

By: Representative Brown

To: Apportionment and  
Elections

HOUSE BILL NO. 133

1 AN ACT TO PROVIDE THAT ELECTIONS FOR STATE OFFICERS,  
2 INCLUDING MISSISSIPPI SUPREME COURT JUSTICES AND JUDGES OF THE  
3 COURT OF APPEALS, SHALL BE HELD ON SATURDAY; TO AMEND SECTION  
4 9-4-5, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING  
5 SECTION; TO AMEND SECTION 23-15-191, MISSISSIPPI CODE OF 1972, TO  
6 REVISE THE TIME THAT PRIMARIES ARE HELD FOR STATE ELECTIVE  
7 OFFICERS; TO BRING FORWARD SECTIONS 23-15-193, 23-15-631,  
8 23-15-637 AND 23-15-715, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF  
9 AMENDMENT; TO AMEND SECTION 65-1-3, MISSISSIPPI CODE OF 1972, TO  
10 REVISE WHEN THE STATE HIGHWAY COMMISSIONERS ARE ELECTED; AND FOR  
11 RELATED PURPOSES.

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

13 **SECTION 1.** A general election for all state elective  
14 officers, including Mississippi Supreme Court justices and judges  
15 of the Court of Appeals, shall be held on the Saturday after the  
16 first Monday of November, and every four (4) years thereafter.

17 **SECTION 2.** Section 9-4-5, Mississippi Code of 1972, is  
18 amended as follows:

19 9-4-5. (1) The term of office of judges of the Court of  
20 Appeals shall be eight (8) years. An election shall be held on  
21 the first Saturday after the first Monday in November \* \* \* to  
22 elect the ten (10) judges of the Court of Appeals, two (2) from  
23 each congressional district; provided, however, judges of the  
24 Court of Appeals who are elected to take office after the first  
25 Monday of January 2002, shall be elected from the Court of Appeals  
26 Districts described in subsection (5) of this section. The judges  
27 of the Court of Appeals shall begin service on the first Monday of  
28 January 1995.

29 (2) (a) In order to provide that the offices of not more  
30 than a majority of the judges of said court shall become vacant at  
31 any one (1) time, the terms of office of six (6) of the judges



32 first to be elected shall expire in less than eight (8) years.  
33 For the purpose of all elections of members of the court, each of  
34 the ten (10) judges of the Court of Appeals shall be considered a  
35 separate office. The two (2) offices in each of the five (5)  
36 districts shall be designated Position Number 1 and Position  
37 Number 2, and in qualifying for office as a candidate for any  
38 office of judge of the Court of Appeals each candidate shall state  
39 the position number of the office to which he aspires and the  
40 election ballots shall so indicate.

41 (i) In Congressional District Number 1, the judge  
42 of the Court of Appeals for Position Number 1 shall be that office  
43 for which the term ends January 1, 1999, and the judge of the  
44 Court of Appeals for Position Number 2 shall be that office for  
45 which the term ends January 1, 2003.

46 (ii) In Congressional District Number 2, the judge  
47 of the Court of Appeals for Position Number 1 shall be that office  
48 for which the term ends on January 1, 2003, and the judge of the  
49 Court of Appeals for Position Number 2 shall be that office for  
50 which the term ends January 1, 2001.

51 (iii) In Congressional District Number 3, the  
52 judge of the Court of Appeals for Position Number 1 shall be that  
53 office for which the term ends on January 1, 2001, and the judge  
54 of the Court of Appeals for Position Number 2 shall be that office  
55 for which the term ends January 1, 1999.

56 (iv) In Congressional District Number 4, the judge  
57 of the Court of Appeals for Position Number 1 shall be that office  
58 for which the term ends on January 1, 1999, and the judge of the  
59 Court of Appeals for Position Number 2 shall be that office for  
60 which the term ends January 1, 2003.

