

By: Senator(s) Chaney

To: Education

SENATE BILL NO. 2508

1 AN ACT TO AMEND SECTION 37-7-203, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT THE TRUSTEES OF MUNICIPAL SEPARATE SCHOOL
 3 DISTRICTS SHALL BE ELECTED FROM SPECIAL TRUSTEE ELECTION DISTRICTS
 4 BY THE QUALIFIED ELECTORS OF SUCH DISTRICT; TO PROVIDE THAT SUCH
 5 ELECTION SHALL BE HELD EVERY FOUR YEARS IN THE SAME MANNER AS
 6 ELECTIONS ARE HELD FOR OTHER MUNICIPAL OFFICERS; TO AMEND SECTION
 7 37-7-703, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE TRUSTEES
 8 OF SPECIAL MUNICIPAL SEPARATE SCHOOL DISTRICTS SHALL BE ELECTED IN
 9 THE SAME MANNER AS TRUSTEES OF MUNICIPAL SEPARATE SCHOOL
 10 DISTRICTS; TO REPEAL SECTIONS 37-7-209 THROUGH 37-7-219,
 11 MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN METHODS FOR
 12 ELECTING TRUSTEES OF MUNICIPAL SEPARATE SCHOOL DISTRICTS FROM
 13 ADDED TERRITORY; TO REPEAL SECTIONS 37-7-705 THROUGH 37-7-717,
 14 MISSISSIPPI CODE OF 1972, WHICH PROVIDE CERTAIN METHODS FOR
 15 SELECTING TRUSTEES OF SPECIAL MUNICIPAL SEPARATE SCHOOL DISTRICTS;
 16 TO AMEND SECTION 37-9-13, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
 17 THE APPOINTMENT OF ALL SUPERINTENDENTS OF SCHOOLS FROM AND AFTER
 18 JANUARY 1, 2008, UNLESS THE INCUMBENT COUNTY SUPERINTENDENT OF
 19 EDUCATION CHOOSES TO SEEK REELECTION; TO AMEND SECTIONS 37-5-61,
 20 37-5-71 AND 37-9-25, MISSISSIPPI CODE OF 1972, IN CONFORMITY
 21 THERETO; TO REPEAL SECTION 37-9-12, MISSISSIPPI CODE OF 1972,
 22 WHICH PROVIDES FOR A REFERENDUM ON THE QUESTION OF RETAINING THE
 23 ELECTIVE METHOD OF CHOOSING THE COUNTY SUPERINTENDENT OF
 24 EDUCATION; TO REPEAL SECTIONS 37-5-63 THROUGH 37-5-69, MISSISSIPPI
 25 CODE OF 1972, WHICH PROVIDE FOR THE ELECTION OF COUNTY
 26 SUPERINTENDENTS OF EDUCATION; AND FOR RELATED PURPOSES.

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

28 **SECTION 1.** Section 37-7-203, Mississippi Code of 1972, is
 29 amended as follows:

30 37-7-203. (1) The boards of trustees of all municipal
 31 separate school districts created under the provisions of Article
 32 1 of this chapter, either with or without added territory, shall
 33 consist of five (5) members * * *. On the first Tuesday after the
 34 first Monday in June, and every four (4) years thereafter, an
 35 election shall be held in each municipal separate school district
 36 in this state, in the same manner and at the same time as the
 37 regular municipal elections are held, for the purpose of electing
 38 the members of the boards of trustees established under the
 39 provisions of this article. All members of the boards of trustees

40 as herein constituted shall take office on the first Monday of
41 July following the date of their election and shall serve for a
42 term of four (4) years. The five (5) members of the board of
43 trustees of such school district shall be elected from special
44 trustee election districts by the qualified electors thereof, as
45 herein provided. The governing authorities of such municipality
46 shall apportion the municipal separate school district, including
47 added territory, into five (5) special trustee election districts
48 as nearly equal as possible according to population, incumbency
49 and other factors heretofore pronounced by the courts. The
50 municipal governing authority shall place upon its minutes the
51 boundaries determined for the new five-trustee election districts.
52 The municipal governing authority shall thereafter publish the
53 same in a newspaper of general circulation within said school
54 district for at least three (3) consecutive weeks; and after
55 having given notice of publication and recording the same upon the
56 minutes of the municipal governing authority, such new district
57 lines shall thereafter be effective. All incumbent trustees
58 holding office at the time of the creation of such trustee
59 election districts shall continue holding their respective
60 offices, provided they reside within the new district, for the
61 remainder of the term of office to which they have heretofore been
62 selected, and their successors shall be elected from the new
63 trustee election districts constituted herein in the manner
64 provided for in this section.

