

By: Representative Moore

To: Education; Apportionment  
and Elections

## HOUSE BILL NO. 858

1 AN ACT TO AMEND SECTION 37-3-9, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE FOR THE ELECTION OF THE STATE SUPERINTENDENT OF PUBLIC  
3 EDUCATION BEGINNING AT THE GENERAL STATE ELECTION IN 2007; TO  
4 AMEND SECTION 37-3-11, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN  
5 POWERS AND DUTIES OF THE STATE SUPERINTENDENT OF PUBLIC EDUCATION;  
6 TO AMEND SECTIONS 23-15-193, 23-15-297 AND 23-15-603, MISSISSIPPI  
7 CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR  
8 RELATED PURPOSES.

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

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

12 37-3-9. (1) Until the commencement of the term of office of  
13 the State Superintendent of Public Education elected at the  
14 general state election in 2007, there shall be a State  
15 Superintendent of Public Education who shall be appointed by the  
16 State Board of Education, with the advice and consent of the  
17 Senate, and serve at the board's will and pleasure.

18 (2) Beginning at the general state election in 2007, there  
19 shall be a State Superintendent of Public Education elected at the  
20 same time and manner as the Governor, who shall hold the office  
21 for a term of four (4) years, and until a successor is elected and  
22 qualified. The first term of office of the elected State  
23 Superintendent of Public Education shall commence in January 2008.

24 (3) The State Superintendent of Public Education shall be  
25 the chief administrative officer for the State Department of  
26 Education and shall administer the department in accordance with  
27 the policies established by the State Board of Education. The  
28 state superintendent shall receive such compensation in an amount  
29 equal to ninety percent (90%) of the salary of the Commissioner of  
30 Higher Education. The State Superintendent of Public Education

31 shall have at least a master's degree in any field and a minimum  
32 of five (5) years' experience in administration in the educational  
33 field.

34 (4) The state superintendent shall give bond in the penalty  
35 of Seventy-five Thousand Dollars (\$75,000.00), with sureties to be  
36 approved by the Governor, conditioned according to law. The bond,  
37 when approved, shall be filed and recorded in the office of the  
38 Secretary of State.

39 **SECTION 2.** Section 37-3-11, Mississippi Code of 1972, is  
40 amended as follows:

41 37-3-11. \* \* \*

42 \* \* \* The State Superintendent of Public Education  
43 shall \* \* \* have the following duties:

44 (a) To appoint the assistant state superintendent of  
45 public education to serve as secretary for the State Board of  
46 Education;

47 (b) To be the chief administrative officer of the State  
48 Department of Education;

49 (c) To recommend to the State Board of Education for  
50 its consideration rules and regulations for the supervision of the  
51 public free schools and agricultural high schools of the state and  
52 for the efficient organization and conduct of the same;

53 (d) To collect data and make it available to the State  
54 Board for determining the proper distribution of the state common  
55 school funds;

56 (e) To keep a complete record of all official acts of  
57 the state superintendent and the acts of the State Board of  
58 Education;

59 (f) To prepare, have printed and furnish all officers  
60 charged with the administration of the laws pertaining to the  
61 public schools, such blank forms and books as may be necessary to  
62 the proper discharge of their duties, which printing shall be paid  
63 for out of funds provided by the Legislature;

64           (g) To have printed in pamphlet form the laws  
65 pertaining to the public schools and publish therein forms for  
66 conducting school business, the rules and regulations for the  
67 government of schools that the State Superintendent or the Board  
68 of Education may recommend, and such other matters as may be  
69 deemed worthy of public interest pertaining to the public schools,  
70 which printing shall be paid for out of funds provided by the  
71 Legislature;

72           (h) To meet all superintendents annually at such time  
73 and place as the State Superintendent shall appoint for the  
74 purpose of accumulating facts relative to schools, to review the  
75 educational progress made in the various sections of the state, to  
76 compare views, discuss problems, hear discussions and suggestions  
77 relative to examinations and qualifications of teachers, methods  
78 of instruction, textbooks, summer schools for teachers, visitation  
79 of schools, consolidation of schools, health work in the schools,  
80 vocational education and other matters pertaining to the public  
81 school system;

