

By: Representative Sullivan

To: Apportionment and  
Elections

## HOUSE BILL NO. 1168

1 AN ACT TO REQUIRE PERSONS, EXCEPT THOSE BORN BEFORE 1946, WHO  
2 APPEAR TO VOTE IN PERSON AT A POLLING PLACE OR THE REGISTRAR'S  
3 OFFICE TO IDENTIFY THEMSELVES BY PRESENTING CERTAIN TYPES OF  
4 IDENTIFICATION TO AN ELECTION MANAGER OR THE REGISTRAR BEFORE THEY  
5 ARE ALLOWED TO VOTE; TO PROVIDE THAT ANY PERSON WHO INTIMIDATES A  
6 VOTER SHALL BE GUILTY OF A FELONY; TO AMEND SECTION 23-15-33,  
7 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT EVERY PERSON ENTITLED TO  
8 BE REGISTERED AS AN ELECTOR SHALL BE ISSUED BY JANUARY 1, 2008, A  
9 REGISTRATION CARD WITH THE ELECTOR'S PHOTOGRAPH AND THAT LISTS THE  
10 IDENTIFICATION CARDHOLDER NUMBER REQUIRED UNDER THE PROVISIONS OF  
11 LAW REGULATING THE STATEWIDE CENTRALIZED VOTER SYSTEM; TO AMEND  
12 SECTION 23-15-169.1, MISSISSIPPI CODE OF 1972, TO REQUIRE THE  
13 SECRETARY OF STATE AND THE COMMISSIONER OF PUBLIC SAFETY TO ENTER  
14 INTO AN AGREEMENT TO PRODUCE VOTER REGISTRATION CARDS WITH  
15 PHOTOGRAPHS OF THE REGISTERED ELECTOR BY A CERTAIN DATE; TO BRING  
16 FORWARD SECTION 23-15-163, MISSISSIPPI CODE OF 1972, THAT PROVIDES  
17 THE PURPOSES A CENTRALIZED STATEWIDE QUALIFIED VOTER FILE; TO  
18 AMEND SECTIONS 23-15-631 AND 23-15-639, MISSISSIPPI CODE OF 1972,  
19 TO AUTHORIZE THE SECRETARY OF STATE TO TAKE CERTAIN ACTION TO  
20 ENSURE THAT THE IDENTIFICATION REQUIREMENTS OF THE HELP AMERICA  
21 VOTE ACT OF 2002 ARE MET IN REGARD TO ABSENTEE BALLOTS; TO AMEND  
22 SECTIONS 23-15-11, 23-15-541 AND 23-15-719, MISSISSIPPI CODE OF  
23 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

25 **SECTION 1.** (1) Each person, except a person born before  
26 1946, who shall appear to vote in person at a polling place or the  
27 registrar's office shall be required to identify himself or  
28 herself to an election manager or the registrar by presenting  
29 current and valid photo identification or a copy of a current  
30 utility bill, bank statement, government check, paycheck or a  
31 government document that shows the name and address of the person  
32 before such person shall be allowed to vote.

33 (2) (a) Through December 31, 2007, the identification  
34 required by subsection (1) of this section shall be limited to,  
35 the following:

36 (i) A current and valid Mississippi driver's  
37 license;

38                   (ii) A current and valid identification card  
39 issued by a branch, department, agency or entity of the State of  
40 Mississippi;

41                   (iii) A current and valid United States passport;

42                   (iv) A current and valid employee identification  
43 card containing a photograph of the elector and issued by any  
44 branch, department, agency or entity of the United States  
45 government, the State of Mississippi, or any county, municipality,  
46 board, authority or other entity of this state;

47                   (v) A current and valid employee identification  
48 card containing a photograph of the elector and issued by any  
49 employer of the elector in the ordinary course of the employer's  
50 business;

51                   (vi) A current and valid student identification  
52 card containing a photograph of the elector from any public or  
53 private college, university, or postgraduate, technical or  
54 professional school located within the State of Mississippi;

55                   (vii) A current and valid Mississippi license to  
56 carry a pistol or revolver;

57                   (viii) A current and valid pilot's license issued  
58 by the Federal Aviation Administration or other authorized agency  
59 of the United States;

60                   (ix) A current and valid United States military  
61 identification card;

62                   (x) Official voter registration card; or

63                   (xi) A current identification and valid customer  
64 identification card containing a photograph of the elector issued  
65 by a business.

