

By: Blackmon

To: Apportionment and  
ElectionsHOUSE BILL NO. 1537  
(As Passed the House)

1 AN ACT TO AMEND SECTIONS 23-15-951 AND 23-15-955, MISSISSIPPI  
2 CODE OF 1972, TO CLARIFY THAT THE MISSISSIPPI STATE LEGISLATURE  
3 SHALL HAVE EXCLUSIVE JURISDICTION OVER AN ELECTION CONTEST  
4 REGARDING THE SEAT OF ANY MEMBER OF THE LEGISLATURE; TO AMEND  
5 SECTION 23-15-957, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE  
6 HOUSE OF REPRESENTATIVES OR THE SENATE, OR ANY COMMITTEE THEREOF,  
7 TO ISSUE SUBPOENAS CONCERNING SUCH ELECTION CONTESTS; TO AMEND  
8 SECTION 23-15-911, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE  
9 PRESENT LAW ON EXAMINATION OF BALLOT BOXES BY CANDIDATES APPLIES  
10 IN THE CASE OF AN ELECTION CONTEST REGARDING THE SEAT OF A MEMBER  
11 OF THE STATE LEGISLATURE; AND FOR RELATED PURPOSES.

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

13 SECTION 1. Section 23-15-951, Mississippi Code of 1972, is  
14 amended as follows:

15 23-15-951. Except as otherwise provided by Section 23-15-955  
16 or 23-15-961, a person desiring to contest the election of another  
17 person returned as elected to any office within any county, may,  
18 within twenty (20) days after the election, file a petition in the  
19 office of the clerk of the circuit court of the county, setting  
20 forth the grounds upon which the election is contested; and the  
21 clerk shall thereupon issue a summons to the party whose election  
22 is contested, returnable to the next term of the court, which  
23 summons shall be served as in other cases; and the court shall, at  
24 the first term, cause an issue to be made up and tried by a jury,  
25 and the verdict of the jury shall find the person having the  
26 greatest number of legal votes at the election. If the jury shall  
27 find against the person returned elected, the clerk shall issue a  
28 certificate thereof; and the person in whose favor the jury shall  
29 find shall be commissioned by the Governor, and shall qualify and  
30 enter upon the duties of his office. Each party shall be allowed

31 ten (10) peremptory challenges, and new trials shall be granted  
32 and costs awarded as in other cases. In case the election of  
33 district attorney or other state district election be contested,  
34 the petition may be filed in any county of the district or in any  
35 county of an adjoining district within twenty (20) days after the  
36 election, and like proceedings shall be had thereon as in the case  
37 of county officers, and the person found to be entitled to the  
38 office shall qualify as required by law and enter upon the duties  
39 of his office.

40 A person desiring to contest the election of another person  
41 returned as elected to any seat in the Mississippi Legislature  
42 shall comply with the provisions of Section 23-15-955. A person  
43 desiring to contest the qualifications of a candidate for  
44 nomination in a political party primary election shall comply with  
45 the provisions of Section 23-15-961.

46 SECTION 2. Section 23-15-955, Mississippi Code of 1972, is  
47 amended as follows:

48 23-15-955. Except as otherwise provided by Section  
49 23-15-961, the person contesting the seat of any member of the  
50 Senate or House of Representatives shall comply with the  
51 provisions of this section. Section 38, Mississippi Constitution  
52 of 1890, provides that each house of the Mississippi State  
53 Legislature shall judge the qualifications, return and election of  
54 its membership. Pursuant to that authority, the House of  
55 Representatives shall have exclusive jurisdiction over an election  
56 contest regarding the seat of any member of the House of  
57 Representatives, and the Senate shall have exclusive jurisdiction  
58 over an election contest regarding the seat of any member of the  
59 Senate. An election contest regarding the seat of a member of the  
60 House of Representatives or the Senate shall be filed with the  
61 Clerk of the House or the Secretary of the Senate, as the case may  
62 be, within thirty (30) days after a regular general election or  
63 ten (10) days after a special election to fill a vacancy. The  
64 legislative resolution of the election contest shall be conducted  
65 in accordance with procedures and precedents established by the  
66 House of Representatives or the Senate, as the case may be. Such  
67 procedures and precedents may be found in the Journals of the

68 House of Representatives and of the State Senate and/or in the  
69 published Rules of the House of Representatives and of the State  
70 Senate.

71 SECTION 3. Section 23-15-957, Mississippi Code of 1972, is  
72 amended as follows:

73 23-15-957. Each house of the Legislature, the Clerk of the  
74 House of Representatives, the Secretary of the Senate, or any  
75 committee appointed to investigate the facts concerning the  
76 election or qualifications of any member or persons claimed to be  
77 such, shall have power to issue subpoenas and compel the  
78 attendance of witnesses and the production of such documents or  
79 papers as may be required. In addition, the clerk or the  
80 secretary, as the case may be, shall have the authority to enforce  
81 any subpoena issued by him or her and to enforce compliance with  
82 the time limitations set forth in Section 23-15-955 or in any  
83 internal procedure or precedent of the respective house of the  
84 State Legislature.

85 SECTION 4. Section 23-15-911, Mississippi Code of 1972, is  
86 amended as follows:

87 23-15-911. (1) When the returns for a box and the contents  
88 of the ballot box and the conduct of the election thereat have  
89 been canvassed and reviewed by the county election commission in  
90 the case of general elections or the county executive committee in  
91 the case of primary elections, all the contents of the box  
92 required to be placed and sealed in the ballot box by the managers  
93 shall be replaced therein by the election commission or executive  
94 committee, as the case may be, and the box shall be forthwith  
95 resealed and delivered to the circuit clerk, who shall safely keep  
96 and secure the same against any tampering therewith. At any time  
97 within twelve (12) days after the canvass and examination of the  
98 box and its contents by the election commission or executive  
99 committee, as the case may be, any candidate or his representative  
100 authorized in writing by him shall have the right of full

101 examination of said box and its contents upon three (3) days'  
102 notice of his application therefor served upon the opposing  
103 candidate or candidates, or upon any member of their family over  
104 the age of eighteen (18) years, which examination shall be  
105 conducted in the presence of the circuit clerk or his deputy who  
106 shall be charged with the duty to see that none of the contents of  
107 the box are removed from the presence of the clerk or in any way  
108 tampered with. Upon the completion of said examination the box  
109 shall be resealed with all its contents as theretofore. And if  
110 any contest or complaint before the court shall arise over said  
111 box, it shall be kept intact and sealed until the court hearing  
112 and another ballot box, if necessary, shall be furnished for the  
113 precinct involved.

114 (2) The provisions of this section allowing the examination  
115 of ballot boxes shall apply in the case of an election contest  
116 regarding the seat of a member of the State Legislature. In such  
117 a case, the results of the examination shall be reported by the  
118 applicable circuit clerk to the Clerk of the House of  
119 Representatives or the Secretary of the Senate, as the case may  
120 be.

121 SECTION 5. The Attorney General of the State of Mississippi  
122 shall submit this act, immediately upon approval by the Governor,  
123 or upon approval by the Legislature subsequent to a veto, to the  
124 Attorney General of the United States or to the United States  
125 District Court for the District of Columbia in accordance with the  
126 provisions of the Voting Rights Act of 1965, as amended and  
127 extended.

128           SECTION 6. This act shall take effect and be in force from  
129 and after the date it is effectuated under Section 5 of the Voting  
130 Rights Act of 1965, as amended and extended.