82           (i) To advise all superintendents upon all matters  
83 involving the welfare of the schools, and at the request of any  
84 superintendent to give an opinion upon a written statement of  
85 facts on all questions and controversies arising out of the  
86 interpretation and construction of the school laws, in regard to  
87 rights, powers and duties of school officers and superintendents,  
88 and to keep a record of all such decisions. Before giving any  
89 opinion, the superintendent may submit the statement of facts to  
90 the Attorney General, and it shall be the duty of the Attorney  
91 General forthwith to examine such statement and suggest the proper  
92 decision to be made upon such fact;

93           (j) To require annually, and as often as the State  
94 Superintendent may deem proper, of all superintendents, detailed  
95 reports on the educational business of the various districts;

96 (k) On or before January 10 in each year to prepare  
97 under the direction of the State Board of Education and have  
98 printed the annual report of the board to the Legislature showing:

99 (i) The receipts and disbursements of all school  
100 funds handled by the board;

101 (ii) The number of school districts, school  
102 teachers employed, school administrators employed, pupils taught  
103 and the attendance record of pupils therein;

104 (iii) County and district levies for each school  
105 district and agricultural high school;

106 (iv) The condition of vocational education, a list  
107 of schools to which federal and state aid has been given, and a  
108 detailed statement of the expenditures of federal funds and the  
109 state funds that may be provided, and the ranking of subjects  
110 taught as compared with the state's needs;

111 (v) Such general matters, information and  
112 recommendations as relate, in the board's opinion, to the  
113 educational interests of the state;

114 (1) To determine the number of educable children in the  
115 several school districts under rules and regulations prescribed by  
116 the State Board of Education; and

117 (m) To perform such other duties as may be prescribed  
118 by law.

119 **SECTION 3.** Section 23-15-193, Mississippi Code of 1972, is  
120 amended as follows:

121 23-15-193. At the election in 2007, and every four (4) years  
122 thereafter, there shall be elected a Governor, Lieutenant  
123 Governor, Secretary of State, Auditor of Public Accounts, State  
124 Treasurer, Attorney General, State Superintendent of Public  
125 Education, three (3) public service commissioners, three (3)  
126 Mississippi Transportation Commissioners, Commissioner of  
127 Insurance, Commissioner of Agriculture and Commerce, Senators and  
128 members of the House of Representatives in the Legislature,

129 district attorneys for the several districts, clerks of the  
130 circuit and chancery courts of the several counties, as well as  
131 sheriffs, coroners, assessors, surveyors and members of the boards  
132 of supervisors, justice court judges and constables, and all other  
133 officers to be elected by the people at the general state  
134 election. All such officers shall hold their offices for a term  
135 of four (4) years, and until their successors are elected and  
136 qualified. The state officers shall be elected in the manner  
137 prescribed in Section 140 of the Constitution.

138       **SECTION 4.** Section 23-15-297, Mississippi Code of 1972, is  
139 amended as follows:

140       23-15-297. All candidates upon entering the race for party  
141 nominations for office shall first pay to the proper officer as  
142 provided for in Section 23-15-299 for each primary election the  
143 following amounts:

144           (a) Candidates for Governor not to exceed Three Hundred  
145 Dollars (\$300.00).

146           (b) Candidates for Lieutenant Governor, Attorney  
147 General, Secretary of State, State Treasurer, Auditor of Public  
148 Accounts, State Superintendent of Public Education, Commissioner  
149 of Insurance, Commissioner of Agriculture and Commerce, State  
150 Transportation Commissioner and State Public Service Commissioner,  
151 not to exceed Two Hundred Dollars (\$200.00).

152           (c) Candidates for district attorney, not to exceed One  
153 Hundred Dollars (\$100.00).