66                   (b) On and after January 1, 2008, the identification  
67 required by subsection (1) of this section shall be limited to the  
68 following:

69                   (i) A current and valid Mississippi driver's  
70 license; or

71 (ii) A voter registration card with the elector's  
72 photograph and that lists the identification cardholder number  
73 required under the provisions of law regulating the Statewide  
74 Centralized Voter System.

75 (3) Any person who utilizes the provisions of this section  
76 to intimidate a voter or to prevent from voting a person who is  
77 otherwise qualified to vote shall be guilty of a felony and, upon  
78 conviction, shall be punished by imprisonment for not less than  
79 one (1) year, but not more than five (5) years or fined in an  
80 amount not to exceed Five Thousand Dollars (\$5,000.00), or both,  
81 per occurrence of intimidation.

82 **SECTION 2.** Section 23-15-33, Mississippi Code of 1972, is  
83 amended as follows:

84 23-15-33. (1) Every person entitled to be registered as an  
85 elector in compliance with the laws of this state and who has  
86 signed his name on and properly completed the application for  
87 registration to vote shall be registered by the registrar on the  
88 registration books of the voting precinct of the residence of such  
89 person.

90 (2) Every person entitled to be registered as an elector in  
91 compliance with the laws of this state and who registers to vote  
92 pursuant to the National Voter Registration Act of 1993 shall be  
93 registered by the registrar on the registration books of the  
94 voting precinct of the residence of such person.

95 (3) Every person entitled to be registered as an elector in  
96 compliance with the laws of this state and who has registered to  
97 vote in federal elections pursuant to the National Voter  
98 Registration Act of 1993 prior to the effective date of Chapter  
99 430, Laws of 2000, shall be registered by the registrar on the  
100 registration books of the voting precinct of the residence of such  
101 person.

102 (4) Every person entitled to be registered as an elector in  
103 compliance with this section shall be issued by January 1, 2008, a

104 registration card with the elector's photograph and that lists the  
105 identification cardholder number required under the provisions of  
106 law regulating the Statewide Centralized Voter System.

107       **SECTION 3.** Section 23-15-169.1, Mississippi Code of 1972, is  
108 amended as follows:

109       23-15-169.1. (1) The Secretary of State and the  
110 Commissioner of Public Safety shall enter into an agreement to  
111 grant the Secretary of State's Office "read only" access to the  
112 driver's license database and identification cardholder database  
113 for the purpose of matching information in the database of the  
114 Statewide Centralized Voter System created in Section 23-15-163 et  
115 seq. to the extent required to enable the Secretary of State to  
116 verify the accuracy of information provided on applications for  
117 voter registration in compliance with the Help America Vote Act of  
118 2002.

119       (2) The Secretary of State and the Commissioner of Public  
120 Safety shall enter into an agreement to produce voter registration  
121 cards with photographs of the registered elector. Each card shall  
122 contain the identification cardholder number required under the  
123 provisions of law regulating the Statewide Centralized Voter  
124 System. Such card shall be distributed to all qualified electors  
125 by January 1, 2008.

126       **SECTION 4.** Section 23-15-163, Mississippi Code of 1972, is  
127 brought forward as follows:

128       23-15-163. The purposes of this subarticle are:

129           (a) To establish a centralized statewide qualified  
130 voter file that consists of all qualified electors who are  
131 registered to vote;

132           (b) To enhance the uniformity of the administration of  
133 elections by creating and maintaining a centralized statewide file  
134 of qualified voters;

135           (c) To increase the efficiency and decrease the cost of  
136 maintaining voter registration records and implementing the  
137 National Voter Registration Act of 1993;

138           (d) To increase the integrity of the voting process by  
139 compiling a single centralized qualified voter file from county  
140 voter roll data that will permit the name of each citizen of this  
141 state to appear only once;

142           (e) To apply technology and information gathered by  
143 principal executive departments of state government, state  
144 agencies and local voter registrars in a manner that ensures that  
145 accurate and current records of qualified voters are maintained  
146 and to secure cooperation among all state and county entities to  
147 develop systems and processes that are interfaced with the  
148 Centralized Statewide Voter System; and

149           (f) To enable the state to receive federal funds which  
150 may be available to carry out provisions of this subarticle.

