

By: Representatives Moss, Cummings, Holland

To: Apportionment and
Elections

HOUSE BILL NO. 1097

1 AN ACT TO CREATE "THE EARLY VOTING ACT"; TO PROVIDE THAT A
2 PERSON MAY VOTE EARLY DURING A CERTAIN TIME PERIOD; TO PROVIDE
3 THAT THE SECRETARY OF STATE SHALL PROMULGATE RULES AND REGULATIONS
4 NECESSARY TO EFFECTUATE THE PROVISIONS OF THIS ACT; TO AMEND
5 SECTION 23-15-653, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
6 REGISTRARS' OFFICE SHALL DETERMINE THE APPROPRIATE TIMES THAT THE
7 REGISTRAR'S OFFICE REMAIN OPEN DURING EARLY VOTING; TO BRING
8 FORWARD SECTIONS 23-15-227, 23-15-229, 23-15-231, 23-15-235,
9 MISSISSIPPI CODE OF 1972, FOR PURPOSES OF AMENDMENT; TO AMEND
10 SECTION 23-15-239, MISSISSIPPI CODE OF 1972, TO PROVIDE THE TIME
11 PERIOD IN WHICH MANAGERS MUST BE TRAINED FOR EARLY VOTING; TO
12 BRING FORWARD SECTIONS 23-15-247 AND 23-15-251, MISSISSIPPI CODE
13 OF 1972, FOR PURPOSES OF AMENDMENT; TO AMEND SECTION 23-15-259,
14 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE COUNTY TO COMPENSATE
15 OFFICERS RENDERING SERVICES FOR VARIOUS ELECTION RELATED
16 ACTIVITIES; TO AMEND SECTION 23-15-265, MISSISSIPPI CODE OF 1972,
17 TO REVISE THE TIME THAT MANAGERS AND CLERKS ARE APPOINTED FOR AN
18 ELECTION; TO BRING FORWARD SECTION 23-15-267, MISSISSIPPI CODE OF
19 1972, FOR PURPOSES OF AMENDMENT; TO AMEND SECTION 23-15-353,
20 MISSISSIPPI CODE OF 1972, TO ADD THE EARLY VOTING PERIOD TO THE
21 TIME REQUIREMENTS FOR PRINTING AND DISTRIBUTING THE OFFICIAL
22 BALLOT; TO BRING FORWARD SECTIONS 23-15-391 AND 23-15-405,
23 MISSISSIPPI CODE OF 1972, FOR PURPOSES OF AMENDMENT; TO AMEND
24 SECTION 23-15-415, MISSISSIPPI CODE OF 1972, TO ADD THE EARLY
25 VOTING PERIOD TO THE TIME REQUIRED TO PROPERLY PREPARE VOTING
26 MACHINES; TO AMEND SECTION 23-15-417, MISSISSIPPI CODE OF 1972, TO
27 REVISE THE TIME THAT OFFICIALS IN CHARGE OF THE ELECTIONS SHALL
28 APPOINT ONE OR MORE PERSONS TO INSTRUCT THE MANAGERS AND CLERKS ON
29 THE USE OF VOTING MACHINES; TO BRING FORWARD SECTION 23-15-429,
30 MISSISSIPPI CODE OF 1972, FOR PURPOSES OF AMENDMENT; TO AMEND
31 SECTION 23-15-441, MISSISSIPPI CODE OF 1972, TO ADD THE EARLY
32 VOTING PERIOD TO THE TIME REQUIRED TO LOCK AND SEAL THE VOTING
33 MACHINE AGAINST FURTHER VOTING; TO AMEND SECTION 23-15-473,
34 MISSISSIPPI CODE OF 1972, TO REVISE THE TIME THAT VOTING DEVICES
35 MUST BE PREPARED; TO BRING FORWARD SECTIONS 23-15-479, 23-15-505,
36 23-15-519, 23-15-541, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF
37 AMENDMENT; TO AMEND SECTION 23-15-627, MISSISSIPPI CODE OF 1972,
38 TO ADD EARLY VOTING TO THE OPTIONS WHICH PERMIT ONE TO VOTE BY
39 ABSENTEE BALLOT; TO BRING FORWARD SECTION 23-15-639, MISSISSIPPI
40 CODE OF 1972, FOR PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

42 **SECTION 1.** This act shall be known and may be cited as the
43 "Early Voting Act."

44 **SECTION 2.** A qualified elector may vote early not more than
45 twenty (20) days nor less than five (5) days before the date of an

46 election during such times and at such locations as determined by
47 the office of the registrar.

48 **SECTION 3.** Persons voting early are entitled to the same
49 assistance in voting that they would be if they appeared to vote
50 on election day.

51 **SECTION 4.** The Secretary of State shall promulgate rules
52 and regulations necessary to effectuate the provisions of the
53 "Early Voting Act."

54 **SECTION 5.** Section 23-15-653, Mississippi Code of 1972, is
55 amended as follows:

56 23-15-653. (1) Except as provided in subsection (2) of this
57 section, all registrars' offices shall remain open until noon on
58 the two (2) Saturdays prior to each election.

59 (2) (a) On at least three (3) days during the early voting
60 period, the county registrars' offices shall remain open between
61 4:30 p.m. and 8:00 p.m., and on at least one (1) Saturday during
62 the same period the office shall be open from 8:00 a.m. to 4:00
63 p.m. The registrars' offices shall determine the appropriate
64 dates for both late and regular hours.

