

Senate Amendments to House Bill No. 166

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

13 **SECTION 1.** Section 37-9-13, Mississippi Code of 1972, is
14 amended as follows:

15 **[Until December 31, 2007, this section will read as follows:]**

16 37-9-13. Each school district shall have a superintendent of
17 schools, selected in the manner provided by law. No person shall
18 be eligible to the office of superintendent of schools unless such
19 person shall hold a valid administrator's license issued by the
20 State Department of Education and shall have had not less than
21 four (4) years of classroom or administrative experience.

22 **[From and after January 1, 2008, this section will read as**
23 **follows:]**

24 37-9-13. (1) In all public school districts, except in
25 countywide school districts wherein the incumbent county
26 superintendent of education chooses to seek reelection, the school
27 board shall appoint the superintendent of schools of such
28 district. Any county superintendent of education serving on July
29 1, 2007, may choose to seek reelection, and if he is reelected in
30 the manner provided by law, the office of county superintendent of
31 education shall remain an elective office in such county until the
32 incumbent vacates the office or is not reelected. If the
33 incumbent vacates the office prior to the expiration of the term,
34 the office of superintendent shall become an appointed office
35 beginning immediately. If the incumbent is not reelected, the
36 office of superintendent shall become an appointed office at the
37 end of the four-year term of the person who was elected.

38 (2) No person shall be eligible to the office of
39 superintendent of schools unless such person shall hold a valid
40 administrator's license issued by the State Department of
41 Education and shall have had not less than four (4) years of
42 classroom or administrative experience.

43 **SECTION 2.** Section 37-5-61, Mississippi Code of 1972, is
44 amended as follows:

45 **[In counties wherein the county superintendent of education**
46 **serving on July 1, 2007, chooses to seek reelection and is**
47 **reelected, this section shall read as follows:]**

48 37-5-61. (1) There shall be a county superintendent of
49 education in each county.

50 (2) Said superintendent shall serve as the executive
51 secretary of the county board of education, but shall have no vote
52 in the proceedings before the board and no voice in fixing the
53 policies thereof.

54 (3) In addition, said superintendent shall be the director
55 of all schools in the county outside the municipal separate school
56 districts.

57 (4) Said superintendent shall be elected at the same time
58 and in the same manner as other county officers are elected and
59 shall hold office for a term of four (4) years.

60 **[In counties wherein the county superintendent of education**
61 **serving on July 1, 2007, chooses not to seek reelection, this**
62 **Section 37-5-61 shall have no force or effect.]**

63 **SECTION 3.** Section 37-5-71, Mississippi Code of 1972, is
64 amended as follows:

65 **[In counties wherein the county superintendent of education**
66 **serving on July 1, 2007, chooses to seek reelection and is**
67 **reelected, this section shall read as follows:]**

68 37-5-71. (1) The county superintendents of education shall
69 be elected in the manner prescribed by the provisions of this
70 chapter, unless such office be made appointive as provided in this
71 chapter, in which case the county superintendent shall be
72 appointed by the county board of education or by the trustees of a

73 separate school district embracing an entire county with a
74 population of fifteen thousand (15,000) or less, as provided in
75 subsection (2) of Section 37-7-203. In all cases he shall have
76 such qualifications as prescribed by Section 37-9-13 and receive
77 such compensation as established under Section 37-9-37.

78 (2) All qualified electors residing within any municipal
79 separate or special municipal separate school district shall not
80 vote in the election for the county superintendent of education:

81 (a) In all counties of the second class which have a
82 population, according to the 1960 federal decennial census of at
83 least thirty-three thousand (33,000) and less than thirty-four
84 thousand (34,000), and having a city located therein which is the
85 Southern Division of the A.T.&S.F. Railroad Company;

86 (b) In all counties of the fourth class which have a
87 population, according to the 1960 federal decennial census, in
88 excess of twenty-six thousand (26,000) and less than twenty-seven
89 thousand (27,000), and having located therein the Mississippi
90 State University of Agriculture and Applied Science;

91 (c) In all counties of the first class which have a
92 population, according to the 1960 federal decennial census, in
93 excess of forty-six thousand (46,000) and less than forty-seven
94 thousand (47,000), and having located therein the Mississippi
95 University for Women;

