

By: Senator(s) Hyde-Smith

To: Education

SENATE BILL NO. 2348

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 AND TO PROVIDE THAT SUCH CONSOLIDATED SCHOOL  
 12 DISTRICT SHALL HAVE ONE SUPERINTENDENT; TO DIRECT THE STATE BOARD  
 13 OF EDUCATION TO ISSUE ORDERS AND REGULATIONS NECESSARY TO  
 14 FACILITATE THE ADMINISTRATIVE CONSOLIDATION REQUIRED UNDER THIS  
 15 ACT; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** The following shall be codified as Section  
 18 37-7-104, Mississippi Code of 1972:

19 37-7-104. (1) **Definitions.** As used in this section:

20 (a) "Administrative annexation" means the joining of an  
 21 affected school district or a part of the school district with a  
 22 receiving district.

23 (b) "Administrative consolidation" means the joining of  
 24 two (2) or more school districts to create a new single school  
 25 district with one (1) administrative unit and one (1) school board  
 26 that is not required to close school facilities.

27 (c) "Affected district" means a school district that  
 28 loses territory or students as a result of administrative  
 29 annexation or consolidation.

30 (d) (i) "Average daily attendance" means the total  
 31 number of days attended plus the total number of days absent by  
 32 students in grades Kindergarten through Twelve (K-12) during the  
 33 first three (3) quarters of each school year divided by the number

34 of school days actually taught in the district during that period  
35 of time rounded up to the nearest hundredth;

36 (ii) Students who may be counted for average daily  
37 attendance are:

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

43 2. Legally transferred students living  
44 outside the district but attending a public school in the  
45 district; and

46 3. Students who reside within the boundaries  
47 of the school district and who are enrolled in the Mississippi  
48 National Guard Youth Challenge Program, so long as the students  
49 are participants in the program.

50 (e) "Consolidated average daily attendance" means the  
51 sum of the average daily attendance for each school district  
52 included in a consolidation.

53 (f) "Receiving district" means a school district or  
54 districts that receive territory, students or both, from an  
55 affected district as a result of administrative annexation.

56 (g) "Resulting district" means the new school district  
57 created from an affected district or districts as a result of  
58 administrative consolidation.

59 (2) **Administrative consolidation list.** By February 1, 2008,  
60 and each February 1 thereafter, the State Department of Education  
61 shall publish a consolidation list that includes all school  
62 districts with fewer than nine hundred (900) students according to  
63 the district's average daily attendance in each of the two (2)  
64 school years immediately preceding the current school year. Any  
65 such school district with fewer than nine hundred (900) students  
66 shall comply with the administrative consolidation requirements

67 prescribed under subsection (3) unless the school district (a) is  
 68 accredited at Level 4 or higher by the Mississippi Commission on  
 69 School Accreditation, and (b) the school district certifies to the  
 70 State Board of Education that the following budget function codes  
 71 for central office administration are funded from local school  
 72 district maintenance tax levies and not from Mississippi Adequate  
 73 Education Program funds:

74	FUNCTION	DESCRIPTION
75	CODE NUMBER	
76	2310	Local Board of Education Services
77	2311	Supervision of Board of Education Services
78	2319	Other Board of Education Services
79	2320	Executive Administration Services
80	2321	Office of School Superintendent Services
81	2329	Other Executive Administration Services
82	2330	Special Area Administration Services
83		SUPPORT SERVICES - CENTRAL:
84	2810	Planning, Research, Development and
85		Evaluation Services
86	2820	Information Services:
87	2821	Supervision of Information Services
88	2822	Internal Information Services
89	2823	Public Information Services
90	2824	Management Information Services
91	2829	Other Information Services
92	2830	Staff Services:
93	2831	Supervision of Staff Services
94	2832	Recruitment and Placement Services
95	2834	In-Service Training Services (for
96		noninstructional staff)
97	2839	Other Staff Services
98	2840	Data Processing Services:
99	2841	Supervising Data Processing Services

100           2842                   Systems Analysis Services  
101           2843                   Programming Services  
102           2844                   Operations Services  
103           2849                   Other Data Processing Services

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

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

123                               1. The provisions contained in the articles  
124 of administrative consolidation or annexation would violate state  
125 or federal law; or

126                               2. The voluntary consolidation or annexation  
127 would not contribute to the betterment of the education of  
128 students in the districts.

129                               (ii) Any school district on the consolidation list  
130 that does not submit a petition pursuant to subsection (3)(a)(i)  
131 or that does not receive approval by the State Board of Education  
132 for a voluntary consolidation or annexation petition shall be

133 administratively consolidated by the State Board of Education with  
134 or into one or more school districts by June 1, to be effective on  
135 the July 1 immediately following the publication of the list  
136 required under subsection (2).

137 (iii) The State Board of Education shall promptly  
138 consider petitions or move on its own motion to administratively  
139 consolidate a school district on the consolidation list in order  
140 to enable the affected school districts to reasonably accomplish  
141 any resulting administrative consolidation or annexation by July 1  
142 immediately following the publication of the list required under  
143 subsection (2).

144 (b) Any school district required to be administratively  
145 consolidated under this section shall be administratively  
146 consolidated in such a manner as to create a resulting district  
147 with an average daily attendance meeting or exceeding nine hundred  
148 (900).