65 (b) Notice of the office hours shall be given by the
66 county registrar not less than twenty-five (25) days before the
67 day of election by publication in a newspaper of general
68 circulation.

69 **SECTION 6.** Section 23-15-227, Mississippi Code of 1972, is
70 brought forward as follows:

71 23-15-227. The managers and clerks shall be each entitled to
72 Fifty Dollars (\$50.00) for each election; provided, however, that
73 the board of supervisors may, in its discretion, pay the managers
74 and clerks an additional amount not to exceed Twenty-five Dollars
75 (\$25.00) per election. The manager or other person who shall
76 carry to the place of voting, away from the courthouse, the
77 official ballots, ballot boxes, pollbooks and other necessities,
78 shall be allowed Ten Dollars (\$10.00) for each voting precinct for

79 so doing. The manager or other person who acts as returning
80 officer shall be allowed Ten Dollars (\$10.00) for each voting
81 precinct for that service. The compensation authorized in this
82 section shall be allowed by the board of supervisors, and shall be
83 payable out of the county treasury.

84 The compensation provided in this section shall constitute
85 payment in full for the services rendered by the persons named for
86 any election, whether there be one (1) election or issue voted
87 upon, or more than one (1) election or issue voted upon at the
88 same time.

89 **SECTION 7.** Section 23-15-229, Mississippi Code of 1972, is
90 brought forward as follows:

91 23-15-229. The compensation for clerks, managers and other
92 workers in the polling places of a municipality shall be the same
93 as the compensation paid by the county for such services;
94 provided, however, that the governing authorities of a
95 municipality shall not be required to pay any additional
96 compensation authorized by the board of supervisors. The
97 governing authorities of a municipality may, in their discretion,
98 pay clerks and managers in the polling places of the municipality
99 an additional amount of compensation not to exceed Twenty-five
100 Dollars (\$25.00) per election.

101 **SECTION 8.** Section 23-15-231, Mississippi Code of 1972, is
102 brought forward as follows:

103 23-15-231. Prior to every election, the commissioners of
104 election shall appoint three (3) persons for each voting precinct
105 to be managers of the election, one (1) of whom shall be
106 designated by the commissioners of election as election bailiff.
107 Such managers shall not all be of the same political party if
108 suitable persons of different political parties can be found in
109 the district. If any person appointed shall fail to attend and
110 serve, the managers present, if any, may designate someone to fill
111 his place; and if the commissioners of election fail to make the

112 appointments or in case of the failure of all those appointed to
113 attend and serve, any three (3) qualified electors present when
114 the polls should be opened may act as managers. Provided,
115 however, any person appointed to be manager or act as manager
116 shall be a qualified elector of the county in which the polling
117 place is located.

118 **SECTION 9.** Section 23-15-235, Mississippi Code of 1972, is
119 brought forward as follows:

120 23-15-235. In addition to the managers appointed pursuant to
121 Section 23-15-231, for the first five hundred (500) registered
122 voters in each voting precinct, the commissioners of election may,
123 in their discretion, appoint not more than three (3) persons to
124 serve as managers or clerks of the election. The commissioners of
125 election may, in their discretion, appoint three (3) additional
126 persons to serve as clerks for each one thousand (1,000)
127 registered voters or fraction thereof in each voting precinct
128 above the first five hundred (500). Any person appointed as clerk
129 shall be a qualified elector of the county in which the voting
130 precinct is located.

131 The restrictions provided for in this section regarding the
132 number of additional managers and clerks that may be appointed by
133 commissioners of election shall not apply to elections conducted
134 by paper ballot prior to January 1, 1989. In elections conducted
135 by paper ballot prior to January 1, 1989, the commissioners of
136 election may appoint as many additional managers and clerks as
137 they may consider necessary to conduct the elections.

138 **SECTION 10.** Section 23-15-239, Mississippi Code of
139 1972, is amended as follows:

140 23-15-239. (1) For those managers who will be working on
141 the day of election, the executive committee of each county, in
142 the case of a primary election, or the commissioners of election
143 of each county, in the case of all other elections, in conjunction
144 with the circuit clerk, shall sponsor and conduct, not less than

145 five (5) days prior to each election, training sessions to
146 instruct managers as to their duties in the proper administration
147 of the election and the operation of the polling place. For those
148 managers who may work during the early voting period, the
149 executive committee of each county, in the case of a primary
150 election, or the commissioners of election of each county, in the
151 case of all other elections, in conjunction with the circuit
152 clerk, shall sponsor and conduct, not less than twenty-five (25)
153 days prior to each election, training sessions to instruct
154 managers as to their duties in the proper administration of the
155 election and the operation of the polling place. No manager shall
156 serve in any election unless he has received such instructions
157 once during the twelve (12) months immediately preceding the date
158 upon which such election is held; provided, however, that nothing
159 in this section shall prevent the appointment of an alternate
160 manager to fill a vacancy in case of an emergency. The county
161 executive committee or the commissioners of election, as
162 appropriate, shall train a sufficient number of alternates to
163 serve in the event a manager is unable to serve for any reason.