61 (v) In Congressional District Number 5, the judge  
62 of the Court of Appeals for Position Number 1 shall be that office  
63 for which the term ends on January 1, 2003, and the judge of the



64 Court of Appeals for Position Number 2 shall be that office for  
65 which the term ends January 1, 2001.

66 (b) The laws regulating the general elections shall  
67 apply to and govern the elections of judges of the Court of  
68 Appeals except as otherwise provided in Sections 23-15-974 through  
69 23-15-985.

70 (c) In the year prior to the expiration of the term of  
71 an incumbent, and likewise each eighth year thereafter, an  
72 election shall be held in the manner provided in this section in  
73 the district from which the incumbent Court of Appeals judge was  
74 elected at which there shall be elected a successor to the  
75 incumbent, whose term of office shall thereafter begin on the  
76 first Monday of January of the year in which the term of the  
77 incumbent he succeeds expires.

78 (3) No person shall be eligible for the office of judge of  
79 the Court of Appeals who has not attained the age of thirty (30)  
80 years at the time of his election and who has not been a  
81 practicing attorney and citizen of the state for five (5) years  
82 immediately preceding such election.

83 (4) Any vacancy on the Court of Appeals shall be filled by  
84 appointment of the Governor for that portion of the unexpired term  
85 prior to the election to fill the remainder of said term according  
86 to provisions of Section 23-15-849, Mississippi Code of 1972.

87 (5) (a) The State of Mississippi is hereby divided into  
88 five (5) Court of Appeals Districts as follows:

89 **FIRST DISTRICT.** The First Court of Appeals District shall be  
90 composed of the following counties and portions of counties:  
91 Alcorn, Benton, Calhoun, Chickasaw, Choctaw, DeSoto, Itawamba,  
92 Lafayette, Lee, Marshall, Monroe, Pontotoc, Prentiss, Tate,  
93 Tippah, Tishomingo, Union, Webster and Yalobusha; in Grenada  
94 County the precincts of Providence, Mt. Nebo, Hardy and Pea Ridge;  
95 in Montgomery County the precincts of North Winona, Lodi, Stewart,  
96 Nations and Poplar Creek; in Panola County the precincts of East



97 Sardis, South Curtis, Tocowa, Pope, Courtland, Cole's Point, North  
98 Springport, South Springport, Eureka, Williamson, East Batesville  
99 4, West Batesville 4, Fern Hill, North Batesville A, East  
100 Batesville 5 and West Batesville 5; and in Tallahatchie County the  
101 precincts of Teasdale, Enid, Springhill, Charleston Beat 1,  
102 Charleston Beat 2, Charleston Beat 3, Paynes, Leverette, Cascilla,  
103 Murphreesboro and Rosebloom.

104       **SECOND DISTRICT.** The Second Court of Appeals District shall  
105 be composed of the following counties and portions of counties:  
106 Bolivar, Carroll, Claiborne, Coahoma, Holmes, Humphreys,  
107 Issaquena, Jefferson, Leflore, Quitman, Sharkey, Sunflower,  
108 Tunica, Warren, Washington and Yazoo; in Attala County the  
109 precincts of Northeast, Hesterville, Possomneck, North Central,  
110 McAdams, Newport, Sallis and Southwest; that portion of Grenada  
111 County not included in the First Court of Appeals District; in  
112 Hinds County Precincts 11, 12, 13, 22, 23, 27, 28, 29, 30, 40, 41,  
113 83, 84 and 85, and the precincts of Bolton, Brownsville, Cayuga,  
114 Chapel Hill, Cynthia, Edwards, Learned, Pine Haven, Pocahontas,  
115 St. Thomas, Tinnin, Utica 1 and Utica 2; in Leake County the  
116 precincts of Conway, West Carthage, Wiggins, Thomastown and  
117 Ofahoma; in Madison County the precincts of Farmhaven, Canton  
118 Precinct 2, Canton Precinct 3, Cameron Street, Canton Precinct 6,  
119 Bear Creek, Gluckstadt, Smith School, Magnolia Heights, Flora,  
120 Virililia, Canton Precinct 5, Cameron, Couparle, Camden, Sharon,  
121 Canton Precinct 1 and Canton Precinct 4; that portion of  
122 Montgomery County not included in the First Court of Appeals  
123 District; that portion of Panola County not included in the First  
124 Court of Appeals District; and that portion of Tallahatchie County  
125 not included in the First Court of Appeals District.

