

By: Senator(s) Thames, Gordon, Robertson,
Clarke, Moffatt

To: Fees, Salaries and
Administration;
Appropriations

SENATE BILL NO. 2054

1 AN ACT TO AMEND SECTION 37-3-9, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE SALARY OF THE STATE SUPERINTENDENT OF EDUCATION AND TO
3 PROVIDE THAT THE STATE BOARD OF EDUCATION MAY ONLY INCREASE THE
4 SALARY OF THE STATE SUPERINTENDENT OF PUBLIC EDUCATION UPON THE
5 APPROVAL OF THE STATE PERSONNEL BOARD; TO AMEND SECTION 37-3-13,
6 MISSISSIPPI CODE OF 1972, TO DELETE THE PROVISION AUTHORIZING THE
7 STATE BOARD OF EDUCATION TO SET THE SALARY OF THE DEPUTY
8 SUPERINTENDENTS, ASSOCIATE SUPERINTENDENTS AND DIVISIONAL
9 DIRECTORS, MEMBERS OF THE TEACHING STAFFS AND EMPLOYEES OF THE
10 MISSISSIPPI SCHOOL OF THE ARTS, AND TO PROVIDE THAT THE SALARIES
11 OF ALL EMPLOYEES OF THE STATE DEPARTMENT OF EDUCATION SHALL BE
12 FIXED BY THE STATE SUPERINTENDENT, SUBJECT TO THE APPROVAL OF THE
13 STATE PERSONNEL BOARD; TO AMEND SECTION 25-3-39, MISSISSIPPI CODE
14 OF 1972, TO CLARIFY THE AUTHORITY TO PAY THE STATE SUPERINTENDENT
15 OF PUBLIC EDUCATION A SALARY IN EXCESS OF THE SALARY OF THE
16 GOVERNOR; TO AMEND SECTIONS 37-4-3 AND 37-101-7, MISSISSIPPI CODE
17 OF 1972, TO REQUIRE THE STATE PERSONNEL BOARD TO PROVIDE THE STATE
18 BOARD FOR COMMUNITY AND JUNIOR COLLEGES AND THE BOARD OF TRUSTEES
19 OF STATE INSTITUTIONS OF HIGHER LEARNING WITH A NONBINDING
20 ADVISORY OPINION ON THE AMOUNT OF SALARIES FOR THEIR EMPLOYEES;
21 AND FOR RELATED PURPOSES.

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

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

25 37-3-9. (1) From and after July 1, 1984, there shall be a
26 State Superintendent of Public Education who shall be appointed by
27 the State Board of Education, with the advice and consent of the
28 Senate, and serve at the board's will and pleasure. He shall be
29 the chief administrative officer for the State Department of
30 Education and shall administer the department in accordance with
31 the policies established by the State Board of Education. * * *
32 From and after January 1, 2006, the State Superintendent of Public
33 Education shall receive the salary that he was receiving on August
34 1, 2005. Such salary may be increased to an amount established by
35 the State Board of Education but only upon the approval of the
36 State Personnel Board. The State Superintendent of Public

37 Education shall have at least a master's degree in any field and a
38 minimum of five (5) years' experience in administration in the
39 educational field.

40 (2) The state superintendent shall give bond in the penalty
41 of Seventy-five Thousand Dollars (\$75,000.00), with sureties to be
42 approved by the Governor, conditioned according to law. Said bond
43 when approved shall be filed and recorded in the office of the
44 Secretary of State.

45 **SECTION 2.** Section 37-3-13, Mississippi Code of 1972, is
46 amended as follows:

47 37-3-13. (1) Until July 1, 1984, the Assistant State
48 Superintendent of Public Education, the directors, supervisors,
49 clerical assistants, and employees shall be selected by, and hold
50 office subject to the will of, the State Superintendent, except as
51 provided in Section 37-3-17. The Assistant State Superintendent
52 may be authorized to act in the absence or disability of the State
53 Superintendent and shall perform such other duties as may be
54 assigned to him by the State Superintendent. The State
55 Superintendent shall have the power to assign to any division such
56 clerical help as he may deem necessary and to discharge such
57 clerical help among the divisions at any time necessity requires,
58 except as provided in Section 37-3-17.

