

By: Senator(s) Nunnelee

To: Education

SENATE BILL NO. 2095

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 **[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 follows:]**

23 37-9-13. (1) In all public school districts, except in
 24 countywide school districts wherein the incumbent county
 25 superintendent of education chooses to seek reelection, the school
 26 board shall appoint the superintendent of schools of such
 27 district. Any county superintendent of education serving on July
 28 1, 2007, may choose to seek reelection, and if he is reelected in
 29 the manner provided by law, the office of county superintendent of
 30 education shall remain an elective office in such county until the
 31

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

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

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

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

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

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

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

184 (f) In any county having a population in excess of
185 twenty-seven thousand one hundred seventy-nine (27,179) according
186 to the 1970 federal decennial census, wherein U.S. Highways 45 and
187 72 intersect; and

188 (g) In any Class 1 county bordering on the Pearl River
189 in which U.S. Highway 80 intersects Mississippi Highway 18 and
190 having a population, according to the federal decennial census of
191 1970, of forty-three thousand nine hundred thirty-three (43,933).

192 (4) The county superintendent of education, with the
193 approval of the county board of education by its first having

194 adopted a resolution of approval and spread upon its minutes,
195 shall be elected from the county at large, exclusive of the
196 municipal separate school district boundaries:

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

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

204 (c) In any county having a population in excess of
205 seventeen thousand (17,000) and less than eighteen thousand
206 (18,000), according to the 1970 federal decennial census, wherein
207 Mississippi Highways 6 and 9 intersect.

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

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

225 [In counties wherein the county superintendent of education
226 servicing on July 1, 2007, chooses not to seek reelection, this
227 Section 37-5-71 shall have no force and effect.]

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

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

231 37-9-25. The school board shall have the power and
232 authority, in its discretion, to employ the superintendent, unless
233 such superintendent is elected, for not exceeding four (4)
234 scholastic years and the principals or licensed employees for not
235 exceeding three (3) scholastic years. In such case, contracts
236 shall be entered into with such superintendents, principals and
237 licensed employees for the number of years for which they have
238 been employed. All such contracts with licensed employees shall
239 for the years after the first year thereof be subject to the
240 contingency that the licensed employee may be released if, during
241 the life of the contract, the average daily attendance should
242 decrease from that existing during the previous year and thus
243 necessitate a reduction in the number of licensed employees during
244 any year after the first year of the contract. However, in all
245 such cases the licensed employee must be released before July 1 or
246 at least thirty (30) days prior to the beginning of the school
247 term, whichever date should occur earlier. The salary to be paid
248 for the years after the first year of such contract shall be
249 subject to revision, either upward or downward, in the event of an
250 increase or decrease in the funds available for the payment
251 thereof, but, unless such salary is revised prior to the beginning
252 of a school year, it shall remain for such school year at the
253 amount fixed in such contract. However, where school district
254 funds, other than minimum education program funds, are available
255 during the school year in excess of the amount anticipated at the
256 beginning of the school year the salary to be paid for such year

257 may be increased to the extent that such additional funds are
258 available and nothing herein shall be construed to prohibit same.

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

261 37-9-25. The school board shall have the power and
262 authority, in its discretion, to employ the superintendent * * *
263 for not exceeding four (4) scholastic years and the principals or
264 licensed employees for not exceeding three (3) scholastic years.
265 In such case, contracts shall be entered into with such
266 superintendents, principals and licensed employees for the number
267 of years for which they have been employed. All such contracts
268 with licensed employees shall for the years after the first year
269 thereof be subject to the contingency that the licensed employee
270 may be released if, during the life of the contract, the average
271 daily attendance should decrease from that existing during the
272 previous year and thus necessitate a reduction in the number of
273 licensed employees during any year after the first year of the
274 contract. However, in all such cases the licensed employee must
275 be released before July 1 or at least thirty (30) days prior to
276 the beginning of the school term, whichever date should occur
277 earlier. The salary to be paid for the years after the first year
278 of such contract shall be subject to revision, either upward or
279 downward, in the event of an increase or decrease in the funds
280 available for the payment thereof, but, unless such salary is
281 revised prior to the beginning of a school year, it shall remain
282 for such school year at the amount fixed in such contract.
283 However, where school district funds, other than minimum education
284 program funds, are available during the school year in excess of
285 the amount anticipated at the beginning of the school year the
286 salary to be paid for such year may be increased to the extent
287 that such additional funds are available and nothing herein shall
288 be construed to prohibit same.

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

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

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

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