

By: Representative Moore

To: Education; Apportionment
and Elections

HOUSE BILL NO. 491

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 beginning 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 begin 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 * * * 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, any 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 any 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 the time
72 and place as the state superintendent * * * appointss 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 of those 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 the statement and suggest the proper
91 decision to be made upon those facts;

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

129 (l) 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 any other duties as may be prescribed by
133 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 under this subsection, the returns for state
198 officers shall contain a statement of the whole number of votes
199 given in each House of Representative district or portion thereof
200 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. ____, 2010 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. ____, 2010 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 election to be held on the first Tuesday after the first Monday of
245 November 2010.