164 (2) (a) If it is eligible under Section 23-15-266, the
165 county executive committee may enter into a written agreement with
166 the circuit clerk or the county election commission authorizing
167 the circuit clerk or the county election commission to perform any
168 of the duties required of the county executive committee pursuant
169 to this section. Any agreement entered into pursuant to this
170 subsection shall be signed by the chairman of the county executive
171 committee and the circuit clerk or the chairman of the county
172 election commission, as appropriate. The county executive
173 committee shall notify the State Executive Committee and the
174 Secretary of State of the existence of such agreement.

175 (b) If it is eligible under Section 23-15-266, the
176 municipal executive committee may enter into a written agreement
177 with the municipal clerk or the municipal election commission

178 authorizing the municipal clerk or the municipal election
179 commission to perform any of the duties required of the municipal
180 executive committee pursuant to this section. Any agreement
181 entered into pursuant to this subsection shall be signed by the
182 chairman of the municipal executive committee and the municipal
183 clerk or the chairman of the municipal election commission, as
184 appropriate. The municipal executive committee shall notify the
185 State Executive Committee and the Secretary of State of the
186 existence of such agreement.

187 (3) The board of supervisors, in their discretion, may
188 compensate managers who attend such training sessions. The
189 compensation shall be at a rate of not less than the federal
190 hourly minimum wage nor more than Ten Dollars (\$10.00) per hour.
191 Managers shall not be compensated for more than two (2) hours of
192 attendance at the training sessions regardless of the actual
193 amount of time that they attended the training sessions.

194 (4) The time and location of the training sessions required
195 pursuant to this section shall be announced to the general public
196 by posting a notice thereof at the courthouse and by delivering a
197 copy of the notice to the office of a newspaper having general
198 circulation in the county five (5) days before the date upon which
199 the training session is to be conducted. Persons who will serve
200 as poll watchers for candidates and political parties, as well as
201 members of the general public, shall be allowed to attend the
202 sessions.

203 **SECTION 11.** Section 23-15-247, Mississippi Code of 1972, is
204 brought forward as follows:

205 23-15-247. The commissioners of election in each county
206 shall procure, if not already provided, a sufficient number of
207 ballot boxes, which shall be distributed by them to the voting
208 precincts of the county before the time for opening the polls. The
209 boxes shall be secured by good and substantial locks, and, if an
210 adjournment shall take place after the opening of the polls and

211 before all the votes shall be counted, the box shall be securely
212 locked, so as to prevent the admission of anything into it, or the
213 taking of anything from it, during the time of adjournment; and
214 the box shall be kept by one of the managers and the key by
215 another of the managers, and the manager having the box shall
216 carefully keep it, and neither unlock or open it himself nor
217 permit it to be done, nor permit any person to have any access to
218 it during the time of adjournment. The box shall not be removed
219 from the polling building or place after the polls are opened
220 until the count is complete, if as many as three (3) qualified
221 electors object. After each election the ballot boxes shall be
222 delivered, with the keys thereof, to the clerk of the circuit
223 court of the county for preservation; and he shall keep them for
224 future use, and, when called for, deliver them to the
225 commissioners of election.

226 **SECTION 12.** Section 23-15-251, Mississippi Code of 1972, is
227 amended as follows:

228 23-15-251. The commissioners of election, in appointing the
229 managers of election, shall designate one (1) of the managers at
230 each voting place to receive and distribute the official ballots,
231 and shall deliver to him the proper number of ballots and cards of
232 instruction for his district not less than one (1) day before the
233 election and not less than one (1) day before each day of early
234 voting; and the manager receiving the ballots from the
235 commissioners shall distribute the same to the electors of his
236 district in the manner herein provided. It shall be the duty of
237 said person so designated as aforesaid for service at a voting
238 place other than the courthouse, to carry to the said voting
239 place, on the day previous to the election, the ballot box, the
240 pollbook, the blank tally sheets, the blank forms to be used in
241 making returns, the other necessary stationery and supplies and
242 the official printed ballots aforesaid, and all of the same used
243 and unused shall be returned by the manager designated as

244 aforesaid to the commissioners of election on the day next
245 following the election.

246 **SECTION 13.** Section 23-15-259, Mississippi Code of 1972, is
247 amended as follows:

248 23-15-259. The boards of supervisors of the several counties
249 are authorized to allow compensation of the officers rendering
250 services in matters of registration and elections, to provide
251 ballot boxes, registration and pollbooks, and all other things
252 required by law in registration and elections. Said boards are
253 also authorized, by order spread upon the minutes of the board
254 setting forth the cost and source of funds therefor, to purchase
255 improved or unimproved property and to construct, reconstruct,
256 repair, renovate and maintain polling places or to pay to private
257 property owners reasonable rental fees when the property is used
258 as a polling place for a period not to exceed the day immediately
259 preceding the first day of the early voting period described in
260 Section 2 of House Bill _____, 2005 Regular Session or the day
261 immediately preceding the day of election, whichever is
262 applicable, the day of the election, and the day immediately
263 following the election and to allow such reasonable sum as may be
264 expended in supplying voting compartments, tables or shelves for
265 use at elections.

266 All facilities owned or leased by the state, county,
267 municipality or school district may be made available at no cost
268 to the board of supervisors for use as polling places to such
269 extent as may be agreed to by the authority having control or
270 custody of such facilities.

