

By: Representatives Montgomery, Fleming,  
Reynolds

To: Apportionment and  
Elections

HOUSE BILL NO. 1065  
(As Passed the House)

1 AN ACT TO AMEND SECTIONS 23-15-637 AND 23-15-639, MISSISSIPPI  
2 CODE OF 1972, TO REVISE WHERE ABSENTEE BALLOTS ARE COUNTED; AND  
3 FOR 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. (1) 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 5:00 p.m. 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 keep all absentee ballots which  
18 have been timely cast in the registrar's office until the close of  
19 regular balloting and at the close of the polls. The registrar  
20 shall send a list of the names of all persons who voted by  
21 absentee ballot to the polls. Any county wanting to opt out may  
22 do so.

23 (2) Within thirty (30) days of the effective date of this  
24 act, any registrar who desires to deposit all absentee ballots  
25 which have been timely cast in the ballot boxes upon receipt in  
26 lieu of keeping such ballots in the registrar's office as

27 otherwise provided by this section, shall notify the Secretary of  
28 State of their choice.

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

31 23-15-639. (1) In elections in which direct recording  
32 electronic voting systems are not utilized, the examination and  
33 counting of absentee ballots shall be conducted in the registrar's  
34 office by a resolution committee consisting of no less than three  
35 (3) people appointed by the election commissioners during a  
36 general election and appointed by the executive committee  
37 consisting of no less than three (3) people during a primary  
38 election, as follows:

39 (a) At the close of the regular balloting and at the  
40 close of the polls, the resolution committee shall first take the  
41 envelopes containing the absentee ballots of such electors from  
42 the box \* \* \*.

43 (b) The signature on the application shall then be  
44 compared with the signature on the back of the envelope. If it  
45 corresponds and the affidavit, if one is required, is sufficient  
46 and the resolution committee find that the applicant is a  
47 registered and qualified voter or otherwise qualified to vote, and  
48 that he has not appeared in person and voted at the election, the  
49 envelope shall then be opened and the ballot removed from the  
50 envelope, without its being unfolded, or permitted to be unfolded  
51 or examined.

52 (c) Having observed and found the ballot to be regular  
53 as far as can be observed from its official endorsement, the  
54 resolution committee shall \* \* \* enter the voter's name in the  
55 receipt book provided for that purpose and mark "VOTED" in the  
56 pollbook or poll list as if he had been present and voted in  
57 person. If voting machines are used, all absentee ballots shall  
58 be placed in the ballot box before any ballots are counted, and  
59 the resolution committee shall immediately count such absentee

60 ballots and add them to the votes cast in the voting machine or  
61 device.

62 (2) In elections in which direct recording electronic voting  
63 systems are utilized, the examination and counting of absentee  
64 ballots shall be conducted in the registrar's office by a  
65 resolution committee consisting of no less than three (3) people  
66 appointed by the election commissioners during a general election  
67 and appointed by the executive committee consisting of no less  
68 than three (3) people during a primary election, as follows:

69 (a) At the close of the regular balloting and at the  
70 close of the polls, the resolution committee of each voting  
71 precinct shall first take the envelopes containing the absentee  
72 ballots of such electors from the box \* \* \*.

73 (b) The signature on the application shall then be  
74 compared with the signature on the back of the envelope. If it  
75 corresponds and the affidavit, if one is required, is sufficient  
76 and the resolution committee find that the applicant is a  
77 registered and qualified voter or otherwise qualified to vote, and  
78 that he has not appeared in person and voted at the election, the  
79 unopened envelope shall be marked "ACCEPTED" and the resolution  
80 committee shall enter the voter's name in the receipt book  
81 provided for that purpose and mark "VOTED" in the pollbook or poll  
82 list as if he had been present and voted in person.

83 (c) All absentee ballot envelopes shall then be placed  
84 in the secure ballot transfer case and delivered to the officials  
85 in charge of conducting the election at the central tabulation  
86 point of the county. The official in charge of the election shall  
87 open the envelopes marked "ACCEPTED" and remove the ballot from  
88 the envelope.

89 (d) Having observed the ballot to be regular as far as  
90 can be observed from its official endorsement, the absentee ballot  
91 shall be processed through the central optical scanner. The

92 scanned totals shall then be combined with the direct recording  
93 electronic voting system totals for the unofficial vote count.

94 When there is a conflict between an electronic voting system  
95 and a paper record, then there is a rebuttal presumption that the  
96 paper record is correct.

97 (3) In any county in which the registrar has notified the  
98 Secretary of State as provided in Section 23-15-637(2), the  
99 examination and counting of absentee ballots shall be conducted by  
100 the election managers of each voting precinct in the same manner  
101 provided in subsections (1) and (2).

102 **SECTION 3.** The Attorney General of the State of Mississippi  
103 shall submit this act, immediately upon approval by the Governor,  
104 or upon approval by the Legislature subsequent to a veto, to the  
105 Attorney General of the United States or to the United States  
106 District Court for the District of Columbia in accordance with the  
107 provisions of the Voting Rights Act of 1965, as amended and  
108 extended.

109 **SECTION 4.** This act shall take effect and be in force from  
110 and after the date it is effectuate under Section 5 of the Voting  
111 Rights Act of 1965, as amended and extended.