

By: Representative Denny

To: Apportionment and
Elections

HOUSE BILL NO. 122

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 BRIBERY, EXTORTION, ANY FELONY OTHER THAN
5 MANSLAUGHTER, ANY VIOLATION OF THE UNITED STATES INTERNAL REVENUE
6 CODE, ANY CRIME INVOLVING MORAL TURPITUDE, ANY CRIME THAT VIOLATES
7 ELECTION LAWS, AND EMBEZZLEMENT OR APPROPRIATION OF PUBLIC OR
8 TRUST FUNDS BY AN ELECTED OFFICIAL WHO HAS CUSTODY OF THE FUNDS;
9 TO PROVIDE THAT IF AN ELECTED OFFICIAL IS CONVICTED OF SUCH A
10 CRIME, HE SHALL BE REMOVED FROM OFFICE; TO AMEND SECTION 25-5-1,
11 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
12 PURPOSES.

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

14 **SECTION 1.** (1) A state, district, county or municipal
15 elected official who is indicted in a state or federal court for
16 any of the following crimes shall be suspended immediately without
17 pay: Bribery, extortion, any felony other than manslaughter, any
18 violation of the United States Internal Revenue Code, any crime
19 involving moral turpitude, any crime that violates election laws,
20 and embezzlement or appropriation of public or trust funds by an
21 elected official who has custody of the funds.

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

30 (3) If this section applies to an elected official and he
31 fails to acknowledge or submit to his suspension, the Attorney
32 General of the State of Mississippi shall promptly enter a motion

33 for suspension from office in the Circuit Court of Hinds County in
34 the case of a state officer, and in the circuit court of the
35 county of residence in the case of a district, county or municipal
36 officer. The court, or the judge in vacation, upon notice and a
37 proper hearing, shall issue an order suspending the official from
38 office without pay.

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

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

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

61 When any such officer is found guilty of a crime which is a
62 felony under the laws of this state or which is punishable by
63 imprisonment for one (1) year or more, other than manslaughter or
64 any violation of the United States Internal Revenue Code, in a
65 federal court or a court of competent jurisdiction of any other

66 state, the Attorney General of the State of Mississippi shall
67 promptly enter a motion for removal from office in the Circuit
68 Court of Hinds County in the case of a state officer, and in the
69 circuit court of the county of residence in the case of a
70 district, county or municipal officer. The court, or the judge in
71 vacation, shall, upon notice and a proper hearing, issue an order
72 removing such person from office and the vacancy shall be filled
73 as provided by law.

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

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