271 **SECTION 14.** Section 23-15-265, Mississippi Code of 1972, is
272 amended as follows:

273 23-15-265. (1) The county executive committee of each
274 county shall meet not less than four (4) weeks before the date of
275 any primary election and appoint the managers and clerks for same,
276 all of whom may be members of the same political party. The

277 number of managers and clerks appointed by the county executive
278 committee shall be the same number as commissioners of election
279 are allowed to appoint pursuant to Sections 23-15-231 and
280 23-15-235. If the county executive committee fails to meet on the
281 date named, supra, further notice shall be given of the time and
282 place of meeting.

283 (2) (a) If it is eligible under Section 23-15-266, the
284 county executive committee may enter into a written agreement with
285 the circuit clerk or the county election commission authorizing
286 the circuit clerk or the county election commission to perform any
287 of the duties required of the county executive committee pursuant
288 to this section. Any agreement entered into pursuant to this
289 subsection shall be signed by the chairman of the county executive
290 committee and the circuit clerk or the chairman of the county
291 election commission, as appropriate. The county executive
292 committee shall notify the State Executive Committee and the
293 Secretary of State of the existence of such agreement.

294 (b) If it is eligible under Section 23-15-266, the
295 municipal executive committee may enter into a written agreement
296 with the municipal clerk or the municipal election commission
297 authorizing the municipal clerk or the municipal election
298 commission to perform any of the duties required of the municipal
299 executive committee pursuant to this section. Any agreement
300 entered into pursuant to this subsection shall be signed by the
301 chairman of the municipal executive committee and the municipal
302 clerk or the chairman of the municipal election commission, as
303 appropriate. The municipal executive committee shall notify the
304 State Executive Committee and the Secretary of State of the
305 existence of such agreement.

306 **SECTION 15.** Section 23-15-267, Mississippi Code of 1972, is
307 brought forward as follows:

308 23-15-267. (1) The ballot boxes provided by the regular
309 commissioners of election in each county shall be used in primary

310 elections, and the county executive committees shall distribute
311 them to the voting precincts of the county before the time for
312 opening the polls, in the same manner, as near as may be, as that
313 provided for in general elections.

314 (2) If an adjournment shall take place after the polls are
315 open and before all votes are counted, the ballot box shall be
316 securely locked so as to prevent the admission into it or the
317 taking of anything from it during the time of adjournment; and the
318 box shall be kept by one of the managers, and the key by another
319 of the managers, and the manager having the box shall carefully
320 keep it, and neither undertake to open it himself or permit it to
321 be done, or to permit any person to have access to it during the
322 time of adjournment. The box shall not be removed from the
323 polling building or place after the polls are open until the count
324 is completed if as many as three (3) electors qualified to vote at
325 the election object.

326 (3) After each election, the ballot boxes of those provided
327 by the regular commissioner of election shall be delivered, with
328 the keys thereof immediately and as soon thereafter as possible,
329 and without delay to the clerk of the circuit court of the county.

330 (4) (a) If it is eligible under Section 23-15-266, the
331 county executive committee may enter into a written agreement with
332 the circuit clerk or the county election commission authorizing
333 the circuit clerk or the county election commission to perform any
334 of the duties required of the county executive committee pursuant
335 to this section. Any agreement entered into pursuant to this
336 subsection shall be signed by the chairman of the county executive
337 committee and the circuit clerk or the chairman of the county
338 election commission, as appropriate. The county executive
339 committee shall notify the State Executive Committee and the
340 Secretary of State of the existence of such agreement.

341 (b) If it is eligible under Section 23-15-266, the
342 municipal executive committee may enter into a written agreement

343 with the municipal clerk or the municipal election commission
344 authorizing the municipal clerk or the municipal election
345 commission to perform any of the duties required of the municipal
346 executive committee pursuant to this section. Any agreement
347 entered into pursuant to this subsection shall be signed by the
348 chairman of the municipal executive committee and the municipal
349 clerk or the chairman of the municipal election commission, as
350 appropriate. The municipal executive committee shall notify the
351 State Executive Committee and the Secretary of State of the
352 existence of such agreement.

353 (5) The person, or persons, whose duty it is to comply with
354 the provisions of this section and who shall fail, or neglect,
355 from any cause, to deliver said boxes or any of them as herein
356 provided shall, upon conviction, be fined not less than Two
357 Hundred Dollars (\$200.00) and be imprisoned in the county jail of
358 the residence of the person, or persons, who violates any of the
359 provisions of this section, for a period of not less than thirty
360 (30) days or more than six (6) months, and fined not more than
361 Five Hundred Dollars (\$500.00).

362 **SECTION 16.** Section 23-15-353, Mississippi Code of 1972, is
363 amended as follows:

364 23-15-353. The officer charged with printing and
365 distributing the official ballot shall ascertain from the
366 registrar, at least ten (10) days before the early voting period
367 described in Section 2 of House Bill No. _____, 2005 Regular
368 Session or the day of election, whichever is applicable, the
369 number of registered voters in each voting precinct; and he shall
370 have printed and distributed a sufficient number of ballots for
371 use in each precinct. He shall also prepare full instructions for
372 the guidance of electors at elections as to obtaining ballots, the
373 manner of marking them, and the mode of obtaining new ballots in
374 the place of those spoiled by accident. The instructions shall be
375 printed in large, clear type, on "cards of instruction," and the

376 officer shall furnish the same in sufficient numbers for the use
377 of electors. The cards shall be preserved by the officers of
378 election and returned by them to the commissioners of election;
379 and they may be used, if applicable, in subsequent elections.

