERINTENDENT; TO PROVIDE A TIMETABLE FOR THE SELECTION OF THE  
14 NEW SCHOOL BOARD AND THE TRANSFER OF RESPONSIBILITY; TO DIRECT THE  
15 STATE BOARD OF EDUCATION TO ISSUE ORDERS AND REGULATIONS NECESSARY  
16 TO FACILITATE THE ADMINISTRATIVE CONSOLIDATION REQUIRED UNDER THIS  
17 ACT; TO PROVIDE FOR ADMINISTRATIVE CONSOLIDATION INCENTIVE FUNDS  
18 FROM THE STATE SUBJECT TO APPROPRIATION FOR NEWLY CONSOLIDATED  
19 SCHOOL DISTRICTS; AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** The following shall be codified as Section  
22 37-7-104, Mississippi Code of 1972:

23 37-7-104. (1) **Definitions.** As used in this section:

24 (a) "Administrative annexation" means the joining of an  
25 affected school district or a part of the school district with a  
26 receiving district;

27 (b) "Administrative consolidation" means the joining of  
28 two (2) or more school districts to create a new single school  
29 district with one (1) administrative unit and one (1) school board  
30 that is not required to close school facilities;

31 (c) "Affected district" means a school district that  
32 loses territory or students as a result of administrative  
33 annexation or consolidation;

34 (d) (i) "Average daily attendance" means the total  
35 number of days attended plus the total number of days absent by

36 students in grades kindergarten through twelve (K-12) during the  
37 first three (3) quarters of each school year divided by the number  
38 of school days actually taught in the district during that period  
39 of time rounded up to the nearest hundredth;

40 (ii) Students who may be counted for average daily  
41 attendance are:

42 1. Students who reside within the boundaries  
43 of the school district and who are enrolled in a public school  
44 operated by the district or a private school for special education  
45 students, with their attendance resulting from a written tuition  
46 agreement approved by the State Department of Education;

47 2. Legally transferred students living  
48 outside the district but attending a public school in the  
49 district; and

50 3. Students who reside within the boundaries  
51 of the school district and who are enrolled in the Mississippi  
52 National Guard Youth Challenge Program, so long as the students  
53 are participants in the program;

54 (e) "Consolidated average daily attendance" means the  
55 sum of the average daily attendance for each school district  
56 included in a consolidation;

57 (f) "Receiving district" means a school district or  
58 districts that receive territory, students or both, from an  
59 affected district as a result of administrative annexation; and

60 (g) "Resulting district" means the new school district  
61 created from an affected district or districts as a result of  
62 administrative consolidation.

63 (2) **Mandatory administrative consolidation and exceptions.**

64 By February 1, 2006, and each February 1 thereafter, the State  
65 Department of Education shall publish a consolidation list that  
66 includes all school districts with fewer than nine hundred (900)  
67 students according to the district's average daily attendance in  
68 each of the two (2) school years immediately preceding the current

69 school year. Any such school district with fewer than nine  
70 hundred (900) students shall comply with the administrative  
71 consolidation requirements prescribed under subsection (3) unless  
72 the school district (a) is located in a county in which no other  
73 school district has less than six hundred (600) students in  
74 average daily attendance; or (b) is accredited at Level 4 or  
75 higher by the Mississippi Commission on School Accreditation and  
76 the school district certifies to the State Board of Education that  
77 the following budget function codes for central office  
78 administration are funded from local school district maintenance  
79 tax levies and not from Mississippi Adequate Education program  
80 funds:

81	FUNCTION	DESCRIPTION
82	CODE NUMBER	
83	2310	Local Board of Education Services
84	2311	Supervision of Board of Education Services
85	2319	Other Board of Education Services
86	2320	Executive Administration Services
87	2321	Office of School Superintendent Services
88	2329	Other Executive Administration Services
89	2330	Special Area Administration Services
90		SUPPORT SERVICES - CENTRAL:
91	2810	Planning, Research, Development and
92		Evaluation Services
93	2820	Information Services:
94	2821	Supervision of Information Services
95	2822	Internal Information Services
96	2823	Public Information Services
97	2824	Management Information Services
98	2829	Other Information Services
99	2830	Staff Services:
100	2831	Supervision of Staff Services
101	2832	Recruitment and Placement Services

102           2834                   In-Service Training Services (for  
103                                    Noninstructional Staff)  
104           2839                   Other Staff Services  
105           2840                   Data Processing Services:  
106           2841                   Supervising Data Processing Services  
107           2842                   Systems Analysis Services  
108           2843                   Programming Services  
109           2844                   Operations Services  
110           2849                   Other Data Processing Services

