

## REPORT OF CONFERENCE COMMITTEE

**MADAM PRESIDENT AND MR. SPEAKER:**

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 2233: Election to fill legislative vacancy; increase the number of days before an election that a person must qualify.

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.
2. That the Senate and House adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

14           **SECTION 1.** Section 23-15-851, Mississippi Code of 1972, is  
15 amended as follows:

16           23-15-851. (1) Except as otherwise provided in subsection  
17 (2) of this section, within thirty (30) days after vacancies occur  
18 in either House of the Legislature, the Governor shall issue writs  
19 of election to fill the vacancies on a day \* \* \* specified in the  
20 writ of election. At least forty (40) days' notice shall be given  
21 of the election in each county or part of a county in which the  
22 election shall be held. The qualifying deadline for the election  
23 shall be thirty (30) days prior to the election. Notice of the  
24 election shall be posted at the courthouse and in each supervisors  
25 district in the county or part of county in which such election  
26 shall be held for as near forty (40) days as may be practicable.  
27 The election shall be prepared for and held as in the case of a  
28 general election.

29           (2) If a vacancy occurs on or after June 1 of a year in  
30 which the general election for state officers is held, the  
31 Governor may elect not to issue a writ of election to fill the  
32 vacancy.

33           **SECTION 2.** Section 23-15-359, Mississippi Code of 1972, as  
34 amended by Senate Bill No. 2056, 2007 Regular Session, is amended  
35 as follows:

36           **[Through June 30, 2008, this section shall read as follows:]**

37           23-15-359. (1) The ballot shall contain the names of all  
38 party nominees certified by the appropriate executive committee,  
39 and independent and special election candidates who have timely  
40 filed petitions containing the required signatures. A petition  
41 requesting that an independent or special election candidate's  
42 name be placed on the ballot for any office shall be filed as  
43 provided for in subsection (3) or (4) of this section, as  
44 appropriate, and shall be signed by not less than the following  
45 number of qualified electors:

46           (a) For an office elected by the state at large, not  
47 less than one thousand (1,000) qualified electors.

48           (b) For an office elected by the qualified electors of  
49 a Supreme Court district, not less than three hundred (300)  
50 qualified electors.

51           (c) For an office elected by the qualified electors of  
52 a congressional district, not less than two hundred (200)  
53 qualified electors.

54           (d) For an office elected by the qualified electors of  
55 a circuit or chancery court district, not less than one hundred  
56 (100) qualified electors.

57           (e) For an office elected by the qualified electors of  
58 a senatorial or representative district, not less than fifty (50)  
59 qualified electors.

60           (f) For an office elected by the qualified electors of  
61 a county, not less than fifty (50) qualified electors.

62           (g) For an office elected by the qualified electors of  
63 a supervisors district or justice court district, not less than  
64 fifteen (15) qualified electors.

65 (2) Unless the petition required above shall be filed as  
66 provided for in subsection (3) or (4) of this section, as  
67 appropriate, the name of the person requested to be a candidate,  
68 unless nominated by a political party, shall not be placed upon  
69 the ballot. The ballot shall contain the names of each candidate  
70 for each office, and such names shall be listed under the name of  
71 the political party such candidate represents as provided by law  
72 and as certified to the circuit clerk by the State Executive  
73 Committee of such political party. In the event such candidate  
74 qualifies as an independent as \* \* \* provided in this section, he  
75 shall be listed on the ballot as an independent candidate.

76 (3) Petitions for offices described in paragraphs (a), (b),  
77 (c) and (d) of subsection (1) of this section, and petitions for  
78 offices described in paragraph (e) of subsection (1) of this  
79 section for districts composed of more than one (1) county or  
80 parts of more than one (1) county, shall be filed with the State  
81 Board of Election Commissioners by no later than 5:00 p.m. on the  
82 same date by which candidates for nominations in the political  
83 party primary elections are required to pay the fee provided for  
84 in Section 23-15-297, Mississippi Code of 1972; however, no  
85 petition may be filed before January 1 of the year in which the  
86 election for the office is held.

