

By: Representative Montgomery

To: Apportionment and
Elections

HOUSE BILL NO. 1065

1 AN ACT TO AMEND SECTIONS 23-15-637 AND 23-15-639, MISSISSIPPI
2 CODE OF 1972, TO REVISE WHEN ABSENTEE BALLOTS ARE COUNTED; AND FOR
3 RELATED PURPOSES.

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

5 **SECTION 1.** Section 23-15-637, Mississippi Code of 1972, is
6 amended as follows:

7 23-15-637. Absentee ballots received by mail, excluding
8 presidential ballots as provided for in Sections 23-15-731 and
9 23-15-733, must be received by the registrar by 12:00 noon on the
10 date preceding the election; any received after such time shall be
11 handled as provided in Section 23-15-647 and shall not be counted.
12 All ballots cast by the absent elector appearing in person in the
13 office of the registrar shall be cast not later than 12:00 noon on
14 the Saturday immediately preceding elections held on Tuesday, the
15 Thursday immediately preceding elections held on Saturday, or the
16 second day immediately preceding the date of elections held on
17 other days. The registrar shall count all absentee ballots by
18 midnight on the date preceding the election in the manner provided
19 in Section 23-15-639, record the count publicly and deposit all
20 absentee ballots which have been timely cast and counted in the
21 ballot boxes after the final count.

22 **SECTION 2.** Section 23-15-639, Mississippi Code of 1972, is
23 amended as follows:

24 23-15-639. (1) In elections in which direct recording
25 electronic voting systems are not utilized, the examination and
26 counting of absentee ballots shall be conducted as follows:

27 (a) At the close of the absentee receipt deadline
28 provided in Section 23-15-637, the election managers of each
29 voting precinct shall first take the envelopes containing the
30 absentee ballots of such electors from the box, and the name,
31 address and precinct inscribed on each envelope shall be announced
32 by the election managers.

33 (b) The signature on the application shall then be
34 compared with the signature on the back of the envelope. If it
35 corresponds and the affidavit, if one is required, is sufficient
36 and the election managers find that the applicant is a registered
37 and qualified voter or otherwise qualified to vote, and that he
38 has not appeared in person and voted at the election, the envelope
39 shall then be opened and the ballot removed from the envelope,
40 without its being unfolded, or permitted to be unfolded or
41 examined.

42 (c) Having observed and found the ballot to be regular
43 as far as can be observed from its official endorsement, the
44 election managers shall deposit it in the ballot box with the
45 other ballots before counting any other ballots and enter the
46 voter's name in the receipt book provided for that purpose and
47 mark "VOTED" in the pollbook or poll list as if he had been
48 present and voted in person. If voting machines are used, all
49 absentee ballots shall be placed in the ballot box before any
50 other ballots are counted, and the election managers in each
51 precinct shall immediately count such absentee ballots and add
52 them to the votes cast in the voting machine or device.

53 (2) In elections in which direct recording electronic voting
54 systems are utilized, the examination and counting of absentee
55 ballots shall be conducted as follows:

56 (a) At the close of the absentee receipt deadline
57 provided in Section 23-15-637, the election managers of each
58 voting precinct shall first take the envelopes containing the
59 absentee ballots of such electors from the box, and the name,

60 address and precinct inscribed on each envelope shall be announced
61 by the election managers.

62 (b) The signature on the application shall then be
63 compared with the signature on the back of the envelope. If it
64 corresponds and the affidavit, if one is required, is sufficient
65 and the election managers find that the applicant is a registered
66 and qualified voter or otherwise qualified to vote, and that he
67 has not appeared in person and voted at the election, the unopened
68 envelope shall be marked "ACCEPTED" and the election managers
69 shall enter the voter's name in the receipt book provided for that
70 purpose and mark "VOTED" in the pollbook or poll list as if he had
71 been present and voted in person.

72 (c) All absentee ballot envelopes shall then be placed
73 in the secure ballot transfer case and delivered to the officials
74 in charge of conducting the election at the central tabulation
75 point of the county. The official in charge of the election shall
76 open the envelopes marked "ACCEPTED" and remove the ballot from
77 the envelope.

78 (d) Having observed the ballot to be regular as far as
79 can be observed from its official endorsement, the absentee ballot
80 shall be processed through the central optical scanner. The
81 scanned totals shall * * * be combined on the day of election with
82 the direct recording electronic voting system totals for the
83 unofficial vote count.

84 When there is a conflict between an electronic voting system
85 and a paper record, then there is a rebuttable presumption that
86 the paper record is correct.

87 **SECTION 3.** The Attorney General of the State of Mississippi
88 shall submit this act, immediately upon approval by the Governor,
89 or upon approval by the Legislature subsequent to a veto, to the
90 Attorney General of the United States or to the United States
91 District Court for the District of Columbia in accordance with the

92 provisions of the Voting Rights Act of 1965, as amended and
93 extended.

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