

By: Representative Moore

To: Education; Apportionment  
and Elections

## HOUSE BILL NO. 392

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 2011; 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 2011, 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 2011, 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 2012.

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

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

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

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

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

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

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

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

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

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

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

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

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

100                   (ii) Reports of expenditures for public schools,  
101 which, upon request, must be made available on an individual  
102 school district basis by the State Department of Education. The  
103 reports must show the same level of detail as reports completed  
104 before the 2006 fiscal year and must be divided into the following  
105 categories and function codes:

106                   1. Total Student Expenditures:

107                   a. Instruction (1000s);

108                   b. Other Student Instructional

109 Expenditures (2100s, 2200s);

110                   2. General Administration (2300s and 2500s);

111                   3. School Administration (2400s);

112                   4. Other Expenditures (2600s, 2700s, 2800s,  
113 3100s, 3200s); and

114                   5. Nonoperational Expenditures (4000s, 5000s,  
115 6000s);

116                   (iii) The number of school districts, school  
117 teachers employed, school administrators employed, pupils taught  
118 and the attendance record of pupils therein;

119                   (iv) County and district levies for each school  
120 district and agricultural high school;

121                   (v) The condition of vocational education, a list  
122 of schools to which federal and state aid has been given, and a  
123 detailed statement of the expenditures of federal funds and the  
124 state funds that may be provided, and the ranking of subjects  
125 taught as compared with the state's needs; and

126 (vi) Such general matters, information and  
127 recommendations as relate, in the board's opinion, to the  
128 educational interests of the state;

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

132 (m) To perform such other duties as may be prescribed  
133 by law.

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

136 23-15-193. At the election in 2011, and every four (4) years  
137 thereafter, there shall be elected a Governor, Lieutenant  
138 Governor, Secretary of State, Auditor of Public Accounts, State  
139 Treasurer, Attorney General, State Superintendent of Public  
140 Education, three (3) public service commissioners, three (3)  
141 Mississippi Transportation Commissioners, Commissioner of  
142 Insurance, Commissioner of Agriculture and Commerce, Senators and  
143 members of the House of Representatives in the Legislature,  
144 district attorneys for the several districts, clerks of the  
145 circuit and chancery courts of the several counties, as well as  
146 sheriffs, coroners, assessors, surveyors and members of the boards  
147 of supervisors, justice court judges and constables, and all other  
148 officers to be elected by the people at the general state  
149 election. All such officers shall hold their offices for a term  
150 of four (4) years, and until their successors are elected and  
151 qualified. The state officers shall be elected in the manner  
152 prescribed in Section 140 of the Constitution.

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

155 23-15-297. All candidates upon entering the race for party  
156 nominations for office shall first pay to the proper officer as  
157 provided for in Section 23-15-299 for each primary election the  
158 following amounts:

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

161 (b) Candidates for Lieutenant Governor, Attorney  
162 General, Secretary of State, State Treasurer, Auditor of Public  
163 Accounts, State Superintendent of Public Education, Commissioner  
164 of Insurance, Commissioner of Agriculture and Commerce, State  
165 Transportation Commissioner and State Public Service Commissioner,  
166 not to exceed Two Hundred Dollars (\$200.00).

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

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

173 (e) Candidates for county surveyor, county coroner,  
174 justice court judge and constable, not to exceed Ten Dollars  
175 (\$10.00).

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

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

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

182 23-15-603. (1) The commissioners of election shall, within  
183 ten (10) days after the general election, transmit to the  
184 Secretary of State, to be filed in his office, a statement of the  
185 whole number of votes given in their county and the whole number  
186 of votes given in each precinct in their county, for each  
187 candidate for any office at the election; but the returns of every  
188 election for Governor, Lieutenant Governor, Secretary of State,  
189 Attorney General, Auditor of Public Accounts, State Treasurer,  
190 State Superintendent of Public Education, Commissioner of  
191 Insurance and other state officers, shall each be made out

192 separately, sealed up together and transmitted to the seat of  
193 government, directed to the Secretary of State, and endorsed the  
194 "VOTE FOR STATE OFFICERS," to be delivered by the Secretary of  
195 State to the Speaker of the House of Representatives at the next  
196 ensuing session of the Legislature. In addition to the other  
197 information required pursuant to this subsection, the returns for  
198 state officers shall contain a statement of the whole number of  
199 votes given in each House of Representative district or portion  
200 thereof for each candidate for state office at the election.

201 (2) Constitutional amendments shall be voted for at the time  
202 fixed by the concurrent resolution. The election, whether held  
203 separately or with other elections, shall be conducted, in all  
204 respects, as required for elections generally. The commissioners  
205 of election shall, within ten (10) days after the election,  
206 transmit to the Secretary of State a statement of the whole number  
207 of votes given in their county and the whole number of votes given  
208 in each precinct in their county for or against constitutional  
209 amendments.

210 (3) The statements certified by the election commissioners  
211 and transmitted to the Secretary of State, as required by this  
212 section, shall be tabulated by the Secretary of State and  
213 submitted to each branch of the Legislature, at the session next  
214 ensuing. Certified county vote totals shall represent the final  
215 results of the election.

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

219 "We, the undersigned commissioners of election, do  
220 hereby certify that this statement of the whole number of  
221 votes contains the official vote for the election reflected  
222 therein."

223 (5) The statements required by this section shall be  
224 transmitted to the Secretary of State on such forms and by such

225 methods as may be required by rules and regulations promulgated by  
226 the Secretary of State.

227         **SECTION 6.** The Attorney General of the State of Mississippi  
228 shall submit this act, immediately upon approval by the Governor,  
229 or upon approval by the Legislature subsequent to a veto, to the  
230 Attorney General of the United States or to the United States  
231 District Court for the District of Columbia in accordance with the  
232 provisions of the Voting Rights Act of 1965, as amended and  
233 extended.

234         **SECTION 7.** This act shall take effect and be in force from  
235 and after either the date it is effectuated under the Voting  
236 Rights Act of 1965, as amended and extended, or the date that  
237 House Concurrent Resolution No. \_\_\_\_, 2007 Regular Session, takes  
238 effect, whichever is the later date; however, this act shall take  
239 effect and be in force only if it is effectuated under the Voting  
240 Rights Act of 1965, as amended and extended, and only if House  
241 Concurrent Resolution No. \_\_\_\_, 2007 Regular Session, takes effect  
242 by effectuation under the Voting Rights Act of 1965, as amended  
243 and extended, and by ratification of the electorate at the  
244 November 2007 general election.