

REPORT OF CONFERENCE COMMITTEE

MR. PRESIDENT AND MR. SPEAKER:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 2681: Mississippi Religious Freedom Restoration Act; enact and modify the great seal.

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.
2. That the Senate and House adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

10 **SECTION 1.** (1) This act shall be known and may be cited as
11 the Mississippi Religious Freedom Restoration Act.

12 (2) The Mississippi Legislature finds the following:

13 (a) The framers of the Constitution, recognizing free
14 exercise of religion as an unalienable right, secured its
15 protection in the First Amendment to the Constitution;

16 (b) Laws "neutral" toward religion may burden religious
17 exercise as surely as laws intended to interfere with religious
18 exercise;

19 (c) Government should not substantially burden
20 religious exercise without compelling justification;

21 (d) In *Employment Division v. Smith*, 494 U.S. 872
22 (1990), the United States Supreme Court virtually eliminated the



23 requirement that the government justify burdens on religious
24 exercise imposed by laws neutral toward religion; and

25 (e) The compelling interest test as set forth in prior
26 federal court rulings is a workable test for striking sensible
27 balances between religious liberty and competing prior
28 governmental interests.

29 (3) The purposes of this section are as follows:

30 (a) To restore the compelling interest test as set
31 forth in *Sherbert v. Verner*, 374 U.S. 398 (1963), and *Wisconsin v.*
32 *Yoder*, 406 U.S. 205 (1972), and to guarantee its application in
33 all cases where free exercise of religion is substantially
34 burdened; and

35 (b) To provide a claim or defense to persons whose
36 religious exercise is substantially burdened by government.

37 (4) As used in this section, the following words shall have
38 the following meanings:

39 (a) "Government" means any branch, department, agency,
40 instrumentality or political subdivision of the State of
41 Mississippi and any official or other person acting under color of
42 law of the State of Mississippi.

43 (b) "Demonstrates" means to meet the burdens of going
44 forward with the evidence and of persuasion.

45 (c) "Exercise of religion" means the exercise of
46 religion under the First Amendment to the Constitution.



47 (5) (a) Government shall not substantially burden a
48 person's exercise of religion even if the burden results from a
49 rule of general applicability, except as provided in paragraph (b)
50 of this subsection.

51 (b) Government may substantially burden a person's
52 exercise of religion only if it demonstrates that application of
53 the burden to the person:

54 (i) Is in furtherance of a compelling governmental
55 interest; and

56 (ii) Is the least restrictive means of furthering
57 that compelling governmental interest.

58 (6) A person whose religious exercise has been burdened in
59 violation of this section may assert that violation as a claim or
60 defense in a judicial proceeding and obtain appropriate relief
61 against the government, as defined by subsection (4) of this
62 section. Standing to assert a claim or defense under this section
63 shall be the same as the general rules of standing under Article
64 III of the United States Constitution.

65 (7) (a) This section applies to all state laws, rules,
66 regulations and any municipal or county ordinances, rules or
67 regulations and the implementation of those laws, whether
68 statutory or otherwise, and whether adopted before or after the
69 enactment of this section.

70 (b) Any such law, rule, regulation or ordinances
71 adopted after the effective date of this section shall be subject



72 to this section unless such law explicitly excludes such
73 application by reference to this section.

74 (8) Nothing in this act shall be construed to authorize any
75 government to burden any religious belief.

76 (9) Nothing in this section shall be construed to affect,
77 interpret, or in any way address that portion of the First
78 Amendment prohibiting laws respecting the establishment of
79 religion. Granting government funding, benefits, or exemptions,
80 to the extent permissible under the Establishment Clause, shall
81 not constitute a violation of this section. As used in this
82 subsection, the term "granting," used with respect to government
83 funding, benefits, or exemptions, does not include the denial of
84 government funding, benefits, or exemptions.

85 (10) Nothing in this act shall create any rights by an
86 employee against an employer if the employer is not the
87 government.

88 **SECTION 2.** It shall be the duty of the Secretary of State to
89 procure the official seal of this state as described in this
90 section.

91 The center of the seal shall have an eagle displayed proper,
92 holding an olive branch in his dexter talon and a bundle of three
93 (3) arrows in his sinister talon. The shield on the breast of the
94 eagle shall have eleven (11) vertical stripes of alternating white
95 and red, supporting a chief of blue with eleven (11) white



96 five-pointed stars in two (2) rows with five (5) stars in each row
97 and one (1) star centered over the third column.

98 The margins dexter and sinister of the center point of the
99 shield shall each have one (1) white five-pointed star. The
100 margin over the eagle shall have the inscription "THE GREAT SEAL
101 OF THE STATE OF MISSISSIPPI." The margin under the eagle shall
102 have the inscription "IN GOD WE TRUST."

103 The official seal need not be printed or otherwise displayed
104 in color.

105 **SECTION 3.** All state agencies shall continue to use
106 stationery and other supplies having the great seal thereon as it
107 existed before July 1, 2014, until such stationery and other
108 supplies are depleted. The great seal as it existed before July
109 1, 2014, affixed on any public buildings, property or any other
110 item shall remain thereon until the replacement of the seal due to
111 normal wear or until replacement with any nonpublic funds.

112 **SECTION 4.** The 1818 Mississippi Laws, Act of January 19,
113 1818, Page 142, which provided for the description of the seal of
114 the state, is hereby repealed.

115 **SECTION 5.** This act shall take effect and be in force from
116 and after July 1, 2014.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO ENACT THE MISSISSIPPI RELIGIOUS FREEDOM RESTORATION
2 ACT; TO PROVIDE THAT STATE ACTION SHALL NOT SUBSTANTIALLY BURDEN A



3 PERSON'S RIGHT TO THE EXERCISE OF RELIGION; TO PRESCRIBE THE
4 CONTENTS OF THE GREAT SEAL OF THE STATE OF MISSISSIPPI; TO PROVIDE
5 THAT STATE AGENCIES SHALL CONTINUE TO USE STATIONERY AND OTHER
6 SUPPLIES HAVING THE GREAT SEAL AS IT EXISTED AS OF JULY 1, 2014,
7 UNTIL SUPPLIES OF SUCH ITEMS ARE DEPLETED; AND FOR RELATED
8 PURPOSES.

CONFEREES FOR THE SENATE

X (SIGNED)
Polk

X (SIGNED)
Gandy

X (SIGNED)
Fillingane

CONFEREES FOR THE HOUSE

X (SIGNED)
Gipson

X (SIGNED)
Hood

X (SIGNED)
Monsour