126       **THIRD DISTRICT.** The Third Court of Appeals District shall be  
127 composed of the following counties and portions of counties:  
128 Clarke, Clay, Jasper, Kemper, Lauderdale, Lowndes, Neshoba,  
129 Newton, Noxubee, Oktibbeha, Rankin, Scott, Smith and Winston; that



130 portion of Attala County not included in the Second Court of  
131 Appeals District; in Jones County the precincts of Northwest High  
132 School, Shady Grove, Sharon, Erata, Glade, Myrick School,  
133 Northeast High School, Rustin, Sandersville Civic Center, Tuckers,  
134 Antioch and Landrum; that portion of Leake County not included in  
135 the Second Court of Appeals District; that portion of Madison  
136 County not included in the Second Court of Appeals District; and  
137 in Wayne County the precincts of Big Rock, Yellow Creek, Hiwannee,  
138 Diamond, Chaparral, Matherville, Coit and Eucutta.

139 **FOURTH DISTRICT.** The Fourth Court of Appeals District shall  
140 be composed of the following counties and portions of counties:  
141 Adams, Amite, Copiah, Covington, Franklin, Jefferson Davis,  
142 Lawrence, Lincoln, Marion, Pike, Simpson, Walthall and Wilkinson;  
143 that portion of Hinds County not included in the Second Court of  
144 Appeals District; and that portion of Jones county not included in  
145 the Third Court of Appeals District.

146 **FIFTH DISTRICT.** The Fifth Court of Appeals District shall be  
147 composed of the following counties and portions of counties:  
148 Forrest, George, Greene, Hancock, Harrison, Jackson, Lamar, Pearl  
149 River, Perry and Stone; and that portion of Wayne County not  
150 included in the Third Court of Appeals District.

151 (b) The boundaries of the Court of Appeals Districts  
152 described in paragraph (a) of this subsection shall be the  
153 boundaries of the counties and precincts listed in paragraph (a)  
154 of this subsection as such boundaries existed on October 1, 1990.

155 **SECTION 3.** Section 23-15-191, Mississippi Code of 1972, is  
156 amended as follows:

157 23-15-191. Except for state elective officers, the first  
158 primary shall be held on the first Tuesday after the first Monday  
159 of August preceding any regular or general election; and the  
160 second primary shall be held three (3) weeks thereafter. However,  
161 the first primary for state elective offices shall be held on the  
162 first Saturday after the first Monday of August preceding any



163 regular or general election; and the second primary shall be held  
164 three (3) weeks thereafter. Any candidate who receives the  
165 highest popular vote cast for the office which he seeks in the  
166 first primary shall thereby become the nominee of the party for  
167 such office; provided also it be a majority of all the votes cast  
168 for that office. If no candidate receive such majority of popular  
169 votes in the first primary, then the two (2) candidates who  
170 receive the highest popular vote for such office shall have their  
171 names submitted as such candidates to a second primary, and the  
172 candidate who leads in such second primary shall be nominated to  
173 the office. When there is a tie in the first primary of those  
174 receiving next highest vote, these two (2) and the one (1)  
175 receiving the highest vote, none having received a majority, shall  
176 go into the second primary, and whoever leads in such second  
177 primary shall be entitled to the nomination.