380 **SECTION 17.** Section 23-15-391, Mississippi Code of 1972, is
381 brought forward as follows:

382 23-15-391. The board of supervisors of each county in the
383 State of Mississippi shall, by January 1, 1989, utilize voting
384 machines, electronic voting systems, or optical mark reading
385 equipment which shall comply with the specifications provided by
386 law. Thereafter, the election commissioners may designate an
387 election to be administered by paper ballot where the election
388 commissioners clearly determine that administration of an election
389 by paper ballot will be less expensive than administration of the
390 same election by voting machines, electronic voting systems, or
391 optical mark reading equipment.

392 **SECTION 18.** Section 23-15-405, Mississippi Code of 1972, is
393 brought forward as follows:

394 23-15-405. Whenever the board of supervisors of any county
395 or the governing authorities of any municipality shall purchase or
396 rent voting machines that meet the requirements of this article,
397 such voting machines may be used at all elections held in such
398 county or municipality, or in any part thereof, for voting,
399 registering and counting votes cast at such elections. In
400 providing voting machines, the board of supervisors is hereby
401 empowered to purchase or rent voting machines for each voting
402 precinct in the entire county, including those located within the
403 municipality, or, in the discretion of the board, voting machines
404 may be purchased or rented only for those voting precincts located
405 outside the limits of the municipalities located in said county.
406 The board of supervisors of any county and the governing
407 authorities of any municipality may jointly purchase or rent
408 voting machines for all of the voting precincts in the entire

409 county. Whenever voting machines have been purchased or rented by
410 either the board of supervisors or the governing authorities of a
411 municipality, for use at voting precincts within the county or
412 within the municipality, said voting machines may be used at said
413 voting precincts in all elections, and the officials in charge of
414 the election to be held shall cause the voting machines to be
415 prepared and used at such election as provided for herein. Voting
416 machines of different kinds may be adopted for different counties
417 within the state.

418 Voting machines may be used in combination with paper ballots
419 in any election at the discretion of and under rules and
420 regulations set up by the officials in charge of the election.

421 **SECTION 19.** Section 23-15-415, Mississippi Code of 1972, is
422 amended as follows:

423 23-15-415. It shall be the duty of the authorities in charge
424 of any election where a voting machine is to be used, to have the
425 machine at the proper polling place or places before the time
426 fixed for opening of the polls, and the counters set at zero, and
427 otherwise in good and proper order for use at such election. For
428 the purpose of placing ballots in the ballot frames of the
429 machine, putting it in order, setting, testing and adjusting and
430 delivering the machine, the authorities in charge of elections may
431 employ one or more competent persons, to be known as custodian or
432 custodians of voting machines, who shall be fully competent,
433 thoroughly instructed, and sworn to perform his duties honestly
434 and faithfully, and for such purpose shall be appointed and
435 instructed at least thirty (30) days before the election. All
436 voting machines to be used in an election shall be properly
437 prepared at least three (3) days prior to the early voting period
438 described in Section 2 of House Bill No. _____, 2005 Regular
439 Session or the day of election, whichever is applicable. When a
440 voting machine has been properly prepared for election, it shall
441 be locked against voting and sealed; and the keys thereof shall be

442 delivered to the registrar, together with a written report made by
443 the custodian or official preparing the machine, stating that it
444 is in every way properly prepared for the election. After the
445 voting machine has been transferred to the polling place, it shall
446 be the duty of the managers to provide ample protection against
447 molestation or injury to the machine. All voting machines used in
448 any election shall be provided with a screen, hood or curtain
449 which shall be so made and adjusted as to conceal the voter and
450 his action while voting.

451 **SECTION 20.** Section 23-15-417, Mississippi Code of 1972, is
452 amended as follows:

453 23-15-417. At least twenty-eight (28) days before each
454 election, the officials in charge of the elections shall appoint
455 one or more persons to instruct the managers and clerks that are
456 to serve in a voting precinct in the use of the machine, and in
457 their duties in connection therewith; and he shall give to each
458 manager and clerk, who has received such instruction and is fully
459 qualified to properly conduct the election with the machine, a
460 certificate to that effect. For the purpose of giving such
461 instruction, the person or persons appointed as instructors shall
462 call such meeting or meetings of the managers and clerks as shall
463 be necessary. Such person shall, within five (5) days, file a
464 report with the officials in charge of the elections, stating that
465 he has instructed the managers and clerks, giving the names of
466 such officers, and the time and place where such instruction was
467 given. The managers and clerks of each voting precinct in which a
468 voting machine is to be used shall attend such meeting, or
469 meetings, as shall be called for the purpose of receiving such
470 instruction concerning their duties as shall be necessary for the
471 proper conduct of the election with the machine. No manager or
472 clerk shall serve in any election at which a voting machine is
473 used, unless he shall have received such instruction and is fully
474 qualified to perform the duties in connection with the machine,

475 and has received a certificate to that effect, provided, however,
476 that this shall not prevent the appointment of a person as a
477 manager or clerk to fill a vacancy in an emergency.

