

By: Senator(s) Thames, Gordon, Robertson,  
Clarke, Moffatt

To: Fees, Salaries and  
Administration;  
Appropriations

SENATE BILL NO. 2054

1 AN ACT TO AMEND SECTION 37-3-9, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE SALARY OF THE STATE SUPERINTENDENT OF EDUCATION AND TO  
3 PROVIDE THAT THE STATE BOARD OF EDUCATION MAY ONLY INCREASE THE  
4 SALARY OF THE STATE SUPERINTENDENT OF PUBLIC EDUCATION UPON THE  
5 APPROVAL OF THE STATE PERSONNEL BOARD; TO AMEND SECTION 37-3-13,  
6 MISSISSIPPI CODE OF 1972, TO DELETE THE PROVISION AUTHORIZING THE  
7 STATE BOARD OF EDUCATION TO SET THE SALARY OF THE DEPUTY  
8 SUPERINTENDENTS, ASSOCIATE SUPERINTENDENTS AND DIVISIONAL  
9 DIRECTORS, MEMBERS OF THE TEACHING STAFFS AND EMPLOYEES OF THE  
10 MISSISSIPPI SCHOOL OF THE ARTS, AND TO PROVIDE THAT THE SALARIES  
11 OF ALL EMPLOYEES OF THE STATE DEPARTMENT OF EDUCATION SHALL BE  
12 FIXED BY THE STATE SUPERINTENDENT, SUBJECT TO THE APPROVAL OF THE  
13 STATE PERSONNEL BOARD; TO AMEND SECTION 25-3-39, MISSISSIPPI CODE  
14 OF 1972, TO CLARIFY THE AUTHORITY TO PAY THE STATE SUPERINTENDENT  
15 OF PUBLIC EDUCATION A SALARY IN EXCESS OF THE SALARY OF THE  
16 GOVERNOR; TO AMEND SECTIONS 37-4-3 AND 37-101-7, MISSISSIPPI CODE  
17 OF 1972, TO REQUIRE THE STATE PERSONNEL BOARD TO PROVIDE THE STATE  
18 BOARD FOR COMMUNITY AND JUNIOR COLLEGES AND THE BOARD OF TRUSTEES  
19 OF STATE INSTITUTIONS OF HIGHER LEARNING WITH A NONBINDING  
20 ADVISORY OPINION ON THE AMOUNT OF SALARIES FOR THEIR EMPLOYEES;  
21 AND FOR RELATED PURPOSES.

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

23 **SECTION 1.** Section 37-3-9, Mississippi Code of 1972, is  
24 amended as follows:

25 37-3-9. (1) From and after July 1, 1984, there shall be a  
26 State Superintendent of Public Education who shall be appointed by  
27 the State Board of Education, with the advice and consent of the  
28 Senate, and serve at the board's will and pleasure. He shall be  
29 the chief administrative officer for the State Department of  
30 Education and shall administer the department in accordance with  
31 the policies established by the State Board of Education. \* \* \*  
32 From and after January 1, 2006, the State Superintendent of Public  
33 Education shall receive the salary that he was receiving on August  
34 1, 2005. Such salary may be increased to an amount established by  
35 the State Board of Education but only upon the approval of the  
36 State Personnel Board. The State Superintendent of Public

37 Education shall have at least a master's degree in any field and a  
38 minimum of five (5) years' experience in administration in the  
39 educational field.

40 (2) The state superintendent shall give bond in the penalty  
41 of Seventy-five Thousand Dollars (\$75,000.00), with sureties to be  
42 approved by the Governor, conditioned according to law. Said bond  
43 when approved shall be filed and recorded in the office of the  
44 Secretary of State.

45 **SECTION 2.** Section 37-3-13, Mississippi Code of 1972, is  
46 amended as follows:

47 37-3-13. (1) Until July 1, 1984, the Assistant State  
48 Superintendent of Public Education, the directors, supervisors,  
49 clerical assistants, and employees shall be selected by, and hold  
50 office subject to the will of, the State Superintendent, except as  
51 provided in Section 37-3-17. The Assistant State Superintendent  
52 may be authorized to act in the absence or disability of the State  
53 Superintendent and shall perform such other duties as may be  
54 assigned to him by the State Superintendent. The State  
55 Superintendent shall have the power to assign to any division such  
56 clerical help as he may deem necessary and to discharge such  
57 clerical help among the divisions at any time necessity requires,  
58 except as provided in Section 37-3-17.