178 **SECTION 4.** Section 23-15-193, Mississippi Code of 1972, is  
179 brought forward as follows:

180 23-15-193. At the election in 1995, and every four (4) years  
181 thereafter, there shall be elected a Governor, Lieutenant  
182 Governor, Secretary of State, Auditor of Public Accounts, State  
183 Treasurer, Attorney General, three (3) public service  
184 commissioners, three (3) Mississippi Transportation Commissioners,  
185 Commissioner of Insurance, Commissioner of Agriculture and  
186 Commerce, Senators and members of the House of Representatives in  
187 the Legislature, district attorneys for the several districts,  
188 clerks of the circuit and chancery courts of the several counties,  
189 as well as sheriffs, coroners, assessors, surveyors and members of  
190 the boards of supervisors, justice court judges and constables,  
191 and all other officers to be elected by the people at the general  
192 state election. All such officers shall hold their offices for a  
193 term of four (4) years, and until their successors are elected and  
194 qualified. The state officers shall be elected in the manner  
195 prescribed in Section 140 of the Constitution.



196           **SECTION 5.** Section 23-15-631, Mississippi Code of 1972, is  
197 brought forward as follows:

198           23-15-631. (1) The registrar shall enclose with each ballot  
199 provided to an absent elector separate printed instructions  
200 furnished by him containing the following:

201           (a) All absentee voters, excepting those with temporary  
202 or permanent physical disabilities or those who are sixty-five  
203 (65) years of age or older, who mark their ballots in the county  
204 of the residence shall use the registrar of that county as the  
205 witness. The absentee voter shall come to the office of the  
206 registrar and neither the registrar nor his deputy shall be  
207 required to go out of the registrar's office to serve as an  
208 attesting witness.

209           (b) Upon receipt of the enclosed ballot, you will not  
210 mark the ballot except in view or sight of the attesting witness.  
211 In the sight or view of the attesting witness, mark the ballot  
212 according to instructions.

213           (c) After marking the ballot, fill out and sign the  
214 "ELECTOR'S CERTIFICATE" on back of the envelope so that the  
215 signature shall be across the flap of the envelope so as to insure  
216 the integrity of the ballot. All absent electors shall have the  
217 attesting witness sign the "ATTESTING WITNESS CERTIFICATE" across  
218 the flap on back of the envelope. Place necessary postage on the  
219 envelope and deposit it in the post office or some government  
220 receptacle provided for deposit of mail so that the absent  
221 elector's ballot, excepting presidential absentee ballots, will  
222 reach the registrar in which your precinct is located not later  
223 than 5:00 p.m. on the day preceding the date of the election.

224           Any notary public, United States postmaster, assistant United  
225 States postmaster, United States postal supervisor, clerk in  
226 charge of a contract postal station, or any officer having  
227 authority to administer an oath or take an acknowledgment may be  
228 an attesting witness; provided, however, that in the case of an



229 absent elector who is temporarily or permanently physically  
230 disabled, the attesting witness may be any person eighteen (18)  
231 years of age or older and such person is not required to have the  
232 authority to administer an oath. If a postmaster, assistant  
233 postmaster, postal supervisor, or clerk in charge of a contract  
234 postal station acts as an attesting witness, his signature on the  
235 elector's certificate must be authenticated by the cancellation  
236 stamp of their respective post offices. If one or the other  
237 officers herein named acts as attesting witness, his signature on  
238 the elector's certificate, together with his title and address,  
239 but no seal, shall be required. Any affidavits made by an absent  
240 elector who is in the Armed Forces may be executed before a  
241 commissioned officer, warrant officer, or noncommissioned officer  
242 not lower in grade than sergeant rating or any person authorized  
243 to administer oaths.

244 (d) When the application accompanies the ballot it  
245 shall not be returned in the same envelope as the ballot but shall  
246 be returned in a separate preaddressed envelope provided by the  
247 registrar.