65 (2) Vacancies in the membership of the board of trustees of
66 any municipal separate school district shall be filled by
67 appointment, within sixty (60) days after the vacancy occurs, by
68 the governing authorities of such municipality. Such appointee
69 shall be selected from the qualified electors of the district in
70 which the vacancy occurs. The president of the municipal
71 governing authority shall certify to the Secretary of State the
72 fact of the appointment, and the person so appointed shall be

73 commissioned by the Governor; and if the unexpired term be longer
74 than six (6) months, such appointee shall serve until a successor
75 is elected as hereinafter provided, unless the vacancy shall occur
76 before ninety (90) days prior to the general election in a year in
77 which an election would normally be held for that office as
78 provided by law, in which case the person so appointed shall serve
79 the unexpired portion of the term. Such vacancies shall be filled
80 for the unexpired term by the qualified electors at the next
81 regular special election day occurring more than ninety (90) days
82 after the occurrence of the vacancy. The president of the
83 municipal governing authority shall, within ten (10) days after
84 the happening of the vacancy, make an order, in writing, directed
85 to the commissioners of election, commanding an election to be
86 held on the next regular special election day to fill the vacancy.
87 The election commissioners shall require each candidate to qualify
88 at least sixty (60) days before the date of the election, and
89 shall give a certificate of election to the person elected, and
90 shall return to the Secretary of State a copy of the order of
91 holding the election showing the results thereof, certified by the
92 president of the municipal governing authority. Such election
93 shall be held in the same manner provided for other municipal
94 office vacancies. The person elected shall be commissioned by the
95 Governor.

96 Provided, however, where only one (1) person shall have
97 qualified with the commissioners of election to be a candidate
98 within the time provided by law, the commissioners of election
99 shall certify to the municipal governing authority that there is
100 but one (1) candidate. Thereupon, the municipal governing
101 authority shall dispense with the election and shall appoint the
102 candidate so certified to fill the unexpired term. The president
103 of the municipal governing authority shall certify to the
104 Secretary of State the candidate so appointed to serve in such
105 office and that candidate shall be commissioned by the Governor.

106 In the event that no person shall have qualified at least sixty
107 (60) days prior to the date of the election, the commissioners of
108 election shall certify that fact to the municipal governing
109 authority which shall dispense with the election and fill the
110 vacancy by appointment. The president of the municipal governing
111 authority shall certify to the Secretary of State the fact of the
112 appointment, and the person so appointed shall be commissioned by
113 the Governor.

114 **SECTION 2.** Section 37-7-703, Mississippi Code of 1972, is
115 amended as follows:

116 37-7-703. In all such special municipal separate school
117 districts * * *, the board of trustees of such special municipal
118 separate school district shall be elected in the manner provided
119 by subsection (1) of Section 37-7-203, and all of the provisions
120 thereof shall be fully applicable in all respects to the selection
121 and constitution of such board of trustees.

122 **SECTION 3.** Sections 37-7-209, 37-7-211, 37-7-213, 37-7-215,
123 37-7-217 and 37-7-219, Mississippi Code of 1972, which provide
124 certain methods for electing trustees of municipal separate school
125 districts from added territory, are repealed.

126 **SECTION 4.** Sections 37-7-705, 37-7-707, 37-7-709, 37-7-711,
127 37-7-713, 37-7-715 and 37-7-717, Mississippi Code of 1972, which
128 provide certain methods for selecting trustees of special
129 municipal separate school districts, are repealed.

130 **SECTION 5.** Section 37-9-13, Mississippi Code of 1972, is
131 amended as follows:

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

133 37-9-13. Each school district shall have a superintendent of
134 schools, selected in the manner provided by law. No person shall
135 be eligible to the office of superintendent of schools unless such
136 person shall hold a valid administrator's license issued by the
137 State Department of Education and shall have had not less than
138 four (4) years of classroom or administrative experience.

139 [From and after January 1, 2008, this section will read as
140 follows:]

141 37-9-13. (1) In all public school districts, except in
142 countywide school districts wherein the incumbent county
143 superintendent of education chooses to seek reelection, the school
144 board shall appoint the superintendent of schools of such
145 district. Any county superintendent of education serving on July
146 1, 2007, may choose to seek reelection, and if he is reelected in
147 the manner provided by law, the office of county superintendent of
148 education shall remain an elective office in such county until the
149 incumbent vacates the office or is not reelected. If the
150 incumbent vacates the office prior to the expiration of the term,
151 the office of superintendent shall become an appointed office
152 beginning immediately. If the incumbent is not reelected, the
153 office of superintendent shall become an appointed office at the
154 end of the four-year term of the person who was elected.

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

160 **SECTION 6.** Section 37-5-61, Mississippi Code of 1972, is
161 amended as follows:

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

165 37-5-61. (1) There shall be a county superintendent of
166 education in each county.