111           (3)   **Administrative reorganization procedures.**

112                   (a)   (i)   Any school district included in the State  
113 Department of Education's consolidation list pursuant to  
114 subsection (2), which is required to administratively consolidate,  
115 may voluntarily agree to administratively consolidate with or be  
116 annexed to another district or districts in accordance with the  
117 requirements and limitations of this section. Any school district  
118 on the consolidation list choosing to voluntarily administratively  
119 consolidate or annex shall submit a petition for approval to the  
120 State Board of Education by April 1 immediately following  
121 publication of the list and shall set forth the terms of the  
122 administrative consolidation or annexation agreement in the plan.  
123 If the petition is approved by the State Board of Education, the  
124 administrative consolidation or annexation shall be completed by  
125 June 1, to be effective on the July 1 immediately following the  
126 publication of the list required under subsection (2). The State  
127 Board of Education shall not deny the petition for voluntary  
128 administrative consolidation or annexation of any two (2) or more  
129 school districts unless:

130                                   1. The provisions contained in the articles  
131 of administrative consolidation or annexation would violate state  
132 or federal law; or

133                   2. The voluntary consolidation or annexation  
134 would not contribute to the betterment of the education of  
135 students in the districts.

136                   (ii) Any school district on the consolidation list  
137 that does not submit a petition pursuant to subsection (3)(a)(i)  
138 or that does not receive approval by the State Board of Education  
139 for a voluntary consolidation or annexation petition shall be  
140 administratively consolidated by the State Board of Education with  
141 or into one or more school districts by June 1, to be effective on  
142 the July 1 immediately following the publication of the list  
143 required under subsection (2).

144                   (iii) The State Board of Education shall promptly  
145 consider petitions or move on its own motion to administratively  
146 consolidate a school district on the consolidation list in order  
147 to enable the affected school districts to reasonably accomplish  
148 any resulting administrative consolidation or annexation by July 1  
149 immediately following the publication of the list required under  
150 subsection (2).

151                   (b) Any school district required to be administratively  
152 consolidated under this section shall be administratively  
153 consolidated in such a manner as to create a resulting district  
154 with an average daily attendance meeting or exceeding nine hundred  
155 (900).

156                   (c) School attendance zones in the resulting district  
157 which were in existence prior to the administrative consolidation  
158 of the affected district and the receiving district shall not be  
159 changed by the new school board of the resulting district for a  
160 period of six (6) years after the date of the consolidation.

161                   (d) After the administrative consolidation order is  
162 approved by the State Board of Education, the consolidation shall  
163 be submitted by the State Board of Education to the appropriate  
164 federal agencies for approval. After all preclearance has been  
165 received, the State Board of Education shall declare the new

166 boundaries of the consolidated school district and all action  
167 shall proceed as outlined under law using the new boundaries.  
168 Upon preclearance of such consolidation, all affected and  
169 receiving school boards shall approve a joint resolution for the  
170 new election or appointment of new board members from new  
171 districts as provided by law. These elections or appointments  
172 shall be scheduled prior to May 1 of the year in which the  
173 consolidation is to become effective. The new consolidated  
174 district shall become effective on July 1 of that same year. The  
175 superintendent of any district created through consolidation shall  
176 be appointed. The superintendent shall begin work as the  
177 superintendent on July 1 of such year when the consolidation  
178 becomes effective. The order to consolidate shall invalidate the  
179 contracts of the superintendents of the preceding districts and  
180 shall terminate the term of the superintendent if that person was  
181 elected. The order to consolidate shall invalidate the term of  
182 any school board member of the affected or receiving district  
183 beyond July 1 of that year whether they are elected or appointed.  
184 Any school board member from any school district may be eligible  
185 to run for election or be appointed to the new consolidated school  
186 board. Each school board shall be responsible for establishing  
187 the contracts for teachers and principals for the next school year  
188 with the consultation of the successor school board if they have  
189 been selected at the time such decisions are to be made. The  
190 selection of administrator in the central administration office  
191 shall be the responsibility of the successor school board. No  
192 existing dates for renewal of contracts shall invalidate the  
193 responsibility of the successor school board in taking such  
194 action. The successor school board may enter into these contracts  
195 at any time following their election or appointment, but no later  
196 than July 1 of that year. It shall also be the responsibility of  
197 the successor school board to prepare and approve the budget of  
198 the new district. The successor school board may use staff from

199 the existing districts to prepare the budget. The school board  
200 shall have authority to approve the budget prior to the July 1  
201 date and shall follow the time line established for budget  
202 preparation under the law. Any order directing the transfer of  
203 the assets, real or personal property of a school district on the  
204 administrative consolidation list issued by the State Board of  
205 Education shall be submitted to and approved by the State Board of  
206 Education. The finding of the State Board of Education shall be  
207 final and conclusive for the purposes of the transfer of property  
208 required by an administrative consolidation. Any person or school  
209 district aggrieved by an order of a school board adopted pursuant  
210 to the requirements of this section may appeal therefrom to the  
211 State Board of Education within ten (10) days from the date of the  
212 adjournment of the meeting at which such order is entered. Such  
213 appeal shall be de novo, and the finding of the State Board of  
214 Education upon such question shall be final and conclusive for the  
215 purpose of the approval or disapproval of the action by said  
216 board.