149 (c) After the administrative consolidation order is  
150 approved by the State Board of Education, the consolidation shall  
151 be submitted by the State Board of Education to the appropriate  
152 federal agencies for approval. After all preclearance has been  
153 received, the State Board of Education shall declare the new  
154 boundaries of the consolidated school district and all action  
155 shall proceed as outlined under law using the new boundaries.  
156 Upon preclearance of such consolidation, all affected and  
157 receiving school boards shall approve a joint resolution for the  
158 new election or appointment of new board members from new  
159 districts as provided by law. These elections or appointments  
160 shall be scheduled prior to May 1 of the year in which the  
161 consolidation is to become effective. The new consolidated  
162 district shall become effective on July 1 of that same year. The  
163 superintendent of any district created through consolidation shall  
164 be appointed. The superintendent shall begin work as the  
165 superintendent on July 1 of such year when the consolidation

166 becomes effective. The order to consolidate shall invalidate the  
167 contracts of the superintendents of the preceding districts and  
168 shall terminate the term of the superintendent if that person was  
169 elected. The order to consolidate shall invalidate the term of  
170 any school board member of the affected or receiving district  
171 beyond July 1 of that year whether they are elected or appointed.  
172 Any school board member from any school district may be eligible  
173 to run for election or be appointed to the new consolidated school  
174 board. Each school board shall be responsible for establishing  
175 the contracts for teachers and principals for the next school year  
176 with the consultation of the successor school board if they have  
177 been selected at the time such decisions are to be made. The  
178 selection of administrator in the central administration office  
179 shall be the responsibility of the successor school board. No  
180 existing dates for renewal of contracts shall invalidate the  
181 responsibility of the successor school board in taking such  
182 action. The successor school board may enter into these contracts  
183 at any time following their election or appointment, but no later  
184 than July 1 of that year. It shall also be the responsibility of  
185 the successor school board to prepare and approve the budget of  
186 the new district. The successor school board may use staff from  
187 the existing districts to prepare the budget. The school board  
188 shall have authority to approve the budget prior to the July 1  
189 date and shall follow the time line established for budget  
190 preparation under the law. Any order directing the transfer of  
191 the assets, real or personal property of a school district on the  
192 administrative consolidation list issued by the State Board of  
193 Education shall be submitted to and approved by the State Board of  
194 Education. The finding of the State Board of Education shall be  
195 final and conclusive for the purposes of the transfer of property  
196 required by an administrative consolidation. Any person or school  
197 district aggrieved by an order of a school board adopted pursuant  
198 to the requirements of this section may appeal therefrom to the

199 State Board of Education within ten (10) days from the date of the  
200 adjournment of the meeting at which such order is entered. Such  
201 appeal shall be de novo, and the finding of the State Board of  
202 Education upon such question shall be final and conclusive for the  
203 purpose of the approval or disapproval of the action by said  
204 board.

205 (d) All administrative consolidations or annexations  
206 under this section shall be accomplished so as not to create a  
207 school district that hampers, delays or in any manner negatively  
208 affects the desegregation of another school district in this  
209 state.

210 (e) In the administratively consolidated or annexed  
211 school districts created under this section, the ad valorem tax  
212 rate shall be determined as set forth under Section 31-57-1 et  
213 seq.

214 (f) Nothing in this section shall be construed to  
215 require the closing of any school or school facility.

216 (g) No administratively consolidated or annexed school  
217 district shall have more than one (1) superintendent.

218 (h) No school district administratively consolidated  
219 with a school district designated by the State Board of Education  
220 as being in academic or fiscal distress shall be subject to  
221 academic or fiscal distress sanctions for a period of three (3)  
222 years from the effective date of consolidation unless:

223 (i) The school district fails to meet minimum  
224 teacher salary requirements; or

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

228 (i) Noncontiguous school districts may voluntarily  
229 consolidate if:

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

233 (ii) The facilities and physical plant of each  
234 school district are not within the same county; and the State  
235 Board of Education approves the administrative consolidation or  
236 annexation and finds that:

237 1. The consolidation or annexation will  
238 result in the overall improvement in the educational benefit to  
239 students in all of the school districts involved; or

240 2. The consolidation or annexation will  
241 provide a significant advantage in transportation costs or service  
242 to all of the school districts involved.

243 (j) Contiguous districts may administratively  
244 consolidate even if they are not in the same county.

245 (k) When any school district on the administrative  
246 consolidation list issued by the State Board of Education is  
247 abolished under the provisions of this section, the abolition  
248 thereof shall not impair or release the property of such school  
249 district from liability for the payment of the bonds or other  
250 indebtedness of such district, and it shall be the duty of the  
251 board of supervisors of said county to levy taxes on the property  
252 of said district so abolished from year to year according to the  
253 terms of such indebtedness until same shall be fully paid.

254 (l) The State Board of Education shall promulgate rules  
255 to facilitate the administration of this section.

256 (4) **Charter schools.** The provisions of this section shall  
257 not apply to charter schools in existence on the effective date of  
258 this act or to schools achieving charter status by June 1, 2007.

259 **SECTION 2.** The Attorney General of the State of Mississippi  
260 shall submit this act, immediately upon approval by the Governor,  
261 or upon approval by the Legislature subsequent to a veto, to the  
262 Attorney General of the United States or to the United States



263 District Court for the District of Columbia in accordance with the  
264 provisions of the Voting Rights Act of 1965, as amended and  
265 extended.

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