167 (2) Said superintendent shall serve as the executive
168 secretary of the county board of education, but shall have no vote
169 in the proceedings before the board and no voice in fixing the
170 policies thereof.

171 (3) In addition, said superintendent shall be the director
172 of all schools in the county outside the municipal separate school
173 districts.

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

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

180 **SECTION 7.** Section 37-5-71, Mississippi Code of 1972, is
181 amended as follows:

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

185 37-5-71. (1) The county superintendents of education shall
186 be elected in the manner prescribed by the provisions of this
187 chapter, unless such office be made appointive as provided in this
188 chapter, in which case the county superintendent shall be
189 appointed by the county board of education or by the trustees of a
190 separate school district embracing an entire county with a
191 population of fifteen thousand (15,000) or less, as provided in
192 subsection (2) of Section 37-7-203. In all cases he shall have
193 such qualifications as prescribed by Section 37-9-13 and receive
194 such compensation as established under Section 37-9-37.

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

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

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

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

213 (d) In any county bordering on the Mississippi Sound
214 and having a population in excess of one hundred thousand
215 (100,000), according to the 1960 federal decennial census, and
216 having an assessed valuation in excess of Seventy Million Dollars
217 (\$70,000,000.00);

218 (e) In any county having a population in excess of
219 eight thousand (8,000) and less than nine thousand (9,000), and
220 having an assessed valuation in excess of Five Million Dollars
221 (\$5,000,000.00) but less than Six Million Dollars (\$6,000,000.00)
222 in 1960;

223 (f) In any county having a population in excess of
224 twenty-two thousand (22,000) and less than twenty-three thousand
225 (23,000) in 1960, and having a total assessed valuation in excess
226 of Thirteen Million Dollars (\$13,000,000.00) in 1960;

227 (g) In any county having a population in excess of
228 fifty-nine thousand (59,000) but less than sixty thousand
229 (60,000), according to the 1960 federal decennial census;

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

232 (i) In any county where Mississippi Highway 35 crosses
233 U.S. Highway 80 and whose population, according to the 1960
234 regular census, was between twenty-one thousand (21,000) and
235 twenty-two thousand (22,000), and in which there are located four

236 (4) or more chicken packing plants, one (1) zipper plant and one
237 or more factories manufacturing Sunbeam electrical appliances;

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

241 (k) In any county having a municipal separate school
242 district lying therein, having a population in excess of
243 twenty-one thousand (21,000) but less than twenty-one thousand
244 five hundred (21,500), according to the 1960 decennial census, and
245 having a combined assessed valuation in 1963 in excess of Sixteen
246 Million Nine Hundred Thousand Dollars (\$16,900,000.00) but less
247 than Seventeen Million Dollars (\$17,000,000.00) according to the
248 State Tax Commission's compilation;

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

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

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

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

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

267 (q) In any county where U.S. Highway 82 crosses U.S.
268 Interstate Highway 55 and having a population of twelve thousand

269 three hundred eighty-seven (12,387) according to the 1990 federal
270 decennial census;

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

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

278 (3) The qualified electors residing within the municipal
279 separate school districts shall not participate in the election of
280 the county superintendent of education:

281 (a) In any county having a population of more than
282 twenty-seven thousand (27,000) and less than twenty-eight thousand
283 (28,000) and containing therein a municipality having a population
284 in excess of three thousand (3,000), according to the 1960 federal
285 decennial census;

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

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

292 (d) In any Class 2 county, the southern boundary of
293 which partially borders on the State of Louisiana, traversed by
294 U.S. Highway 98 which intersects Mississippi Highway 13, with a
295 land area of five hundred fifty (550) square miles and having a
296 population of twenty-three thousand two hundred ninety-three
297 (23,293) in the 1960 federal decennial census;

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

301 (f) In any county having a population in excess of
302 twenty-seven thousand one hundred seventy-nine (27,179) according
303 to the 1970 federal decennial census, wherein U.S. Highways 45 and
304 72 intersect; and

305 (g) In any Class 1 county bordering on the Pearl River
306 in which U.S. Highway 80 intersects Mississippi Highway 18 and
307 having a population, according to the federal decennial census of
308 1970, of forty-three thousand nine hundred thirty-three (43,933).

309 (4) The county superintendent of education, with the
310 approval of the county board of education by its first having
311 adopted a resolution of approval and spread upon its minutes,
312 shall be elected from the county at large, exclusive of the
313 municipal separate school district boundaries:

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

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

321 (c) In any county having a population in excess of
322 seventeen thousand (17,000) and less than eighteen thousand
323 (18,000), according to the 1970 federal decennial census, wherein
324 Mississippi Highways 6 and 9 intersect.

