

By: Senator(s) Chaney

To: Education

SENATE BILL NO. 2325

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.

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

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

15 **[From and after approval under Section 5 of the Voting Rights**  
 16 **Act of 1965, this section will read as follows:]**

17 37-9-13. (1) In all public school districts, except in  
 18 countywide school districts wherein the incumbent county  
 19 superintendent of education chooses to seek reelection, the school  
 20 board shall appoint the superintendent of schools of such  
 21 district. Any county superintendent of education serving on July  
 22 1, 2007, may choose to seek reelection, and if he is reelected in  
 23 the manner provided by law, the office of county superintendent of  
 24 education shall remain an elective office in such county until the  
 25 incumbent vacates the office or is not reelected. If the  
 26 incumbent vacates the office prior to the expiration of the term,  
 27 the office of superintendent shall become an appointed office  
 28 beginning immediately. If the incumbent is not reelected, the  
 29 office of superintendent shall become an appointed office at the  
 30 end of the four-year term of the person who was elected.

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

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

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

41       37-5-61. (1) There shall be a county superintendent of  
42 education in each county.

43       (2) Said superintendent shall serve as the executive  
44 secretary of the county board of education, but shall have no vote  
45 in the proceedings before the board and no voice in fixing the  
46 policies thereof.

47       (3) In addition, said superintendent shall be the director  
48 of all schools in the county outside the municipal separate school  
49 districts.

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

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

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

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

61       37-5-71. (1) The county superintendents of education shall  
62 be elected in the manner prescribed by the provisions of this  
63 chapter, unless such office be made appointive as provided in this

64 chapter, in which case the county superintendent shall be  
65 appointed by the county board of education or by the trustees of a  
66 separate school district embracing an entire county with a  
67 population of fifteen thousand (15,000) or less, as provided in  
68 subsection (2) of Section 37-7-203. In all cases he shall have  
69 such qualifications as prescribed by Section 37-9-13 and receive  
70 such compensation as established under Section 37-9-37.

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

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

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

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

89 (d) In any county bordering on the Mississippi Sound  
90 and having a population in excess of one hundred thousand  
91 (100,000), according to the 1960 federal decennial census, and  
92 having an assessed valuation in excess of Seventy Million Dollars  
93 (\$70,000,000.00);

94 (e) In any county having a population in excess of  
95 eight thousand (8,000) and less than nine thousand (9,000), and  
96 having an assessed valuation in excess of Five Million Dollars

97 (\$5,000,000.00) but less than Six Million Dollars (\$6,000,000.00)  
98 in 1960;

99 (f) In any county having a population in excess of  
100 twenty-two thousand (22,000) and less than twenty-three thousand  
101 (23,000) in 1960, and having a total assessed valuation in excess  
102 of Thirteen Million Dollars (\$13,000,000.00) in 1960;

103 (g) In any county having a population in excess of  
104 fifty-nine thousand (59,000) but less than sixty thousand  
105 (60,000), according to the 1960 federal decennial census;

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

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

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

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

125 (l) In any county where Mississippi Highway 15 crosses  
126 Mississippi Highway 16, whose population was more than twenty  
127 thousand (20,000) and less than twenty-one thousand (21,000),  
128 according to the regular 1960 census, and within which there is

129 located a Choctaw Indian reservation and school operated by the  
130 United States government;

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

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

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

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

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

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

151 (s) In any county bordering the Mississippi River on  
152 the west and with a population of less than thirty-one thousand  
153 (31,000), according to the 2000 federal decennial census, and with  
154 a county seat in which U.S. Highway 49 and U.S. Highway 61  
155 intersect.

156 In any such county, however, the county superintendent of  
157 education may be a resident of a municipal separate school  
158 district or special municipal separate school district.

159 (3) The qualified electors residing within the municipal  
160 separate school districts shall not participate in the election of  
161 the county superintendent of education:

162 (a) In any county having a population of more than  
163 twenty-seven thousand (27,000) and less than twenty-eight thousand  
164 (28,000) and containing therein a municipality having a population  
165 in excess of three thousand (3,000), according to the 1960 federal  
166 decennial census;

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

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

173 (d) In any Class 2 county, the southern boundary of  
174 which partially borders on the State of Louisiana, traversed by  
175 U.S. Highway 98 which intersects Mississippi Highway 13, with a  
176 land area of five hundred fifty (550) square miles and having a  
177 population of twenty-three thousand two hundred ninety-three  
178 (23,293) in the 1960 federal decennial census;

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

182 (f) In any county having a population in excess of  
183 twenty-seven thousand one hundred seventy-nine (27,179) according  
184 to the 1970 federal decennial census, wherein U.S. Highways 45 and  
185 72 intersect; and

186 (g) In any Class 1 county bordering on the Pearl River  
187 in which U.S. Highway 80 intersects Mississippi Highway 18 and  
188 having a population, according to the federal decennial census of  
189 1970, of forty-three thousand nine hundred thirty-three (43,933).