478 **SECTION 21.** Section 23-15-429, Mississippi Code of 1972, is
479 brought forward as follows:

480 23-15-429. Prior to the opening of the polls, the managers
481 and clerks of each voting precinct shall meet at the polling place
482 at the time set for opening of the polls, at each election, and
483 shall proceed to arrange the furniture, stationery and voting
484 machine for the conduct of the election. The keys to the voting
485 machines shall be delivered to the managers before the time set
486 for opening the polls, in a sealed envelope, on which shall be
487 written or printed the number and location of the voting machine,
488 and the number of the seal and the number registered on the
489 protective counter or device, as reported by the custodian or
490 official preparing the machine. Before opening the envelope, all
491 managers and clerks present shall examine the number on the seal
492 on the machine, also the number registered on the protective
493 counter, and shall see if they are the same as the number written
494 on the envelope; and if they are not the same, the machine must
495 not be opened until the custodian, or other authorized person,
496 shall have been notified and shall have presented himself at the
497 polling place for the purpose of re-examining such machine and
498 shall certify that it is properly arranged.

499 If the numbers on the envelope are the same as those on the
500 machine, the election officers shall proceed to open the doors
501 concealing the counters, and each officer shall carefully examine
502 every counter and see that it registers zero, and the same shall
503 be subject to the inspection of official watchers. The machine
504 shall remain locked against voting until the polls are formally
505 opened, and shall not be operated except by voters in voting. If
506 any counter is found not to register zero, the manager shall
507 immediately notify the officials in charge of the election or the

508 custodian, who shall, if practicable, adjust the counters at zero;
509 but if it shall be impracticable to so adjust such counters before
510 the time set for opening the polls, the managers shall immediately
511 make a written statement of the designating letter and number of
512 such counter, together with the number registered thereon, and
513 shall sign and post same upon the wall of the polling room, where
514 it shall remain throughout election day, and, in filling out the
515 statement of canvass, they shall subtract such number from the
516 number then registered thereon.

517 **SECTION 22.** Section 23-15-441, Mississippi Code of
518 1972, is amended as follows:

519 23-15-441. Immediately upon the close of the polls on the
520 day of election or on each day of early voting as described in
521 Section 2, House Bill No. _____, 2005 Regular Session, whichever is
522 applicable, the managers shall lock and seal the voting machine
523 against further voting and open the counter compartment in the
524 presence of the persons who may be lawfully present at that time,
525 giving full view of the counters. The manager shall then, in the
526 order of the offices as their titles are arranged on the machine,
527 read and announce in distinct tones the result as shown by the
528 counters and shall then read the votes recorded for each office on
529 the irregular ballots; he shall also, in the same manner, read and
530 announce the vote on each constitutional amendment, proposition or
531 other question. As each vote is read and announced, it shall be
532 recorded on two (2) statements of canvass by the two (2) clerks,
533 and, when completed, shall be compared with the numbers on the
534 counters of the machine. If found to be correct, the statements
535 of canvass, after being duly certified and sworn to, shall be
536 filed as now provided by law for filing election returns. After
537 the reading and announcing of the vote, and before the doors of
538 the counter compartment of the voting machine shall be closed,
539 ample opportunity shall be given to any person or persons lawfully
540 present to compare the results so announced with the counters of

541 the machine and any necessary corrections shall then and there be
542 made by the managers or clerks. There shall be furnished two (2)
543 copies of a statement of canvass to conform to the requirements of
544 the voting machine or machines being used.

545 **SECTION 23.** Section 23-15-473, Mississippi Code of 1972, is
546 amended as follows:

547 23-15-473. The circuit court clerk shall be the custodian of
548 voting devices acquired by a county, who shall be charged with the
549 proper storage, maintenance and repair of voting devices, and the
550 preparation of them for voting prior to elections. After they
551 have been prepared for an election and at least three (3) days
552 prior to the early voting period described in Section 2 of House
553 Bill No. _____, 2005 Regular Session, or the day of election,
554 whichever is applicable, the voting devices shall be available for
555 public inspection at a time and place designated by the custodian.
556 Thereafter they shall be locked or sealed before delivery to the
557 managers of the election. The custodian shall immediately repair,
558 replace or remove any voting device which fails to function
559 properly on election day. The clerk of any municipality which
560 acquires voting devices shall be the custodian of such voting
561 devices and perform the same functions.

562 If a voting device at a polling place malfunctions and cannot
563 be repaired or replaced quickly and there is no other device in
564 the polling place that can be used to perform the function of the
565 device that malfunctions, unofficial ballots made as nearly as
566 possible in the form of the official ballot may be used until the
567 voting device is repaired or replaced. Such ballots shall be
568 received by the managers and placed by them in a receptacle in
569 such case to be provided by the managers, and counted with the
570 votes registered on the voting device; and the result shall be
571 declared the same as though there had been no accident to the
572 voting device; the ballots thus voted shall be preserved and

573 returned as herein directed, with a certificate or statement
574 setting forth how and why the same were voted.

575 **SECTION 24.** Section 23-15-479, Mississippi Code of 1972, is
576 brought forward as follows:

577 23-15-479. The managers shall prepare a report in duplicate
578 of the number of voters who have voted, as indicated by the poll
579 list, and shall place this report in the ballot box, which
580 thereupon shall be sealed with a paper seal signed by the managers
581 so that no additional ballots may be deposited or removed from the
582 ballot box. Two (2) managers shall forthwith deliver the ballot
583 box to the counting center or other designated place and receive a
584 signed, numbered receipt therefor. The poll list, register of
585 voters, unused ballots and ballot cards, spoiled ballots, and
586 other records and supplies, shall be returned as directed by the
587 officials in charge of the election.