96 (d) In any county bordering on the Mississippi Sound
97 and having a population in excess of one hundred thousand
98 (100,000), according to the 1960 federal decennial census, and
99 having an assessed valuation in excess of Seventy Million Dollars
100 (\$70,000,000.00);

101 (e) In any county having a population in excess of
102 eight thousand (8,000) and less than nine thousand (9,000), and
103 having an assessed valuation in excess of Five Million Dollars
104 (\$5,000,000.00) but less than Six Million Dollars (\$6,000,000.00)
105 in 1960;

106 (f) In any county having a population in excess of
107 twenty-two thousand (22,000) and less than twenty-three thousand

108 (23,000) in 1960, and having a total assessed valuation in excess
109 of Thirteen Million Dollars (\$13,000,000.00) in 1960;

110 (g) In any county having a population in excess of
111 fifty-nine thousand (59,000) but less than sixty thousand
112 (60,000), according to the 1960 federal decennial census;

113 (h) In any county bordered on the east by the Alabama
114 line and on the south by the Mississippi Sound;

115 (i) In any county where Mississippi Highway 35 crosses
116 U.S. Highway 80 and whose population, according to the 1960
117 regular census, was between twenty-one thousand (21,000) and
118 twenty-two thousand (22,000), and in which there are located four
119 (4) or more chicken packing plants, one (1) zipper plant and one
120 or more factories manufacturing Sunbeam electrical appliances;

121 (j) In any county having a population of twenty-six
122 thousand one hundred ninety-eight (26,198) according to the 1970
123 census wherein Highways 51 and 84 intersect;

124 (k) In any county having a municipal separate school
125 district lying therein, having a population in excess of
126 twenty-one thousand (21,000) but less than twenty-one thousand
127 five hundred (21,500), according to the 1960 decennial census, and
128 having a combined assessed valuation in 1963 in excess of Sixteen
129 Million Nine Hundred Thousand Dollars (\$16,900,000.00) but less
130 than Seventeen Million Dollars (\$17,000,000.00) according to the
131 State Tax Commission's compilation;

132 (l) In any county where Mississippi Highway 15 crosses
133 Mississippi Highway 16, whose population was more than twenty
134 thousand (20,000) and less than twenty-one thousand (21,000),
135 according to the regular 1960 census, and within which there is
136 located a Choctaw Indian reservation and school operated by the
137 United States government;

138 (m) In any county where U.S. Highway 45W Alternate
139 intersects Mississippi Highway 50, and having a population of
140 eighteen thousand nine hundred thirty-three (18,933), according to
141 the 1960 federal census;

142 (n) In any county having a population in excess of
143 forty thousand five hundred (40,500), according to the 1960
144 federal decennial census, wherein U.S. Highways 78 and 45
145 intersect, and wherein there is a United States fish hatchery;

146 (o) In any county being traversed by Mississippi
147 Highway 15 and U.S. Interstate Highway 20;

148 (p) In all counties wherein there is located a national
149 military park and a national cemetery;

150 (q) In any county where U.S. Highway 82 crosses U.S.
151 Interstate Highway 55 and having a population of twelve thousand
152 three hundred eighty-seven (12,387) according to the 1990 federal
153 decennial census;

154 (r) In any county where U.S. Highway 49E and U.S.
155 Highway 82 intersect, and having a population of thirty-seven
156 thousand three hundred forty-one (37,341) according to the 1990
157 federal decennial census;

158 (s) In any county bordering the Mississippi River on
159 the west and with a population of less than thirty-one thousand
160 (31,000), according to the 2000 federal decennial census, and with
161 a county seat in which U.S. Highway 49 and U.S. Highway 61
162 intersect.

163 In any such county, however, the county superintendent of
164 education may be a resident of a municipal separate school
165 district or special municipal separate school district.