151           **SECTION 5.** Section 23-15-631, Mississippi Code of 1972, is  
152 amended as follows:

153           23-15-631. (1) The registrar shall enclose with each ballot  
154 provided to an absent elector separate printed instructions  
155 furnished by him containing the following:

156           (a) All absentee voters, excepting those with temporary  
157 or permanent physical disabilities or those who are sixty-five  
158 (65) years of age or older, who mark their ballots in the county  
159 of the residence shall use the registrar of that county as the  
160 witness. Said absentee voter shall come to the office of the  
161 registrar and neither the registrar nor his deputy shall be  
162 required to go out of the registrar's office to serve as an  
163 attesting witness.

164           (b) Upon receipt of the enclosed ballot, you will not  
165 mark same except in view or sight of the attesting witness. In  
166 the sight or view of the attesting witness, mark the ballot  
167 according to instructions.

168           (c) After marking the ballot, fill out and sign the  
169 "ELECTOR'S CERTIFICATE" on back of the envelope so that the  
170 signature shall be across the flap of the envelope so as to insure  
171 the integrity of the ballot. All absent electors shall have the  
172 attesting witness sign the "ATTESTING WITNESS CERTIFICATE" across  
173 the flap on back of the envelope. Place necessary postage on the  
174 envelope and deposit it in the post office or some government  
175 receptacle provided for deposit of mail so that the absent  
176 elector's ballot, excepting presidential absentee ballots, will  
177 reach the registrar in which your precinct is located not later  
178 than 5:00 p.m. on the day preceding the date of the election, or  
179 by personally delivering such ballot to the registrar's office not  
180 later than 12:00 noon on the Saturday immediately preceding  
181 elections held on Tuesday, the Thursday immediately preceding  
182 elections held on Saturday, and the second day immediately  
183 preceding elections held on other days.

184           Any notary public, United States postmaster, assistant United  
185 States postmaster, United States postal supervisor, clerk in  
186 charge of a contract postal station, or any officer having  
187 authority to administer an oath or take an acknowledgment may be  
188 an attesting witness; provided, however, that in the case of an  
189 absent elector who is temporarily or permanently physically  
190 disabled, the attesting witness may be any person eighteen (18)  
191 years of age or older and such person is not required to have the  
192 authority to administer an oath. If a postmaster, assistant  
193 postmaster, postal supervisor, or clerk in charge of a contract  
194 postal station acts as an attesting witness, his signature on the  
195 elector's certificate must be authenticated by the cancellation  
196 stamp of their respective post offices. If one or the other  
197 officers herein named acts as attesting witness, his signature on  
198 the elector's certificate, together with his title and address,  
199 but no seal, shall be required. Any affidavits made by an absent  
200 elector who is in the Armed Forces may be executed before a

201 commissioned officer, warrant officer, or noncommissioned officer  
202 not lower in grade than sergeant rating or any person authorized  
203 to administer oaths.

204 (d) When the application accompanies the ballot it  
205 shall not be returned in the same envelope as the ballot but shall  
206 be returned in a separate preaddressed envelope provided by the  
207 registrar.

208 (e) A person who is a candidate for public office may  
209 not be an attesting witness for any absentee ballot upon which the  
210 person's name appears.

211 (f) Any voter casting an absentee ballot who declares  
212 that he requires assistance to vote by reason of blindness,  
213 temporary or permanent physical disability or inability to read or  
214 write, shall be entitled to receive assistance in the marking of  
215 his absentee ballot and in completing the affidavit on the  
216 absentee ballot envelope. The voter may be given assistance by  
217 anyone of the voter's choice other than a candidate whose name  
218 appears on the absentee ballot being marked, or the voter's  
219 employer, or agent of that employer. In order to ensure the  
220 integrity of the ballot, any person who provides assistance to an  
221 absentee voter shall be required to sign and complete the  
222 "Certificate of Person Providing Voter Assistance" on the absentee  
223 ballot envelope.

224 (2) The Secretary of State shall prepare instructions on how  
225 absent voters may comply with the identification requirements of  
226 the Help America Vote Act of 2002, which shall be provided to the  
227 registrar and enclosed with each absentee ballot.

228 (3) The foregoing instructions required to be provided by  
229 the registrar to the elector shall also constitute the substantive  
230 law pertaining to the handling of absentee ballots by the elector  
231 and registrar.

