

By: Senator(s) Parker

To: Accountability,
Efficiency, Transparency

SENATE BILL NO. 2196

1 AN ACT TO AMEND SECTION 7-1-35, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THE GOVERNOR TO MAKE APPOINTMENTS TO FILL VACANT OFFICES
3 WITHIN 90 DAYS FROM THE DATE OF THE VACANCY; TO PROVIDE THAT IF
4 SUCH APPOINTMENT IS NOT MADE WITHIN NINETY DAYS OF THE DATE OF THE
5 VACANCY, THE POWER TO APPOINT SHALL TRANSFER; TO CREATE NEW
6 SECTION 7-1-36, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
7 LIEUTENANT GOVERNOR TO MAKE APPOINTMENTS TO FILL VACANT OFFICES
8 WITHIN 90 DAYS FROM THE DATE OF THE VACANCY; AND FOR RELATED
9 PURPOSES.

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

11 **SECTION 1.** Section 7-1-35, Mississippi Code of 1972, is
12 amended as follows:

13 7-1-35. (1) The Governor shall fill by appointment, with
14 the advice and consent of the Senate, all offices subject to such
15 appointment when the term of the incumbent will expire within nine
16 (9) months after the meeting of the Legislature, and also
17 vacancies in such offices occurring from any cause during the
18 session of the Senate or during the vacation of that body. All
19 such appointments to offices made in vacation shall be reported to
20 the Senate within ten (10) days after the commencement of the
21 session of that body for its advice and consent to the



22 appointment, and the vacancy shall not be filled if caused by the
23 Senate's refusal to confirm any appointment or nomination, or if
24 it does not occur during the last five (5) days of the session, by
25 the appointment of the Governor in the vacation of the Senate,
26 without its concurrence. Any appointment in vacation to which the
27 Senate shall refuse to consent shall be thereby annulled from that
28 date, but the acts of the appointee prior thereto shall not be
29 affected thereby.

30 (2) (a) In recognition of the importance of the continuity
31 of government during regular and extraordinary times, the Governor
32 shall have ninety (90) days from the date of the vacancy to make
33 any appointment in law, including, but not limited to, those made
34 with the advice and consent of the Senate. If the Governor fails
35 to make an appointment within ninety (90) days of the date of the
36 vacancy, the power to appoint shall transfer to the Lieutenant
37 Governor, who shall make the appointment as soon as practicable.

38 (b) The provisions of this subsection (2) shall not
39 apply to any appointment to the State Board of Education or the
40 Board of Trustees of State Institutions of Higher Learning, as
41 provided in the Mississippi Constitution, nor to any office for
42 which a contingency for an appointing authority's failure to make
43 an appointment or fill a vacancy is provided by statute.

44 **SECTION 2.** The following shall be codified as Section
45 7-1-36, Mississippi Code of 1972:



46 7-1-36. (1) In recognition of the importance of the
47 continuity of government during regular and extraordinary times,
48 the Lieutenant Governor shall have ninety (90) days from the date
49 of the vacancy to make any appointment in law, including, but not
50 limited to, those made with the advice and consent of the Senate.
51 If the Lieutenant Governor does not make an appointment within
52 ninety (90) days of the date of the vacancy, the power to appoint
53 shall transfer to the Governor, who shall make the appointment as
54 soon as practicable.

55 (2) The provisions of this section shall not apply to any
56 appointment to the State Board of Education or the Board of
57 Trustees of State Institutions of Higher Learning, as provided in
58 the Mississippi Constitution, nor to any office for which a
59 contingency for an appointing authority's failure to make an
60 appointment or fill a vacancy is provided by statute.

61 **SECTION 3.** This act shall take effect and be in force from
62 and after its passage.