87 (4) Petitions for offices described in paragraphs (f) and  
88 (g) of subsection (1) of this section, and petitions for offices  
89 described in paragraph (e) of subsection (1) of this section for  
90 districts composed of one (1) county or less, shall be filed with  
91 the proper circuit clerk by no later than 5:00 p.m. on the same  
92 date by which candidates for nominations in the political party  
93 elections are required to pay the fee provided for in Section  
94 23-15-297; however, no petition may be filed before January 1 of  
95 the year in which the election for the office is held. The  
96 circuit clerk shall notify the county commissioners of election of

97 all persons who have filed petitions with such clerk. Such  
98 notification shall occur within two (2) business days and shall  
99 contain all necessary information.

100 (5) The commissioners may also have printed upon the ballot  
101 any local issue election matter that is authorized to be held on  
102 the same date as the regular or general election pursuant to  
103 Section 23-15-375; however, the ballot form of such local issue  
104 must be filed with the commissioners of election by the  
105 appropriate governing authority not less than sixty (60) days  
106 previous to the date of the election.

107 (6) The provisions of this section shall not apply to  
108 municipal elections or to the election of the offices of justice  
109 of the Supreme Court, judge of the Court of Appeals, circuit  
110 judge, chancellor, county court judge and family court judge.

111 (7) Nothing in this section shall prohibit special elections  
112 to fill vacancies in either house of the Legislature from being  
113 held as provided in Section 23-15-851. In all elections conducted  
114 under the provisions of Section 23-15-851, there shall be printed  
115 on the ballot the name of any candidate who, not having been  
116 nominated by a political party, shall have been requested to be a  
117 candidate for any office by a petition filed with the State Board  
118 of Election Commissioners for districts composed of more than one  
119 (1) county or parts of more than one (1) county, or the proper  
120 circuit clerk for districts composed of one (1) county or less, by  
121 5:00 p.m. on or before the date set in the writ of election as the  
122 qualifying deadline, and signed by not less than fifty (50)  
123 qualified electors.

124 (8) The appropriate election commission shall determine  
125 whether each candidate is a qualified elector of the state, state  
126 district, county or county district they seek to serve, and  
127 whether each candidate meets all other qualifications to hold the  
128 office he is seeking or presents absolute proof that he will,

129 subject to no contingencies, meet all qualifications on or before  
130 the date of the general or special election at which he could be  
131 elected to office. The election commission also shall determine  
132 whether any candidate has been convicted of any felony in a court  
133 of this state, or has been convicted on or after December 8, 1992,  
134 of any offense in another state which is a felony under the laws  
135 of this state, or has been convicted of any felony in a federal  
136 court on or after December 8, 1992. Excepted from the above are  
137 convictions of manslaughter and violations of the United States  
138 Internal Revenue Code or any violations of the tax laws of this  
139 state, unless the offense also involved misuse or abuse of his  
140 office or money coming into his hands by virtue of his office. If  
141 the appropriate election commission finds that a candidate either  
142 (a) is not a qualified elector, (b) does not meet all  
143 qualifications to hold the office he seeks and fails to provide  
144 absolute proof, subject to no contingencies, that he will meet the  
145 qualifications on or before the date of the general or special  
146 election at which he could be elected, or (c) has been convicted  
147 of a felony as described in this subsection, and not pardoned,  
148 then the name of such candidate shall not be placed upon the  
149 ballot.

150 (9) If after the deadline to qualify as a candidate for an  
151 office or after the time for holding any party primary for an  
152 office, there shall be only one (1) person who has duly qualified  
153 to be a candidate for the office in the general election, the name  
154 of such person shall be placed on the ballot; provided, however,  
155 that if there shall be not more than one (1) person duly qualified  
156 to be a candidate for each office on the general election ballot,  
157 the election for all offices on the ballot shall be dispensed with  
158 and the appropriate election commission shall declare each  
159 candidate elected without opposition if the candidate meets all  
160 the qualifications to hold the office as determined pursuant to a

161 review by the commission in accordance with the provisions of  
162 subsection (8) of this section and if the candidate has filed all  
163 required campaign finance disclosure reports as required by  
164 Section 23-15-807.

165 (10) The petition required by this section may not be filed  
166 by using the Internet.