588 **SECTION 25.** Section 23-15-505, Mississippi Code of 1972, is
589 brought forward as follows:

590 23-15-505. The board of supervisors of any county in the
591 State of Mississippi and the governing authorities of any
592 municipality in the State of Mississippi are hereby authorized and
593 empowered, in their discretion, to purchase or rent optical mark
594 reading equipment used in an electronic voting system which meets
595 the requirements of Section 23-15-507 and may use such system in
596 all or a part of the precincts within its boundaries. It may
597 enlarge, consolidate or alter the boundaries of precincts where an
598 electronic voting system is used. The provisions of this chapter
599 shall be controlling with respect to elections where any OMR
600 system is used, and shall be liberally construed so as to carry
601 out the purpose of this chapter. The provisions of the election
602 law relating to the conduct of elections with paper ballots, that
603 are to be manually tabulated, insofar as they are applicable and
604 not in conflict with the efficient conduct of the systems, shall
605 apply.

606 **SECTION 26.** Section 23-15-519, Mississippi Code of 1972, is
607 brought forward as follows:

608 23-15-519. The managers shall prepare a report in duplicate
609 of the number of voters who have voted, as indicated by the poll
610 list, and shall place this report in the ballot box, which
611 thereupon shall be sealed with a paper seal signed by the managers
612 so that no additional ballots may be deposited or removed from the
613 ballot box. The manager or other person who acts as returning
614 officer shall forthwith deliver the ballot box to the counting
615 center or other designated place and receive a signed, numbered
616 receipt therefor. The poll list, register of voters, unused
617 ballots, spoiled ballots, and other records and supplies, shall be
618 returned as directed by the officials in charge of the election.

619 **SECTION 27.** Section 23-15-541, Mississippi Code of 1972, is
620 brought forward as follows:

621 23-15-541. At all elections, the polls shall be opened at
622 seven o'clock in the morning and be kept open until seven o'clock
623 in the evening and no longer. Upon the opening of the polls, and
624 not before, the managers of the election shall designate two (2)
625 of their number, other than the manager theretofore designated to
626 receive the blank ballots, who shall thereupon be known
627 respectively as the initialing manager and the alternate
628 initialing manager. The alternate initialing manager, in the
629 absence of the initialing manager, shall perform all of the duties
630 and undertake all of the responsibilities of the initialing
631 manager. When any person entitled to vote shall appear to vote,
632 he shall first sign his name in a receipt book or booklet provided
633 for that purpose and to be used at that election only and said
634 receipt book or booklet shall be used in lieu of the list of
635 voters who have voted formerly made by the managers or clerks;
636 whereupon and not before, the initialing manager or, in his
637 absence, the alternate initialing manager shall indorse his
638 initials on the back of an official blank ballot, prepared in

639 accordance with law, and at such place on the back of the ballot
640 that the initials may be seen after the ballot has been marked and
641 folded, and when so indorsed he shall deliver it to the voter,
642 which ballot the voter shall mark in the manner provided by law,
643 which when done the voter shall deliver the same to the initialing
644 manager or, in his absence, to the alternate initialing manager,
645 in the presence of the others, and the manager shall see that the
646 ballot so delivered bears on the back thereof the genuine initials
647 of the initialing manager, or alternate initialing manager, and if
648 so, but not otherwise, the ballot shall be put into the ballot
649 box; and when so done one (1) of the managers or a duly appointed
650 clerk shall make the proper entry on the pollbook. If the voter
651 is unable to write his name on the receipt book, a manager or
652 clerk shall note on the back of the ballot that it was receipted
653 for by his assistance.

654 **SECTION 28.** Section 23-15-627, Mississippi Code of 1972, is
655 amended as follows:

656 23-15-627. The registrar shall be responsible for furnishing
657 an absentee ballot application form to any elector authorized to
658 receive an absentee ballot. Absentee ballot applications shall be
659 furnished to a person only upon the oral or written request of the
660 elector who seeks to vote by absentee ballot; however, the parent,
661 child, spouse, sibling, legal guardian, those empowered with a
662 power of attorney for that elector's affairs or agent of the
663 elector may orally request an absentee ballot application on
664 behalf of the elector. An absentee ballot application must have
665 the seal of the circuit or municipal clerk affixed to it and be
666 initialed by the registrar or his deputy in order to be utilized
667 to obtain an absentee ballot. A reproduction of an absentee
668 ballot application shall not be valid unless it is a reproduction
669 provided by the office of the registrar of the jurisdiction in
670 which the election is being held and which contains the seal and

671 initials required by this section. Such application shall be
672 substantially in the following form:

673 "OFFICIAL APPLICATION FOR ABSENT ELECTOR'S BALLOT

674 I, _____, duly qualified and registered in the ____ Precinct
675 of the County of _____, and State of Mississippi, coming within
676 the purview of the definition 'ABSENT ELECTOR' will be absent from
677 the county of my residence on election day, or unable to vote in
678 person because (check appropriate reason):

679 () (PRESIDENTIAL APPLICANT ONLY:) I am currently a
680 resident of Mississippi or have moved therefrom within thirty (30)
681 days of the coming presidential election.

682 () I am an enlisted or commissioned member, male or female,
683 of any component of the United States Armed Forces and am a
684 citizen of Mississippi, or spouse or dependent of such member.