59 (2) From and after July 1, 1984, the deputy superintendents,
60 associate superintendents and directors shall be selected by and
61 hold office subject to the will of the State Superintendent of
62 Public Education subject to the approval of the State Board of
63 Education. All other personnel shall be competitively appointed
64 by the State Superintendent and shall be dismissed only for cause
65 in accordance with the rules and regulations of the State
66 Personnel Board. * * * The State Superintendent, subject to the
67 approval of the State Personnel Board, shall fix the amount of
68 compensation of all * * * employees of the State Department of
69 Education. All salaries, compensation or expenses of any of the

70 personnel of the department shall be paid upon the requisition of
71 the State Superintendent of Public Education and warrant issued
72 thereunder by the State Auditor out of funds appropriated by the
73 Legislature in a lump sum upon the basis of budgetary requirements
74 submitted by the Superintendent of Education or out of funds
75 otherwise made available. The entire expense of administering the
76 department shall never exceed the amount appropriated therefor,
77 plus funds received from other sources other than state
78 appropriations. For a violation of this provision, the
79 superintendent shall be liable, and he and the sureties on his
80 bond shall be required to restore any such excess.

81 **SECTION 3.** Section 25-3-39, Mississippi Code of 1972, is
82 amended as follows:

83 25-3-39. (1) No public officer, public employee,
84 administrator, or executive head of any arm or agency of the
85 state, in the executive branch of government, shall be paid a
86 salary or compensation, directly or indirectly, greater than one
87 hundred fifty percent (150%) of the salary fixed in Section
88 25-3-31 for the Governor. All academic officials, members of the
89 teaching staffs and employees of the state institutions of higher
90 learning, the State Board for Community and Junior Colleges, * * *
91 community and junior colleges, the State Superintendent of Public
92 Education, and licensed physicians who are public employees, shall
93 be exempt from this subsection. The Governor shall fix the annual
94 salary of the Executive Director of the Mississippi Development
95 Authority and the annual salary of the Chief of Staff of the
96 Governor's Office, which salaries shall be completely paid by the
97 state and may not be supplemented with any funds from any source,
98 including federal or private funds. Provided, however, that the
99 salary of the Executive Director of the Mississippi Development
100 Authority and the Governor's Chief of Staff shall not be greater
101 than one hundred fifty percent (150%) of the salary of the
102 Governor. Furthermore, all professional employees who hold a

103 bachelor's degree or more advanced degree from an accredited
104 four-year college or university or a certificate or license issued
105 by a state licensing board, commission or agency and who are
106 employed by the Department of Mental Health shall be exempt from
107 this subsection if the State Personnel Board approves the
108 exemption.

109 (2) No public officer, employee or administrator shall be
110 paid a salary or compensation, directly or indirectly, in excess
111 of the salary authorized to be paid the executive head of the
112 state agency or department in which he is employed. The State
113 Personnel Board, based upon its findings of fact, may exempt
114 physicians and actuaries from this subsection when the acquisition
115 of such professional services is precluded based on the prevailing
116 wage in the relevant labor market.

117 (3) The executive head of any state agency or department
118 appointed by the Governor, in such executive head's discretion,
119 may waive all or any portion of the salary or compensation
120 lawfully established for the position.

121 **SECTION 4.** Section 37-4-3, Mississippi Code of 1972, is
122 amended as follows:

123 37-4-3. (1) From and after July 1, 1986, there shall be a
124 State Board for Community and Junior Colleges which shall receive
125 and distribute funds appropriated by the Legislature for the use
126 of the public community and junior colleges and funds from federal
127 and other sources that are transmitted through the state
128 governmental organization for use by said colleges. This board
129 shall provide general coordination of the public community and
130 junior colleges, assemble reports and such other duties as may be
131 prescribed by law.