59 (2) From and after July 1, 1984, the deputy superintendents,  
60 associate superintendents and directors shall be selected by and  
61 hold office subject to the will of the State Superintendent of  
62 Public Education subject to the approval of the State Board of  
63 Education. All other personnel shall be competitively appointed  
64 by the State Superintendent and shall be dismissed only for cause  
65 in accordance with the rules and regulations of the State  
66 Personnel Board. \* \* \* The State Superintendent, subject to the  
67 approval of the State Personnel Board, shall fix the amount of  
68 compensation of all \* \* \* employees of the State Department of  
69 Education. All salaries, compensation or expenses of any of the

70 personnel of the department shall be paid upon the requisition of  
71 the State Superintendent of Public Education and warrant issued  
72 thereunder by the State Auditor out of funds appropriated by the  
73 Legislature in a lump sum upon the basis of budgetary requirements  
74 submitted by the Superintendent of Education or out of funds  
75 otherwise made available. The entire expense of administering the  
76 department shall never exceed the amount appropriated therefor,  
77 plus funds received from other sources other than state  
78 appropriations. For a violation of this provision, the  
79 superintendent shall be liable, and he and the sureties on his  
80 bond shall be required to restore any such excess.

81 **SECTION 3.** Section 25-3-39, Mississippi Code of 1972, is  
82 amended as follows:

83 25-3-39. (1) No public officer, public employee,  
84 administrator, or executive head of any arm or agency of the  
85 state, in the executive branch of government, shall be paid a  
86 salary or compensation, directly or indirectly, greater than one  
87 hundred fifty percent (150%) of the salary fixed in Section  
88 25-3-31 for the Governor. All academic officials, members of the  
89 teaching staffs and employees of the state institutions of higher  
90 learning, the State Board for Community and Junior Colleges, \* \* \*  
91 community and junior colleges, the State Superintendent of Public  
92 Education, and licensed physicians who are public employees, shall  
93 be exempt from this subsection. The Governor shall fix the annual  
94 salary of the Executive Director of the Mississippi Development  
95 Authority and the annual salary of the Chief of Staff of the  
96 Governor's Office, which salaries shall be completely paid by the  
97 state and may not be supplemented with any funds from any source,  
98 including federal or private funds. Provided, however, that the  
99 salary of the Executive Director of the Mississippi Development  
100 Authority and the Governor's Chief of Staff shall not be greater  
101 than one hundred fifty percent (150%) of the salary of the  
102 Governor. Furthermore, all professional employees who hold a

103 bachelor's degree or more advanced degree from an accredited  
104 four-year college or university or a certificate or license issued  
105 by a state licensing board, commission or agency and who are  
106 employed by the Department of Mental Health shall be exempt from  
107 this subsection if the State Personnel Board approves the  
108 exemption.

109 (2) No public officer, employee or administrator shall be  
110 paid a salary or compensation, directly or indirectly, in excess  
111 of the salary authorized to be paid the executive head of the  
112 state agency or department in which he is employed. The State  
113 Personnel Board, based upon its findings of fact, may exempt  
114 physicians and actuaries from this subsection when the acquisition  
115 of such professional services is precluded based on the prevailing  
116 wage in the relevant labor market.

117 (3) The executive head of any state agency or department  
118 appointed by the Governor, in such executive head's discretion,  
119 may waive all or any portion of the salary or compensation  
120 lawfully established for the position.

121 **SECTION 4.** Section 37-4-3, Mississippi Code of 1972, is  
122 amended as follows:

123 37-4-3. (1) From and after July 1, 1986, there shall be a  
124 State Board for Community and Junior Colleges which shall receive  
125 and distribute funds appropriated by the Legislature for the use  
126 of the public community and junior colleges and funds from federal  
127 and other sources that are transmitted through the state  
128 governmental organization for use by said colleges. This board  
129 shall provide general coordination of the public community and  
130 junior colleges, assemble reports and such other duties as may be  
131 prescribed by law.

