

By: Representative Denny

To: Apportionment and
Elections

HOUSE BILL NO. 438

1 AN ACT TO PROVIDE THAT AN ELECTED OFFICIAL WHO IS INDICTED IN
2 STATE OR FEDERAL COURT SHALL BE SUSPENDED IMMEDIATELY WITHOUT PAY;
3 TO SPECIFY THAT THE CRIMES FOR WHICH INDICTMENT THEREOF RESULT IN
4 SUSPENSION ARE ANY FELONY, BRIBERY, EXTORTION, ANY CRIME INVOLVING
5 MORAL TURPITUDE, ANY CRIME THAT VIOLATES ELECTION LAWS, AND
6 EMBEZZLEMENT OR APPROPRIATION OF PUBLIC OR TRUST FUNDS BY AN
7 ELECTED OFFICIAL WHO HAS CUSTODY OF THE FUNDS; TO PROVIDE THAT IF
8 AN ELECTED OFFICIAL IS CONVICTED OF SUCH A CRIME, HE SHALL BE
9 REMOVED FROM OFFICE; TO AMEND SECTION 25-5-1, MISSISSIPPI CODE OF
10 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** (1) A state, district, county or municipal
13 elected official who is indicted in a state or federal court for
14 any crime specified in this section shall be suspended immediately
15 without pay. The crimes for which indictment thereof result in
16 immediate suspension are any felony, bribery, extortion, any crime
17 involving moral turpitude, any crime that violates election laws,
18 and embezzlement or appropriation of public or trust funds by an
19 elected official who has custody of the funds.

20 (2) The suspension remains in effect until the elected
21 official is acquitted, convicted, pleads guilty or pleads nolo
22 contendere. In the case of a conviction, the office is declared
23 vacant, the elected official is removed from office under Section
24 25-5-1 and the vacancy filled as provided by law. In the event of
25 an acquittal or dismissal of charges against the elected official,
26 he is entitled to reinstatement and back pay.

27 (3) If this section applies to an elected official and he
28 fails to acknowledge or submit to his suspension, the Attorney
29 General of the State of Mississippi shall promptly enter a motion
30 for suspension from office in the Circuit Court of Hinds County in
31 the case of a state officer, and in the circuit court of the



32 county of residence in the case of a district, county or municipal
33 officer. The court, or the judge in vacation, upon notice and a
34 proper hearing, shall issue an order suspending the official from
35 office without pay.

36 (4) If the elected official is involved in an election for
37 office between the time of the original suspension and final
38 conclusion of the indictment, the suspension shall continue into
39 the official's next term of office, and the suspended elected
40 official may not participate in the business of his elected
41 office.

42 **SECTION 2.** Section 25-5-1, Mississippi Code of 1972, is
43 amended as follows:

44 25-5-1. If any public officer, state, district, county or
45 municipal, shall be convicted in any court of this state or any
46 other state or in any federal court of any crime enumerated in
47 Section 1 of this act, of corruption in office or speculation
48 therein, or of gambling or dealing in futures with money coming to
49 his hands by virtue of his office, any court of this state, in
50 addition to such other punishment as may be prescribed, shall
51 adjudge the defendant removed from office; and the office of the
52 defendant shall thereby become vacant. If any such officer be
53 found by inquest to be of unsound mind during the term for which
54 he was elected or appointed, or shall be removed from office by
55 the judgment of a court of competent jurisdiction or otherwise
56 lawfully, his office shall thereby be vacated; and in any such
57 case the vacancy shall be filled as provided by law.

58 When any such officer is found guilty of a crime which is a
59 felony under the laws of this state or which is punishable by
60 imprisonment for one (1) year or more, other than manslaughter or
61 any violation of the United States Internal Revenue Code, in a
62 federal court or a court of competent jurisdiction of any other
63 state, the Attorney General of the State of Mississippi shall
64 promptly enter a motion for removal from office in the Circuit



65 Court of Hinds County in the case of a state officer, and in the
66 circuit court of the county of residence in the case of a
67 district, county or municipal officer. The court, or the judge in
68 vacation, shall, upon notice and a proper hearing, issue an order
69 removing such person from office and the vacancy shall be filled
70 as provided by law.

71 **SECTION 3.** The Attorney General of the State of Mississippi
72 shall submit this act, immediately upon approval by the Governor,
73 or upon approval by the Legislature subsequent to a veto, to the
74 Attorney General of the United States or to the United States
75 District Court for the District of Columbia in accordance with the
76 provisions of the Voting Rights Act of 1965, as amended and
77 extended.

78 **SECTION 4.** This act shall take effect and be in force from
79 and after the date it is effectuated under Section 5 of the Voting
80 Rights Act of 1965, as amended and extended.