132 (2) The board shall consist of ten (10) members of which
133 none shall be an elected official and none shall be engaged in the
134 educational profession. The Governor shall appoint two (2)
135 members from the First Mississippi Congressional District, one (1)

136 who shall serve an initial term of two (2) years and one (1) who
137 shall serve an initial term of five (5) years; two (2) members
138 from the Second Mississippi Congressional District, one (1) who
139 shall serve an initial term of five (5) years and one (1) who
140 shall serve an initial term of three (3) years; and two (2)
141 members from the Third Mississippi Congressional District, one (1)
142 who shall serve an initial term of four (4) years and one (1) who
143 shall serve an initial term of two (2) years; two (2) members from
144 the Fourth Mississippi Congressional District, one (1) who shall
145 serve an initial term of three (3) years and one (1) who shall
146 serve an initial term of four (4) years; and two (2) members from
147 the Fifth Mississippi Congressional District, one (1) who shall
148 serve an initial term of five (5) years and one (1) who shall
149 serve an initial term of two (2) years. All subsequent
150 appointments shall be for a term of six (6) years and continue
151 until their successors are appointed and qualify. An appointment
152 to fill a vacancy which arises for reasons other than by
153 expiration of a term of office shall be for the unexpired term
154 only. No two (2) appointees shall reside in the same junior
155 college district. All members shall be appointed with the advice
156 and consent of the Senate.

157 (3) There shall be a chairman and vice chairman of the
158 board, elected by and from the membership of the board; and the
159 chairman shall be the presiding officer of the board. The board
160 shall adopt rules and regulations governing times and places for
161 meetings and governing the manner of conducting its business.

162 (4) The members of the board shall receive no annual salary,
163 but shall receive per diem compensation as authorized by Section
164 25-3-69, Mississippi Code of 1972, for each day devoted to the
165 discharge of official board duties and shall be entitled to
166 reimbursement for all actual and necessary expenses incurred in
167 the discharge of their duties, including mileage as authorized by
168 Section 25-3-41, Mississippi Code of 1972.

169 (5) The board shall name a director for the state system of
170 public junior and community colleges, who shall serve at the
171 pleasure of the board. Such director shall be the chief executive
172 officer of the board, give direction to the board staff, carry out
173 the policies set forth by the board, and work with the presidents
174 of the several community and junior colleges to assist them in
175 carrying out the mandates of the several boards of trustees and in
176 functioning within the state system and policies established by
177 the State Board for Community and Junior Colleges. The State
178 Board for Community and Junior Colleges shall set the salary of
179 the Director of the State System of Community and Junior Colleges.
180 The State Board for Community and Junior Colleges shall annually
181 submit to the State Personnel Board a list of salaries for its
182 employees and the State Personnel Board shall give a nonbinding
183 advisory opinion on the amount of the salaries for the director
184 and other employees of the State Board for Community and Junior
185 Colleges. The Legislature shall provide adequate funds for the
186 State Board for Community and Junior Colleges, its activities and
187 its staff.

188 (6) The powers and duties of the State Board for Community
189 and Junior Colleges shall be:

190 (a) To authorize disbursements of state appropriated
191 funds to community and junior colleges through orders in the
192 minutes of the board.

193 (b) To make studies of the needs of the state as they
194 relate to the mission of the community and junior colleges.

195 (c) To approve new, changes to and deletions of
196 vocational and technical programs to the various colleges.

197 (d) To require community and junior colleges to supply
198 such information as the board may request and compile, publish and
199 make available such reports based thereon as the board may deem
200 advisable.

201 (e) To approve proposed new attendance centers (campus
202 locations) as the local boards of trustees should determine to be
203 in the best interest of the district. Provided, however, that no
204 new community/junior college branch campus shall be approved
205 without an authorizing act of the Legislature.

206 (f) To serve as the state approving agency for federal
207 funds for proposed contracts to borrow money for the purpose of
208 acquiring land, erecting, repairing, etc. dormitories, dwellings
209 or apartments for students and/or faculty, such loans to be paid
210 from revenue produced by such facilities as requested by local
211 boards of trustees.

212 (g) To approve applications from community and junior
213 colleges for state funds for vocational-technical education
214 facilities.

215 (h) To approve any university branch campus offering
216 lower undergraduate level courses for credit.

217 (i) To appoint members to the Post-Secondary
218 Educational Assistance Board.

219 (j) To appoint members to the Authority for Educational
220 Television.