232 **SECTION 6.** Section 23-15-639, Mississippi Code of 1972, is  
233 amended as follows:

234           23-15-639. (1) At the close of the regular balloting and at  
235 the close of the polls, the election managers of each voting  
236 precinct shall first take the envelopes containing the absentee  
237 ballots of such electors from the box, and the name, address and  
238 precinct inscribed on each such envelope shall be announced by the  
239 election managers. The signature on the application shall then be  
240 compared with the signature on the back of the envelope. If it  
241 corresponds and the affidavit, if one is required, is sufficient  
242 and the election managers find that the applicant is a registered  
243 and qualified voter or otherwise qualified to vote, and that he  
244 has not appeared in person and voted at such election, the  
245 envelope shall then be opened and the ballot removed from the  
246 envelope, without its being unfolded, or permitted to be unfolded  
247 or examined. Having observed and found the ballot to be regular  
248 as far as can be observed from its official endorsement, the  
249 election managers shall deposit it in the ballot box with the  
250 other ballots before counting any ballots and enter the voter's  
251 name in the receipt book provided for that purpose and mark  
252 "VOTED" in the pollbook or poll list as if he had been present and  
253 voted in person. If voting machines are used, all absentee  
254 ballots shall be placed in the ballot box before any ballots are  
255 counted, and the election managers in each precinct shall  
256 immediately count such absentee ballots and add them to the votes  
257 cast in the voting machine or device.

258           (2) The election managers shall also take such action as may  
259 be prescribed by the Secretary of State to ensure compliance with  
260 the identification requirements of the Help America Vote Act of  
261 2002.

262           **SECTION 7.** Section 23-15-11, Mississippi Code of 1972, is  
263 amended as follows:

264           23-15-11. Every inhabitant of this state, except idiots and  
265 insane persons, who is a citizen of the United States of America,  
266 eighteen (18) years old and upwards, who has resided in this state



267 for thirty (30) days and for thirty (30) days in the county in  
268 which he offers to vote, and for thirty (30) days in the  
269 incorporated city or town in which he offers to vote, and who  
270 shall have been duly registered as an elector pursuant to Section  
271 23-15-33, and who has never been convicted of any crime listed in  
272 Section 241, Mississippi Constitution of 1890, shall be a  
273 qualified elector in and for the county, municipality and voting  
274 precinct of his residence, and shall be entitled to vote at any  
275 election upon compliance with Section 1 of House Bill No. \_\_\_\_\_,  
276 2006 Regular Session. Any person who will be eighteen (18) years  
277 of age or older on or before the date of the general election and  
278 who is duly registered to vote not less than thirty (30) days  
279 prior to the primary election associated with such general  
280 election, may vote in such primary election even though such  
281 person has not reached his or her eighteenth (18th) birthday at  
282 the time such person offers to vote at such primary election. No  
283 others than those above included shall be entitled, or shall be  
284 allowed, to vote at any election.

285 **SECTION 8.** Section 23-15-541, Mississippi Code of 1972, is  
286 amended as follows:

287 23-15-541. At all elections, the polls shall be opened at  
288 seven o'clock in the morning and be kept open until seven o'clock  
289 in the evening and no longer. Upon the opening of the polls, and  
290 not before, the managers of the election shall designate two (2)  
291 of their number, other than the manager theretofore designated to  
292 receive the blank ballots, who shall thereupon be known  
293 respectively as the initialing manager and the alternate  
294 initialing manager. The alternate initialing manager, in the  
295 absence of the initialing manager, shall perform all of the duties  
296 and undertake all of the responsibilities of the initialing  
297 manager. When any person entitled to vote shall appear to vote,  
298 the managers shall identify the voter by requiring the voter to  
299 submit identification as required by Section 1 of House Bill No.

300       , 2006 Regular Session, and then such person shall \* \* \* sign  
301 his name in a receipt book or booklet provided for that purpose  
302 and to be used at that election only and said receipt book or  
303 booklet shall be used in lieu of the list of voters who have voted  
304 formerly made by the managers or clerks; whereupon and not before,  
305 the initialing manager or, in his absence, the alternate  
306 initialing manager shall indorse his initials on the back of an  
307 official blank ballot, prepared in accordance with law, and at  
308 such place on the back of the ballot that the initials may be seen  
309 after the ballot has been marked and folded, and when so indorsed  
310 he shall deliver it to the voter, which ballot the voter shall  
311 mark in the manner provided by law, which when done the voter  
312 shall deliver the same to the initialing manager or, in his  
313 absence, to the alternate initialing manager, in the presence of  
314 the others, and the manager shall see that the ballot so delivered  
315 bears on the back thereof the genuine initials of the initialing  
316 manager, or alternate initialing manager, and if so, but not  
317 otherwise, the ballot shall be put into the ballot box; and when  
318 so done one (1) of the managers or a duly appointed clerk shall  
319 make the proper entry on the pollbook. If the voter is unable to  
320 write his name on the receipt book, a manager or clerk shall note  
321 on the back of the ballot that it was receipted for by his  
322 assistance.