685 () I am a member of the Merchant Marine or the American Red
686 Cross and am a citizen of Mississippi or spouse or dependent of
687 such member.

688 () I am a disabled war veteran who is a patient in any
689 hospital and am a citizen of Mississippi or spouse or dependent of
690 such veteran.

691 () I am a civilian attached to and serving outside of the
692 United States with any branch of the Armed Forces or with the
693 Merchant Marine or American Red Cross, and am a citizen of
694 Mississippi or spouse or dependent of such civilian.

695 () I am a citizen of Mississippi temporarily residing
696 outside the territorial limits of the United States and the
697 District of Columbia.

698 () I am a student, teacher or administrator at a college,
699 university, junior or community college, high, junior high,
700 elementary or grade school, whose studies or employment at such
701 institution necessitates my absence from the county of my voting
702 residence or spouse or dependent of such student, teacher or
703 administrator who maintains a common domicile outside the county

704 of my voting residence with such student, teacher or
705 administrator.

706 () I will be outside the county on election day.

707 () I have a temporary or permanent physical disability.

708 () I am sixty-five (65) years of age or older.

709 () I am the parent, spouse or dependent of a person with a
710 temporary or permanent physical disability who is hospitalized
711 outside his county of residence or more than fifty (50) miles away
712 from his residence, and I will be with such person on election
713 day.

714 () I am a member of the congressional delegation, or spouse
715 or dependent of a member of the congressional delegation.

716 () I am required to be at work on election day during the
717 times which the polls will be open.

718 () I desire to vote early.

719 I hereby make application for an official ballot, or ballots,
720 to be voted by me at the election to be held in _____, on _____.

721 Mail 'Absent Elector's Ballot' to me at the following address
722 _____ (if eligible to vote by mail).

723 I realize that I can be fined up to Five Thousand Dollars
724 (\$5,000.00) and sentenced up to five (5) years in the Penitentiary
725 for making a false statement in this application and for selling
726 my vote and violating the Mississippi Absentee Voter Law. (This
727 sentence is to be in bold print.)

728 If you are temporarily or permanently disabled, you are not
729 required to have this application notarized or signed by an
730 official authorized to administer oaths for absentee balloting.
731 You are required to sign this application in the proper place and
732 have a person eighteen (18) years of age or older witness your
733 signature and sign this application in the proper place.

734 DO NOT SIGN WITHOUT READING. (This sentence is to be in bold
735 print.)

736 IN WITNESS WHEREOF I have hereunto set my hand and seal this
737 the ____ day of _____, 2____.

738 _____
739 (Signature of absent elector)

740 SWORN TO AND SUBSCRIBED before me this the ____ day of _____,
741 2____.

742 _____
743 (Official authorized to administer oaths
744 for absentee balloting.)

745 TO BE SIGNED BY WITNESS FOR VOTERS TEMPORARILY OR PERMANENTLY
746 DISABLED:

747 I HEREBY CERTIFY that this application for an absent
748 elector's ballot was signed by the above-named disabled elector in
749 my presence and that I am at least eighteen (18) years of age,
750 this the ____ day of _____, 2____.

751 _____
752 (Signature of witness)

753 CERTIFICATE OF DELIVERY

754 I hereby certify that _____ (print name of voter)
755 has requested that I, _____ (print name of person
756 delivering application), deliver to the voter this absentee ballot
757 application.

758 _____
759 (Signature of person delivering application)

760 _____
761 (Address of person delivering application)"

762 **SECTION 29.** Section 23-15-639, Mississippi Code of 1972, is
763 brought forward as follows:

764 23-15-639. At the close of the regular balloting and at the
765 close of the polls, the election managers of each voting precinct
766 shall first take the envelopes containing the absentee ballots of
767 such electors from the box, and the name, address and precinct
768 inscribed on each such envelope shall be announced by the election

769 managers. The signature on the application shall then be compared
770 with the signature on the back of the envelope. If it corresponds
771 and the affidavit, if one is required, is sufficient and the
772 election managers find that the applicant is a registered and
773 qualified voter or otherwise qualified to vote, and that he has
774 not appeared in person and voted at such election, the envelope
775 shall then be opened and the ballot removed from the envelope,
776 without its being unfolded, or permitted to be unfolded or
777 examined. Having observed and found the ballot to be regular as
778 far as can be observed from its official endorsement, the election
779 managers shall deposit it in the ballot box with the other ballots
780 before counting any ballots and enter the voter's name in the
781 receipt book provided for that purpose and mark "VOTED" in the
782 pollbook or poll list as if he had been present and voted in
783 person. If voting machines are used, all absentee ballots shall
784 be placed in the ballot box before any ballots are counted, and
785 the election managers in each precinct shall immediately count
786 such absentee ballots and add them to the votes cast in the voting
787 machine or device.

788 **SECTION 30.** The Attorney General of the State of Mississippi
789 shall submit this act, immediately upon approval by the Governor,
790 or upon approval by the Legislature subsequent to a veto, to the
791 Attorney General of the United States or to the United States
792 District Court for the District of Columbia in accordance with the
793 provisions of the Voting Rights Act of 1965, as amended and
794 extended.

795 **SECTION 31.** This act shall take effect and be in force from
796 and after the date it is effectuated under Section 5 of the Voting
797 Rights Act of 1965, as amended and extended.