132 (2) The board shall consist of ten (10) members of which  
133 none shall be an elected official and none shall be engaged in the  
134 educational profession. The Governor shall appoint two (2)  
135 members from the First Mississippi Congressional District, one (1)

136 who shall serve an initial term of two (2) years and one (1) who  
137 shall serve an initial term of five (5) years; two (2) members  
138 from the Second Mississippi Congressional District, one (1) who  
139 shall serve an initial term of five (5) years and one (1) who  
140 shall serve an initial term of three (3) years; and two (2)  
141 members from the Third Mississippi Congressional District, one (1)  
142 who shall serve an initial term of four (4) years and one (1) who  
143 shall serve an initial term of two (2) years; two (2) members from  
144 the Fourth Mississippi Congressional District, one (1) who shall  
145 serve an initial term of three (3) years and one (1) who shall  
146 serve an initial term of four (4) years; and two (2) members from  
147 the Fifth Mississippi Congressional District, one (1) who shall  
148 serve an initial term of five (5) years and one (1) who shall  
149 serve an initial term of two (2) years. All subsequent  
150 appointments shall be for a term of six (6) years and continue  
151 until their successors are appointed and qualify. An appointment  
152 to fill a vacancy which arises for reasons other than by  
153 expiration of a term of office shall be for the unexpired term  
154 only. No two (2) appointees shall reside in the same junior  
155 college district. All members shall be appointed with the advice  
156 and consent of the Senate.

157 (3) There shall be a chairman and vice chairman of the  
158 board, elected by and from the membership of the board; and the  
159 chairman shall be the presiding officer of the board. The board  
160 shall adopt rules and regulations governing times and places for  
161 meetings and governing the manner of conducting its business.

162 (4) The members of the board shall receive no annual salary,  
163 but shall receive per diem compensation as authorized by Section  
164 25-3-69, Mississippi Code of 1972, for each day devoted to the  
165 discharge of official board duties and shall be entitled to  
166 reimbursement for all actual and necessary expenses incurred in  
167 the discharge of their duties, including mileage as authorized by  
168 Section 25-3-41, Mississippi Code of 1972.

169           (5) The board shall name a director for the state system of  
170 public junior and community colleges, who shall serve at the  
171 pleasure of the board. Such director shall be the chief executive  
172 officer of the board, give direction to the board staff, carry out  
173 the policies set forth by the board, and work with the presidents  
174 of the several community and junior colleges to assist them in  
175 carrying out the mandates of the several boards of trustees and in  
176 functioning within the state system and policies established by  
177 the State Board for Community and Junior Colleges. The State  
178 Board for Community and Junior Colleges shall set the salary of  
179 the Director of the State System of Community and Junior Colleges.  
180 The State Board for Community and Junior Colleges shall annually  
181 submit to the State Personnel Board a list of salaries for its  
182 employees and the State Personnel Board shall give a nonbinding  
183 advisory opinion on the amount of the salaries for the director  
184 and other employees of the State Board for Community and Junior  
185 Colleges. The Legislature shall provide adequate funds for the  
186 State Board for Community and Junior Colleges, its activities and  
187 its staff.

188           (6) The powers and duties of the State Board for Community  
189 and Junior Colleges shall be:

190                 (a) To authorize disbursements of state appropriated  
191 funds to community and junior colleges through orders in the  
192 minutes of the board.

193                 (b) To make studies of the needs of the state as they  
194 relate to the mission of the community and junior colleges.

195                 (c) To approve new, changes to and deletions of  
196 vocational and technical programs to the various colleges.

197                 (d) To require community and junior colleges to supply  
198 such information as the board may request and compile, publish and  
199 make available such reports based thereon as the board may deem  
200 advisable.

201           (e) To approve proposed new attendance centers (campus  
202 locations) as the local boards of trustees should determine to be  
203 in the best interest of the district. Provided, however, that no  
204 new community/junior college branch campus shall be approved  
205 without an authorizing act of the Legislature.

206           (f) To serve as the state approving agency for federal  
207 funds for proposed contracts to borrow money for the purpose of  
208 acquiring land, erecting, repairing, etc. dormitories, dwellings  
209 or apartments for students and/or faculty, such loans to be paid  
210 from revenue produced by such facilities as requested by local  
211 boards of trustees.

212           (g) To approve applications from community and junior  
213 colleges for state funds for vocational-technical education  
214 facilities.

215           (h) To approve any university branch campus offering  
216 lower undergraduate level courses for credit.

217           (i) To appoint members to the Post-Secondary  
218 Educational Assistance Board.

219           (j) To appoint members to the Authority for Educational  
220 Television.