190 (4) The county superintendent of education, with the  
191 approval of the county board of education by its first having  
192 adopted a resolution of approval and spread upon its minutes,  
193 shall be elected from the county at large, exclusive of the  
194 municipal separate school district boundaries:

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

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

202           (c) In any county having a population in excess of  
203 seventeen thousand (17,000) and less than eighteen thousand  
204 (18,000), according to the 1970 federal decennial census, wherein  
205 Mississippi Highways 6 and 9 intersect.

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

215           (6) In any county traversed by the Natchez Trace Parkway  
216 wherein U.S. Highway 45 and Mississippi Highway 4 intersect and  
217 having a population of seventeen thousand nine hundred forty-nine  
218 (17,949) according to the 1960 federal census, the qualified  
219 electors residing within any municipal separate school district  
220 shall not participate in the election of the county superintendent  
221 of education, and such county superintendent of education shall  
222 not be a resident of a municipal separate school district.

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

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

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

229 37-9-25. The school board shall have the power and  
230 authority, in its discretion, to employ the superintendent, unless  
231 such superintendent is elected, for not exceeding four (4)  
232 scholastic years and the principals or licensed employees for not  
233 exceeding three (3) scholastic years. In such case, contracts  
234 shall be entered into with such superintendents, principals and  
235 licensed employees for the number of years for which they have  
236 been employed. All such contracts with licensed employees shall  
237 for the years after the first year thereof be subject to the  
238 contingency that the licensed employee may be released if, during  
239 the life of the contract, the average daily attendance should  
240 decrease from that existing during the previous year and thus  
241 necessitate a reduction in the number of licensed employees during  
242 any year after the first year of the contract. However, in all  
243 such cases the licensed employee must be released before July 1 or  
244 at least thirty (30) days prior to the beginning of the school  
245 term, whichever date should occur earlier. The salary to be paid  
246 for the years after the first year of such contract shall be  
247 subject to revision, either upward or downward, in the event of an  
248 increase or decrease in the funds available for the payment  
249 thereof, but, unless such salary is revised prior to the beginning  
250 of a school year, it shall remain for such school year at the  
251 amount fixed in such contract. However, where school district  
252 funds, other than minimum education program funds, are available  
253 during the school year in excess of the amount anticipated at the  
254 beginning of the school year the salary to be paid for such year  
255 may be increased to the extent that such additional funds are  
256 available and nothing herein shall be construed to prohibit same.

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

259 37-9-25. The school board shall have the power and  
260 authority, in its discretion, to employ the superintendent \* \* \*



261 for not exceeding four (4) scholastic years, unless such  
262 superintendent is elected and remains in office as provided for in  
263 Section 37-9-13, and the principals or licensed employees for not  
264 exceeding three (3) scholastic years. In such case, contracts  
265 shall be entered into with such superintendents, principals and  
266 licensed employees for the number of years for which they have  
267 been employed. All such contracts with licensed employees shall  
268 for the years after the first year thereof be subject to the  
269 contingency that the licensed employee may be released if, during  
270 the life of the contract, the average daily attendance should  
271 decrease from that existing during the previous year and thus  
272 necessitate a reduction in the number of licensed employees during  
273 any year after the first year of the contract. However, in all  
274 such cases the licensed employee must be released before July 1 or  
275 at least thirty (30) days prior to the beginning of the school  
276 term, whichever date should occur earlier. The salary to be paid  
277 for the years after the first year of such contract shall be  
278 subject to revision, either upward or downward, in the event of an  
279 increase or decrease in the funds available for the payment  
280 thereof, but, unless such salary is revised prior to the beginning  
281 of a school year, it shall remain for such school year at the  
282 amount fixed in such contract. However, where school district  
283 funds, other than minimum education program funds, are available  
284 during the school year in excess of the amount anticipated at the  
285 beginning of the school year the salary to be paid for such year  
286 may be increased to the extent that such additional funds are  
287 available and nothing herein shall be construed to prohibit same.

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

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

295           **SECTION 7.** The Attorney General of the State of Mississippi  
296 shall submit this act, immediately upon approval by the Governor,  
297 or upon approval by the Legislature subsequent to a veto, to the  
298 Attorney General of the United States or to the United States  
299 District Court for the District of Columbia in accordance with the  
300 provisions of the Voting Rights Act of 1965, as amended and  
301 extended.

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