166 (3) The qualified electors residing within the municipal
167 separate school districts shall not participate in the election of
168 the county superintendent of education:

169 (a) In any county having a population of more than
170 twenty-seven thousand (27,000) and less than twenty-eight thousand
171 (28,000) and containing therein a municipality having a population
172 in excess of three thousand (3,000), according to the 1960 federal
173 decennial census;

174 (b) In any Class 1 county wherein is located a
175 state-supported university and a National Guard camp, and in which
176 Interstate Highway 59 and U.S. Highway 49 intersect;

177 (c) In any Class 4 county having two (2) judicial
178 districts, wherein is partially located a national forest, and
179 wherein Mississippi Highways 8 and 15 intersect;

180 (d) In any Class 2 county, the southern boundary of
181 which partially borders on the State of Louisiana, traversed by
182 U.S. Highway 98 which intersects Mississippi Highway 13, with a
183 land area of five hundred fifty (550) square miles and having a
184 population of twenty-three thousand two hundred ninety-three
185 (23,293) in the 1960 federal decennial census;

186 (e) In any county bordering on the Gulf of Mexico or
187 the Mississippi Sound having therein a test facility operated by
188 the National Aeronautics and Space Administration;

189 (f) In any county having a population in excess of
190 twenty-seven thousand one hundred seventy-nine (27,179) according
191 to the 1970 federal decennial census, wherein U.S. Highways 45 and
192 72 intersect; and

193 (g) In any Class 1 county bordering on the Pearl River
194 in which U.S. Highway 80 intersects Mississippi Highway 18 and
195 having a population, according to the federal decennial census of
196 1970, of forty-three thousand nine hundred thirty-three (43,933).

197 (4) The county superintendent of education, with the
198 approval of the county board of education by its first having
199 adopted a resolution of approval and spread upon its minutes,
200 shall be elected from the county at large, exclusive of the
201 municipal separate school district boundaries:

202 (a) In any county bordering on the State of Tennessee
203 having a land area of seven hundred ten (710) square miles,
204 wherein is located part of a national forest, and wherein U.S.
205 Highway 78 and Mississippi Highway 7 intersect;

206 (b) In any Class 4 county wherein is located the
207 state's oldest state-supported university, in which Mississippi
208 Highways 6 and 7 intersect; and

209 (c) In any county having a population in excess of
210 seventeen thousand (17,000) and less than eighteen thousand

211 (18,000), according to the 1970 federal decennial census, wherein
212 Mississippi Highways 6 and 9 intersect.

213 (5) In any county having a municipality of between
214 forty-nine thousand (49,000) and fifty thousand (50,000)
215 population according to the 1960 federal census, and adjoining the
216 Alabama line, wherein U.S. Highways 80 and 45 intersect, the
217 qualified electors residing within any municipal separate school
218 district shall not participate in the election of the county
219 superintendent of education, and such county superintendent of
220 education shall not be a resident of a municipal separate school
221 district.

222 (6) In any county traversed by the Natchez Trace Parkway
223 wherein U.S. Highway 45 and Mississippi Highway 4 intersect and
224 having a population of seventeen thousand nine hundred forty-nine
225 (17,949) according to the 1960 federal census, the qualified
226 electors residing within any municipal separate school district
227 shall not participate in the election of the county superintendent
228 of education, and such county superintendent of education shall
229 not be a resident of a municipal separate school district.

230 **[In counties wherein the county superintendent of education**
231 **serving on July 1, 2007, chooses not to seek reelection, this**
232 **Section 37-5-71 shall have no force and effect.]**

233 **SECTION 4.** Section 37-9-25, Mississippi Code of 1972, is
234 amended as follows:

235 **[Until December 31, 2007, this section will read as follows:]**

236 37-9-25. The school board shall have the power and
237 authority, in its discretion, to employ the superintendent, unless
238 such superintendent is elected, for not exceeding four (4)
239 scholastic years and the principals or licensed employees for not
240 exceeding three (3) scholastic years. In such case, contracts
241 shall be entered into with such superintendents, principals and
242 licensed employees for the number of years for which they have
243 been employed. All such contracts with licensed employees shall
244 for the years after the first year thereof be subject to the
245 contingency that the licensed employee may be released if, during