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

251 (f) Any voter casting an absentee ballot who declares  
252 that he requires assistance to vote by reason of blindness,  
253 temporary or permanent physical disability or inability to read or  
254 write, shall be entitled to receive assistance in the marking of  
255 his absentee ballot and in completing the affidavit on the  
256 absentee ballot envelope. The voter may be given assistance by  
257 anyone of the voter's choice other than a candidate whose name  
258 appears on the absentee ballot being marked, or the voter's  
259 employer, or agent of that employer. In order to ensure the  
260 integrity of the ballot, any person who provides assistance to an  
261 absentee voter shall be required to sign and complete the





262 "Certificate of Person Providing Voter Assistance" on the absentee  
263 ballot envelope.

264 (2) The foregoing instructions required to be provided by  
265 the registrar to the elector shall also constitute the substantive  
266 law pertaining to the handling of absentee ballots by the elector  
267 and registrar.

268 **SECTION 6.** Section 23-15-637, Mississippi Code of 1972, is  
269 brought forward as follows:

270 23-15-637. Absentee ballots received by mail, excluding  
271 presidential ballots as provided for in Sections 23-15-731 and  
272 23-15-733, must be received by the registrar by 5:00 p.m. on the  
273 date preceding the election; any received after such time shall be  
274 handled as provided in Section 23-15-647 and shall not be counted.  
275 All ballots cast by the absent elector appearing in person in the  
276 office of the registrar shall be cast not later than 12:00 noon on  
277 the Saturday immediately preceding elections held on Tuesday, the  
278 Thursday immediately preceding elections held on Saturday, or the  
279 second day immediately preceding the date of elections held on  
280 other days. The registrar shall deposit all absentee ballots  
281 which have been timely cast in the ballot boxes upon receipt.

282 **SECTION 7.** Section 23-15-715, Mississippi Code of 1972, is  
283 brought forward as follows:

284 23-15-715. Any elector desiring an absentee ballot as  
285 provided in this subarticle may secure same if:

286 (a) Not more than forty-five (45) days nor later than  
287 12:00 noon on the Saturday immediately preceding elections held on  
288 Tuesday, the Thursday immediately preceding elections held on  
289 Saturday, or the second day immediately preceding the date of  
290 elections held on other days, he shall appear in person before the  
291 registrar of the county in which he resides, or for municipal  
292 elections he shall appear in person before the city clerk of the  
293 municipality in which he resides and, when the elector so appears,  
294 he shall execute and file an application as provided in Section



295 23-15-627 and vote by absentee ballot, except that if the ballot  
296 has not been printed by forty-five (45) days preceding the  
297 election, the elector may appear and file an application anytime  
298 before the election. Then the absentee ballot shall be mailed by  
299 the circuit clerk to the elector as soon as the ballot has been  
300 printed.

301 (b) Within forty-five (45) days next prior to any  
302 election, any elector who cannot comply with paragraph (a) of this  
303 section by reason of temporarily residing outside the county, or  
304 any person who has a temporary or permanent physical disability,  
305 persons who are sixty-five (65) years of age or older, or any  
306 person who is the parent, spouse or dependent of a temporarily or  
307 permanently physically disabled person who is hospitalized outside  
308 of his county of residence or more than fifty (50) miles away from  
309 his residence and such parent, spouse or dependent will be with  
310 such person on election day, may make application for an absentee  
311 ballot by mailing the appropriate application to the registrar.  
312 Only persons temporarily residing out of the county of their  
313 residence, persons having a temporary or permanent physical  
314 disability, persons who are sixty-five (65) years of age or older,  
315 or any person who is the parent, spouse or dependent of a  
316 temporarily or permanently physically disabled person who is  
317 hospitalized outside of his county of residence or more than fifty  
318 (50) miles away from his residence, and such parent, spouse or  
319 dependent will be with such person on election day, may obtain  
320 absentee ballots by mail under the provisions of this subsection  
321 and as provided by Section 23-15-713. Applications of persons  
322 temporarily residing outside the county shall be sworn to and  
323 subscribed before an official who is authorized to administer  
324 oaths or other official authorized to witness absentee balloting  
325 as provided in this chapter, said application to be accompanied by  
326 such verifying affidavits as required by this chapter. The  
327 applications of persons having a temporary or permanent physical



328 disability shall not be required to be accompanied by an affidavit  
329 but shall be witnessed and signed by a person eighteen (18) years  
330 of age or older. The registrar shall send to such absent voter a  
331 proper absentee voter ballot within twenty-four (24) hours, or as  
332 soon thereafter as the ballots are available, containing the names  
333 of all candidates who qualify or the proposition to be voted on in  
334 such election, and with such ballot there shall be sent an  
335 official envelope containing upon it in printed form the recitals  
336 and data hereinafter required.