154           (d) Candidates for State Senator, State Representative,  
155 sheriff, chancery clerk, circuit clerk, tax assessor, tax  
156 collector, county attorney, county superintendent of education and  
157 board of supervisors, not to exceed Fifteen Dollars (\$15.00).

158           (e) Candidates for county surveyor, county coroner,  
159 justice court judge and constable, not to exceed Ten Dollars  
160 (\$10.00).

161 (f) Candidates for United States Senator, not to exceed  
162 Three Hundred Dollars (\$300.00).

163 (g) Candidates for United States Representative, not to  
164 exceed Two Hundred Dollars (\$200.00).

165 **SECTION 5.** Section 23-15-603, Mississippi Code of 1972, is  
166 amended as follows:

167 23-15-603. (1) The commissioners of election shall, within  
168 ten (10) days after the general election, transmit to the  
169 Secretary of State, to be filed in his office, a statement of the  
170 whole number of votes given in their county and the whole number  
171 of votes given in each precinct in their county, for each  
172 candidate for any office at the election; but the returns of every  
173 election for Governor, Lieutenant Governor, Secretary of State,  
174 Attorney General, Auditor of Public Accounts, State Treasurer,  
175 State Superintendent of Public Education, Commissioner of  
176 Insurance and other state officers, shall each be made out  
177 separately, sealed up together and transmitted to the seat of  
178 government, directed to the Secretary of State, and endorsed the  
179 "VOTE FOR STATE OFFICERS," to be delivered by the Secretary of  
180 State to the Speaker of the House of Representatives at the next  
181 ensuing session of the Legislature. In addition to the other  
182 information required pursuant to this subsection, the returns for  
183 state officers shall contain a statement of the whole number of  
184 votes given in each House of Representative district or portion  
185 thereof for each candidate for state office at the election.

186 (2) Constitutional amendments shall be voted for at the time  
187 fixed by the concurrent resolution. The election, whether held  
188 separately or with other elections, shall be conducted, in all  
189 respects, as required for elections generally. The commissioners  
190 of election shall, within ten (10) days after the election,  
191 transmit to the Secretary of State a statement of the whole number  
192 of votes given in their county and the whole number of votes given

193 in each precinct in their county for or against constitutional  
194 amendments.

195 (3) The statements certified by the election commissioners  
196 and transmitted to the Secretary of State, as required by this  
197 section, shall be tabulated by the Secretary of State and  
198 submitted to each branch of the Legislature, at the session next  
199 ensuing. Certified county vote totals shall represent the final  
200 results of the election.

201 (4) The statements required by this section shall contain a  
202 certification, signed and dated by a majority of the commissioners  
203 of election, which shall read as follows:

204 "We, the undersigned commissioners of election, do  
205 hereby certify that this statement of the whole number of  
206 votes contains the official vote for the election reflected  
207 therein."

208 (5) The statements required by this section shall be  
209 transmitted to the Secretary of State on such forms and by such  
210 methods as may be required by rules and regulations promulgated by  
211 the Secretary of State.

212 **SECTION 6.** The Attorney General of the State of Mississippi  
213 shall submit this act, immediately upon approval by the Governor,  
214 or upon approval by the Legislature subsequent to a veto, to the  
215 Attorney General of the United States or to the United States  
216 District Court for the District of Columbia in accordance with the  
217 provisions of the Voting Rights Act of 1965, as amended and  
218 extended.

219 **SECTION 7.** This act shall take effect and be in force from  
220 and after either the date it is effectuated under the Voting  
221 Rights Act of 1965, as amended and extended, or the date that  
222 House Concurrent Resolution No. 858, 2005 Regular Session, takes  
223 effect, whichever is the later date; however, this act shall take  
224 effect and be in force only if it is effectuated under the Voting  
225 Rights Act of 1965, as amended and extended, and only if House

226 Concurrent Resolution No. 858, 2005 Regular Session, takes effect  
227 by effectuation under the Voting Rights Act of 1965, as amended  
228 and extended, and by ratification of the electorate at the  
229 November 2006 general election.