246 the life of the contract, the average daily attendance should
247 decrease from that existing during the previous year and thus
248 necessitate a reduction in the number of licensed employees during
249 any year after the first year of the contract. However, in all
250 such cases the licensed employee must be released before July 1 or
251 at least thirty (30) days prior to the beginning of the school
252 term, whichever date should occur earlier. The salary to be paid
253 for the years after the first year of such contract shall be
254 subject to revision, either upward or downward, in the event of an
255 increase or decrease in the funds available for the payment
256 thereof, but, unless such salary is revised prior to the beginning
257 of a school year, it shall remain for such school year at the
258 amount fixed in such contract. However, where school district
259 funds, other than minimum education program funds, are available
260 during the school year in excess of the amount anticipated at the
261 beginning of the school year the salary to be paid for such year
262 may be increased to the extent that such additional funds are
263 available and nothing herein shall be construed to prohibit same.

264 **[From and after January 1, 2008, this section will read as**
265 **follows:]**

266 37-9-25. The school board shall have the power and
267 authority, in its discretion, to employ the superintendent * * *
268 for not exceeding four (4) scholastic years and the principals or
269 licensed employees for not exceeding three (3) scholastic years.
270 In such case, contracts shall be entered into with such
271 superintendents, principals and licensed employees for the number
272 of years for which they have been employed. All such contracts
273 with licensed employees shall for the years after the first year
274 thereof be subject to the contingency that the licensed employee
275 may be released if, during the life of the contract, the average
276 daily attendance should decrease from that existing during the
277 previous year and thus necessitate a reduction in the number of
278 licensed employees during any year after the first year of the
279 contract. However, in all such cases the licensed employee must
280 be released before July 1 or at least thirty (30) days prior to

281 the beginning of the school term, whichever date should occur
282 earlier. The salary to be paid for the years after the first year
283 of such contract shall be subject to revision, either upward or
284 downward, in the event of an increase or decrease in the funds
285 available for the payment thereof, but, unless such salary is
286 revised prior to the beginning of a school year, it shall remain
287 for such school year at the amount fixed in such contract.
288 However, where school district funds, other than minimum education
289 program funds, are available during the school year in excess of
290 the amount anticipated at the beginning of the school year the
291 salary to be paid for such year may be increased to the extent
292 that such additional funds are available and nothing herein shall
293 be construed to prohibit same.

294 **SECTION 5.** Section 37-9-12, Mississippi Code of 1972, which
295 provides for a referendum on the question of retaining the
296 elective method of choosing the county superintendent of
297 education, is hereby repealed.

298 **SECTION 6.** Sections 37-5-63, 37-5-65, 37-5-67 and 37-5-69,
299 Mississippi Code of 1972, which provide for the election of county
300 superintendents of education, are hereby repealed.

301 **SECTION 7.** The Attorney General of the State of Mississippi
302 shall submit this act, immediately upon approval by the Governor,
303 or upon approval by the Legislature subsequent to a veto, to the
304 Attorney General of the United States or to the United States
305 District Court for the District of Columbia in accordance with the
306 provisions of the Voting Rights Act of 1965, as amended and
307 extended.

308 **SECTION 8.** This act shall take effect and be in force from
309 and after the date it is effectuated under Section 5 of the Voting
310 Rights Act of 1965, as amended and extended.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 37-9-13, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE FOR THE APPOINTMENT OF ALL SUPERINTENDENTS OF SCHOOLS FROM
3 AND AFTER JANUARY 1, 2008, UNLESS THE INCUMBENT COUNTY
4 SUPERINTENDENT OF EDUCATION CHOOSES TO SEEK REELECTION; TO AMEND

5 SECTIONS 37-5-61, 37-5-71 AND 37-9-25, MISSISSIPPI CODE OF 1972,
6 IN CONFORMITY THERETO; TO REPEAL SECTION 37-9-12, MISSISSIPPI CODE
7 OF 1972, WHICH PROVIDES FOR A REFERENDUM ON THE QUESTION OF
8 RETAINING THE ELECTIVE METHOD OF CHOOSING THE COUNTY
9 SUPERINTENDENT OF EDUCATION; TO REPEAL SECTIONS 37-5-63 THROUGH
10 37-5-69, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE ELECTION
11 OF COUNTY SUPERINTENDENTS OF EDUCATION; AND FOR RELATED PURPOSES.

SS26\HB166A.J

John O. Gilbert
Secretary of the Senate