337 **SECTION 8.** Section 65-1-3, Mississippi Code of 1972, is  
338 amended as follows:

339 65-1-3. There shall be a State Highway Commission which  
340 shall consist of three (3) members, one (1) from each of the three  
341 (3) Supreme Court districts of the state. Only qualified electors  
342 who are citizens of the Supreme Court district in which he or she  
343 offers for election shall be eligible for such office.

344 On Saturday after the first Monday in November, and every  
345 four (4) years thereafter, state highway commissioners shall be  
346 elected at the same time and in the same manner as the Governor is  
347 chosen; and the laws governing primary elections and the holding  
348 of general elections in this state shall apply to and govern the  
349 nomination and election of state highway commissioners. The state  
350 highway commissioners so elected shall enter upon the discharge of  
351 the duties of their respective offices on the first Monday of  
352 January in the year next succeeding the date of their election,  
353 and they shall serve for a term of four (4) years and until their  
354 successors shall have been duly elected and qualified.

355 If any one or more of the state highway commissioners elected  
356 under the provisions of this chapter shall die, resign or be  
357 removed from office, the Governor shall fill the vacancy by  
358 appointment for the unexpired term, provided such unexpired term  
359 shall not exceed twelve (12) months. If such unexpired term shall  
360 exceed twelve (12) months, the Governor shall, within fifteen (15)



361 days from the date of such vacancy, by proclamation duly made,  
362 call an election in the Supreme Court district in which such  
363 vacancy exists, to be held within sixty (60) days from the date of  
364 the issuance of such proclamation, at which election a state  
365 highway commissioner shall be elected to fill such vacancy for the  
366 remaining portion of such unexpired term. Such special election  
367 shall be held in the manner provided for holding general elections  
368 in this state, as far as practicable.

369 Each of said state highway commissioners, before entering  
370 upon the discharge of the duties of his office, shall take and  
371 subscribe the oath of office required of other state officials and  
372 shall execute bond in the sum of Fifty Thousand Dollars  
373 (\$50,000.00), with some surety company authorized to do business  
374 in this state as surety, conditioned for the faithful performance  
375 of the duties of his office and for the faithful and true  
376 accounting of all funds or monies or property coming into his  
377 hands by virtue of his office, and conditioned further that all  
378 such funds, monies and property will be expended and used by him  
379 only for purposes authorized by law, said bond to be approved by  
380 the Governor or Attorney General and to be filed in the Office of  
381 the Secretary of State. The premium on such bonds shall be paid  
382 out of the funds of the Mississippi Department of Transportation.

383 From and after July 1, 1992, the State Highway Commission  
384 shall be the Mississippi Transportation Commission and the members  
385 thereof shall be the Mississippi transportation commissioners.

386 **SECTION 9.** The Attorney General of the State of Mississippi  
387 shall submit this act, immediately upon approval by the Governor,  
388 or upon approval by the Legislature subsequent to a veto, to the  
389 Attorney General of the United States or to the United States  
390 District Court for the District of Columbia in accordance with the  
391 provisions of the Voting Rights Act of 1965, as amended and  
392 extended.



393           **SECTION 10.** This act shall take effect and be in force from  
394 and after the date it and House Concurrent Resolution No. \_\_\_\_\_,  
395 2007 Regular Session, are effectuated under Section 5 of the  
396 Voting Rights Act of 1965, as amended and extended.