221 (k) To contract with other boards, commissions,
222 governmental entities, foundations, corporations or individuals
223 for programs, services, grants and awards when such are needed for
224 the operation and development of the state public community and
225 junior college system.

226 (l) To fix standards for community and junior colleges
227 to qualify for appropriations, and qualifications for community
228 and junior college teachers.

229 (m) To have sign-off approval on the State Plan for
230 Vocational Education which is developed in cooperation with
231 appropriate units of the State Department of Education.

232 (n) To approve or disapprove of any proposed inclusion
233 within municipal corporate limits of state-owned buildings and

234 grounds of any community college or junior college and to approve
235 or disapprove of land use development, zoning requirements,
236 building codes and delivery of governmental services applicable to
237 state-owned buildings and grounds of any community college or
238 junior college. Any agreement by a local board of trustees of a
239 community college or junior college to annexation of state-owned
240 property or other conditions described in this paragraph shall be
241 void unless approved by the board and by the board of supervisors
242 of the county in which the state-owned property is located.

243 **SECTION 5.** Section 37-101-7, Mississippi Code of 1972, is
244 amended as follows:

245 37-101-7. Within ten (10) days after the beginning of the
246 terms of office of its members, upon call of the Governor, the
247 Board of Trustees of State Institutions of Higher Learning shall
248 meet in the City of Jackson and organize by electing one (1) of
249 its number as president, whose term of office shall be for one (1)
250 year or until a successor shall be elected, and shall transact
251 such other business as may come before the meeting. When the
252 presiding officer has voted and the result is a tie, he cannot
253 vote again to break the tie.

254 The trustees shall have authority to appoint a nonmember as
255 Commissioner of Higher Education, who shall possess the highest
256 qualifications as an administrator and research worker. The
257 Commissioner of Higher Education shall maintain an office and be
258 responsible to the board for the efficient functioning of the
259 staff which the board may from time to time establish. It shall
260 be the duty of the Commissioner of Higher Education to make
261 constant inquiry into the problems of higher education, to survey
262 and study carefully the organization, management and all other
263 affairs of each institution under the control of said trustees, to
264 make report of all findings and recommend such changes as will
265 increase efficiency and economy in the operation of each
266 institution, and to perform such other duties as the board may

267 prescribe. The Commissioner of Higher Education shall be
268 responsible for compiling all laws and all rules and regulations
269 of a general nature adopted by the board for the governance of the
270 various institutions of higher learning in pamphlet or loose-leaf
271 form. Current copies of such compilations shall be furnished to
272 all officials directly responsible for the carrying out of such
273 laws, rules and regulations. The expenses for such compilation
274 and publication shall be paid by the board out of any funds
275 available for the operation of said board.

276 The trustees shall authorize the employment of such other
277 personnel as may be required from time to time to carry out the
278 functions of the board and may assign to the personnel so employed
279 such functions and duties and may delegate to the commissioner or
280 other personnel such powers of the board as may be necessary to
281 accomplish the purposes for which the board was established. All
282 such personnel shall be employed by the commissioner with the
283 approval of the board and shall hold office at the pleasure of the
284 commissioner. The board shall also have the authority to employ
285 on a fee basis such technical and professional assistance as may
286 be necessary to carry out the powers, duties and purposes of the
287 board.

288 The Commissioner of Higher Education and other personnel
289 employed by the board shall receive reasonable salaries
290 commensurate with their duties and functions, the amount of which
291 shall be fixed by the board. The Board of Trustees of State
292 Institutions of Higher Learning shall annually submit to the State
293 Personnel Board a list of salaries for its employees and the State
294 Personnel Board shall give the Board of Trustees of State
295 Institutions of Higher Learning a nonbinding advisory opinion on
296 the amount of the salaries for the director and other personnel
297 employed by the board. The reasonable traveling expenses and
298 other authorized expenses incurred by the commissioner and other
299 personnel in the performance of their duties, together with other

300 expenses of the operation of the executive office, shall be
301 prorated and deducted from the appropriations for the current
302 expenses of the several institutions.

303 **SECTION 6.** This act shall take effect and be in force from
304 and after its passage.