217 (e) All administrative consolidations or annexations  
218 under this section shall be accomplished so as not to create a  
219 school district that hampers, delays or in any manner negatively  
220 affects the desegregation of another school district in this  
221 state.

222 (f) In the administratively consolidated or annexed  
223 school districts created under this section, the ad valorem tax  
224 rate shall be determined as set forth under Section 31-57-1 et  
225 seq.

226 (g) Nothing in this section shall be construed to  
227 require the closing of any school or school facility.

228 (h) No administratively consolidated or annexed school  
229 district shall have more than one (1) superintendent.

230 (i) No school district administratively consolidated  
231 with a school district designated by the State Board of Education

232 as being in academic or fiscal distress shall be subject to  
233 academic or fiscal distress sanctions for a period of three (3)  
234 years from the effective date of consolidation unless:

235 (i) The school district fails to meet minimum  
236 teacher salary requirements; or

237 (ii) The school district fails to comply with the  
238 Standards for Accreditation of Mississippi Public Schools issued  
239 by the State Department of Education.

240 (j) Noncontiguous school districts may voluntarily  
241 consolidate if:

242 (i) The facilities and physical plant of each  
243 school district are within the same county; and the State Board of  
244 Education approves the administrative consolidation; or

245 (ii) The facilities and physical plant of each  
246 school district are not within the same county; and the State  
247 Board of Education approves the administrative consolidation or  
248 annexation and finds that:

249 1. The consolidation or annexation will  
250 result in the overall improvement in the educational benefit to  
251 students in all of the school districts involved; or

252 2. The consolidation or annexation will  
253 provide a significant advantage in transportation costs or service  
254 to all of the school districts involved.

255 (k) Contiguous districts may administratively  
256 consolidate even if they are not in the same county.

257 (l) When any school district on the administrative  
258 consolidation list issued by the State Board of Education is  
259 abolished under the provisions of this section, the abolition  
260 thereof shall not impair or release the property of such school  
261 district from liability for the payment of the bonds or other  
262 indebtedness of such district, and it shall be the duty of the  
263 board of supervisors of said county to levy taxes on the property



264 of said district so abolished from year to year according to the  
265 terms of such indebtedness until same shall be fully paid.

266 (m) The State Board of Education shall promulgate rules  
267 to facilitate the administration of this section.

268 (4) **Administrative consolidation incentive funds.**

269 (a) The state shall pay administrative consolidation  
270 incentive funds to each school district that:

271 (i) Has an average daily attendance of at least  
272 nine hundred (900) for each of the two (2) school years preceding  
273 the school year in which the administrative consolidation or  
274 annexation petition is filed; and

275 (ii) Voluntarily petitions and receives approval  
276 from the State Board of Education to administratively consolidate  
277 or annex another school district with less than nine hundred (900)  
278 students in average daily attendance, prior to July 1, 2006. The  
279 payment of administrative consolidation incentive funds shall be  
280 based on the number of students in the resulting district.

281 (b) Administrative consolidation incentive funds shall  
282 be paid, subject to specific appropriation therefor by the  
283 Legislature, in an amount equal to the differences between the per  
284 student funding level paid by the state under the Mississippi  
285 Adequate Education Program paid in the affected school district  
286 and the receiving district, multiplied times the consolidated  
287 average daily attendance.

288 (c) Administrative consolidation incentive funds may be  
289 used by the school districts for any purpose. However, the State  
290 Board of Education by rule may require funds to be expended on the  
291 construction or improvement of school facilities.

292 (d) The funds shall be paid to the resulting  
293 administratively consolidated or annexed school districts during  
294 the first year and the second year of the consolidated or annexed  
295 district's existence.

296           (5) **Charter schools.** The provisions of this section shall  
297 not apply to charter schools in existence on the effective date of  
298 this act or to schools achieving charter status by June 1, 2006.

299           **SECTION 2.** The Attorney General of the State of Mississippi  
300 shall submit this act, immediately upon approval by the Governor,  
301 or upon approval by the Legislature subsequent to a veto, to the  
302 Attorney General of the United States or to the United States  
303 District Court for the District of Columbia in accordance with the  
304 provisions of the Voting Rights Act of 1965, as amended and  
305 extended.

306           **SECTION 3.** This act shall take effect and be in force from  
307 and after the date it is effectuated under Section 5 of the Voting  
308 Rights Act of 1965, as amended and extended.