221           (k) To contract with other boards, commissions,  
222 governmental entities, foundations, corporations or individuals  
223 for programs, services, grants and awards when such are needed for  
224 the operation and development of the state public community and  
225 junior college system.

226           (l) To fix standards for community and junior colleges  
227 to qualify for appropriations, and qualifications for community  
228 and junior college teachers.

229           (m) To have sign-off approval on the State Plan for  
230 Vocational Education which is developed in cooperation with  
231 appropriate units of the State Department of Education.

232           (n) To approve or disapprove of any proposed inclusion  
233 within municipal corporate limits of state-owned buildings and

234 grounds of any community college or junior college and to approve  
235 or disapprove of land use development, zoning requirements,  
236 building codes and delivery of governmental services applicable to  
237 state-owned buildings and grounds of any community college or  
238 junior college. Any agreement by a local board of trustees of a  
239 community college or junior college to annexation of state-owned  
240 property or other conditions described in this paragraph shall be  
241 void unless approved by the board and by the board of supervisors  
242 of the county in which the state-owned property is located.

243       **SECTION 5.** Section 37-101-7, Mississippi Code of 1972, is  
244 amended as follows:

245       37-101-7. Within ten (10) days after the beginning of the  
246 terms of office of its members, upon call of the Governor, the  
247 Board of Trustees of State Institutions of Higher Learning shall  
248 meet in the City of Jackson and organize by electing one (1) of  
249 its number as president, whose term of office shall be for one (1)  
250 year or until a successor shall be elected, and shall transact  
251 such other business as may come before the meeting. When the  
252 presiding officer has voted and the result is a tie, he cannot  
253 vote again to break the tie.

254       The trustees shall have authority to appoint a nonmember as  
255 Commissioner of Higher Education, who shall possess the highest  
256 qualifications as an administrator and research worker. The  
257 Commissioner of Higher Education shall maintain an office and be  
258 responsible to the board for the efficient functioning of the  
259 staff which the board may from time to time establish. It shall  
260 be the duty of the Commissioner of Higher Education to make  
261 constant inquiry into the problems of higher education, to survey  
262 and study carefully the organization, management and all other  
263 affairs of each institution under the control of said trustees, to  
264 make report of all findings and recommend such changes as will  
265 increase efficiency and economy in the operation of each  
266 institution, and to perform such other duties as the board may



267 prescribe. The Commissioner of Higher Education shall be  
268 responsible for compiling all laws and all rules and regulations  
269 of a general nature adopted by the board for the governance of the  
270 various institutions of higher learning in pamphlet or loose-leaf  
271 form. Current copies of such compilations shall be furnished to  
272 all officials directly responsible for the carrying out of such  
273 laws, rules and regulations. The expenses for such compilation  
274 and publication shall be paid by the board out of any funds  
275 available for the operation of said board.

276 The trustees shall authorize the employment of such other  
277 personnel as may be required from time to time to carry out the  
278 functions of the board and may assign to the personnel so employed  
279 such functions and duties and may delegate to the commissioner or  
280 other personnel such powers of the board as may be necessary to  
281 accomplish the purposes for which the board was established. All  
282 such personnel shall be employed by the commissioner with the  
283 approval of the board and shall hold office at the pleasure of the  
284 commissioner. The board shall also have the authority to employ  
285 on a fee basis such technical and professional assistance as may  
286 be necessary to carry out the powers, duties and purposes of the  
287 board.

288 The Commissioner of Higher Education and other personnel  
289 employed by the board shall receive reasonable salaries  
290 commensurate with their duties and functions, the amount of which  
291 shall be fixed by the board. The Board of Trustees of State  
292 Institutions of Higher Learning shall annually submit to the State  
293 Personnel Board a list of salaries for its employees and the State  
294 Personnel Board shall give the Board of Trustees of State  
295 Institutions of Higher Learning a nonbinding advisory opinion on  
296 the amount of the salaries for the director and other personnel  
297 employed by the board. The reasonable traveling expenses and  
298 other authorized expenses incurred by the commissioner and other  
299 personnel in the performance of their duties, together with other

300 expenses of the operation of the executive office, shall be  
301 prorated and deducted from the appropriations for the current  
302 expenses of the several institutions.

303         **SECTION 6.** This act shall take effect and be in force from  
304 and after its passage.