323       **SECTION 9.** Section 23-15-719, Mississippi Code of 1972, is  
324 amended as follows:

325       23-15-719. (1) Immediately upon completion of an  
326 application filed pursuant to the provisions of paragraph (a) of  
327 Section 23-15-715, the registrar shall deliver the necessary  
328 ballots to the applicant. The registrar shall identify the  
329 applicant by requiring him to present identification as required  
330 by Section 1 of House Bill No.       , 2006 Regular Session, and  
331 shall then deliver the ballots to the applicant by mail or to the  
332 applicant in the registrar's office. The registrar shall not

333 personally hand deliver ballots to voters, unless he delivers the  
334 ballots in the office of the registrar. The elector shall fill in  
335 his ballot in secret. After the applicant has properly marked the  
336 ballot and properly folded it, he shall deposit it in the envelope  
337 furnished him by the registrar.

338 After he has sealed the envelope, he shall subscribe and  
339 swear to an affidavit in the following form, which shall be  
340 printed on the back of the envelope containing the applicant's  
341 ballot:

342 "STATE OF MISSISSIPPI

343 COUNTY OF \_\_\_\_\_

344 I, \_\_\_\_\_, do solemnly swear that this envelope contains  
345 the ballot marked by me indicating my choice of the candidates or  
346 propositions to be submitted at the election to be held on the \_\_\_\_  
347 day of \_\_\_\_\_, 2\_\_\_\_, and I hereby authorize the registrar to  
348 place this envelope in the ballot box on my behalf, and I further  
349 authorize the election managers to open this envelope and place my  
350 ballot among the other ballots cast before such ballots are  
351 counted, and record my name on the poll list as if I were present  
352 in person and voted.

353 I further swear that I marked the enclosed ballot in secret.

354 \_\_\_\_\_

355 (Signature of voter)

356 SWORN TO AND SUBSCRIBED before me, \_\_\_\_\_, this the \_\_\_\_

357 day of \_\_\_\_\_, 2\_\_\_\_.

358 (Registrar) \_\_\_\_\_

359 (Registrar)"

360 After the completion of the requirements of this section, the  
361 elector shall deliver the envelope containing the ballot to the  
362 registrar.

363 (2) If the voter has received assistance in marking his  
364 ballot, the person providing the assistance shall complete the

365 following form which shall be printed on the back of the envelope  
366 containing the applicant's ballot:

367 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

368 (To be completed only if the voter has received assistance in  
369 marking the enclosed ballot.) I hereby certify that the  
370 above-named voter declared to me that he or she is blind,  
371 temporarily or permanently physically disabled, or cannot read or  
372 write, and that the voter requested that I assist the voter in  
373 marking the enclosed absentee ballot. I hereby certify that the  
374 ballot preferences on the enclosed ballot are those communicated  
375 by the voter to me, and that I have marked the enclosed ballot in  
376 accordance with the voter's instructions.

377 \_\_\_\_\_

378 Signature of person providing assistance

379 \_\_\_\_\_

380 Printed name of person providing assistance

381 \_\_\_\_\_

382 Address of person providing assistance

383 \_\_\_\_\_

384 Date and time assistance provided

385 \_\_\_\_\_

386 Family relationship to voter (if any)"

387 (3) The envelope used pursuant to this section shall not  
388 contain the form prescribed by Section 23-15-635.

389 **SECTION 10.** The Attorney General of the State of Mississippi  
390 shall submit this act, immediately upon approval by the Governor,  
391 or upon approval by the Legislature subsequent to a veto, to the  
392 Attorney General of the United States or to the United States  
393 District Court for the District of Columbia in accordance with the  
394 provisions of the Voting Rights Act of 1965, as amended and  
395 extended.

396           **SECTION 11.** This act shall take effect and be in force from  
397 and after the date it is effectuated under Section 5 of the Voting  
398 Rights Act of 1965, as amended and extended.