325 (5) In any county having a municipality of between
326 forty-nine thousand (49,000) and fifty thousand (50,000)
327 population according to the 1960 federal census, and adjoining the
328 Alabama line, wherein U.S. Highways 80 and 45 intersect, the
329 qualified electors residing within any municipal separate school
330 district shall not participate in the election of the county
331 superintendent of education, and such county superintendent of
332 education shall not be a resident of a municipal separate school
333 district.

334 (6) In any county traversed by the Natchez Trace Parkway
335 wherein U.S. Highway 45 and Mississippi Highway 4 intersect and
336 having a population of seventeen thousand nine hundred forty-nine
337 (17,949) according to the 1960 federal census, the qualified
338 electors residing within any municipal separate school district
339 shall not participate in the election of the county superintendent
340 of education, and such county superintendent of education shall
341 not be a resident of a municipal separate school district.

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

345 **SECTION 8.** Section 37-9-25, Mississippi Code of 1972, is
346 amended as follows:

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

348 37-9-25. The school board shall have the power and
349 authority, in its discretion, to employ the superintendent, unless
350 such superintendent is elected, for not exceeding four (4)
351 scholastic years and the principals or licensed employees for not
352 exceeding three (3) scholastic years. In such case, contracts
353 shall be entered into with such superintendents, principals and
354 licensed employees for the number of years for which they have
355 been employed. All such contracts with licensed employees shall
356 for the years after the first year thereof be subject to the
357 contingency that the licensed employee may be released if, during
358 the life of the contract, the average daily attendance should
359 decrease from that existing during the previous year and thus
360 necessitate a reduction in the number of licensed employees during
361 any year after the first year of the contract. However, in all
362 such cases the licensed employee must be released before July 1 or
363 at least thirty (30) days prior to the beginning of the school
364 term, whichever date should occur earlier. The salary to be paid
365 for the years after the first year of such contract shall be
366 subject to revision, either upward or downward, in the event of an

367 increase or decrease in the funds available for the payment
368 thereof, but, unless such salary is revised prior to the beginning
369 of a school year, it shall remain for such school year at the
370 amount fixed in such contract. However, where school district
371 funds, other than minimum education program funds, are available
372 during the school year in excess of the amount anticipated at the
373 beginning of the school year the salary to be paid for such year
374 may be increased to the extent that such additional funds are
375 available and nothing herein shall be construed to prohibit same.

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

378 37-9-25. The school board shall have the power and
379 authority, in its discretion, to employ the superintendent * * *
380 for not exceeding four (4) scholastic years and the principals or
381 licensed employees for not exceeding three (3) scholastic years.
382 In such case, contracts shall be entered into with such
383 superintendents, principals and licensed employees for the number
384 of years for which they have been employed. All such contracts
385 with licensed employees shall for the years after the first year
386 thereof be subject to the contingency that the licensed employee
387 may be released if, during the life of the contract, the average
388 daily attendance should decrease from that existing during the
389 previous year and thus necessitate a reduction in the number of
390 licensed employees during any year after the first year of the
391 contract. However, in all such cases the licensed employee must
392 be released before July 1 or at least thirty (30) days prior to
393 the beginning of the school term, whichever date should occur
394 earlier. The salary to be paid for the years after the first year
395 of such contract shall be subject to revision, either upward or
396 downward, in the event of an increase or decrease in the funds
397 available for the payment thereof, but, unless such salary is
398 revised prior to the beginning of a school year, it shall remain
399 for such school year at the amount fixed in such contract.

400 However, where school district funds, other than minimum education
401 program funds, are available during the school year in excess of
402 the amount anticipated at the beginning of the school year the
403 salary to be paid for such year may be increased to the extent
404 that such additional funds are available and nothing herein shall
405 be construed to prohibit same.

406 **SECTION 9.** Section 37-9-12, Mississippi Code of 1972, which
407 provides for a referendum on the question of retaining the
408 elective method of choosing the county superintendent of
409 education, is hereby repealed.

410 **SECTION 10.** Sections 37-5-63, 37-5-65, 37-5-67 and 37-5-69,
411 Mississippi Code of 1972, which provide for the election of county
412 superintendents of education, are hereby repealed.

413 **SECTION 11.** The Attorney General of the State of Mississippi
414 shall submit this act, immediately upon approval by the Governor,
415 or upon approval by the Legislature subsequent to a veto, to the
416 Attorney General of the United States or to the United States
417 District Court for the District of Columbia in accordance with the
418 provisions of the Voting Rights Act of 1965, as amended and
419 extended.

420 **SECTION 12.** This act shall take effect and be in force from
421 and after the date it is effectuated under Section 5 of the Voting
422 Rights Act of 1965, as amended and extended.