167 **[From and after July 1, 2008, this section shall read as**  
168 **follows:]**

169 23-15-359. (1) The ballot shall contain the names of all  
170 party nominees certified by the appropriate executive committee,  
171 and independent and special election candidates who have timely  
172 filed petitions containing the required signatures. A petition  
173 requesting that an independent or special election candidate's  
174 name be placed on the ballot for any office shall be filed as  
175 provided for in subsection (3) or (4) of this section, as  
176 appropriate, and shall be signed by not less than the following  
177 number of qualified electors:

178 (a) For an office elected by the state at large, not  
179 less than one thousand (1,000) qualified electors.

180 (b) For an office elected by the qualified electors of  
181 a Supreme Court district, not less than three hundred (300)  
182 qualified electors.

183 (c) For an office elected by the qualified electors of  
184 a congressional district, not less than two hundred (200)  
185 qualified electors.

186 (d) For an office elected by the qualified electors of  
187 a circuit or chancery court district, not less than one hundred  
188 (100) qualified electors.

189 (e) For an office elected by the qualified electors of  
190 a senatorial or representative district, not less than fifty (50)  
191 qualified electors.

192           (f) For an office elected by the qualified electors of  
193 a county, not less than fifty (50) qualified electors.

194           (g) For an office elected by the qualified electors of  
195 a supervisors district or justice court district, not less than  
196 fifteen (15) qualified electors.

197           (2) Unless the petition required above shall be filed as  
198 provided for in subsection (3) or (4) of this section, as  
199 appropriate, the name of the person requested to be a candidate,  
200 unless nominated by a political party, shall not be placed upon  
201 the ballot. The ballot shall contain the names of each candidate  
202 for each office, and such names shall be listed under the name of  
203 the political party such candidate represents as provided by law  
204 and as certified to the circuit clerk by the State Executive  
205 Committee of such political party. In the event such candidate  
206 qualifies as an independent as \* \* \* provided in this section, he  
207 shall be listed on the ballot as an independent candidate.

208           (3) Petitions for offices described in paragraphs (a), (b),  
209 (c) and (d) of subsection (1) of this section, and petitions for  
210 offices described in paragraph (e) of subsection (1) of this  
211 section for districts composed of more than one (1) county or  
212 parts of more than one (1) county, shall be filed with the State  
213 Board of Election Commissioners by no later than 5:00 p.m. on the  
214 same date by which candidates for nominations in the political  
215 party primary elections are required to pay the fee provided for  
216 in Section 23-15-297, Mississippi Code of 1972; however, no  
217 petition may be filed before January 1 of the year in which the  
218 election for the office is held.

219           (4) Petitions for offices described in paragraphs (f) and  
220 (g) of subsection (1) of this section, and petitions for offices  
221 described in paragraph (e) of subsection (1) of this section for  
222 districts composed of one (1) county or less, shall be filed with  
223 the proper circuit clerk by no later than 5:00 p.m. on the same

224 date by which candidates for nominations in the political party  
225 elections are required to pay the fee provided for in Section  
226 23-15-297; however, no petition may be filed before January 1 of  
227 the year in which the election for the office is held. The  
228 circuit clerk shall notify the county commissioners of election of  
229 all persons who have filed petitions with such clerk. Such  
230 notification shall occur within two (2) business days and shall  
231 contain all necessary information.

232 (5) The commissioners may also have printed upon the ballot  
233 any local issue election matter that is authorized to be held on  
234 the same date as the regular or general election pursuant to  
235 Section 23-15-375; however, the ballot form of such local issue  
236 must be filed with the commissioners of election by the  
237 appropriate governing authority not less than sixty (60) days  
238 previous to the date of the election.

239 (6) The provisions of this section shall not apply to  
240 municipal elections or to the election of the offices of justice  
241 of the Supreme Court, judge of the Court of Appeals, circuit  
242 judge, chancellor, county court judge and family court judge.

243 (7) Nothing in this section shall prohibit special elections  
244 to fill vacancies in either house of the Legislature from being  
245 held as provided in Section 23-15-851. In all elections conducted  
246 under the provisions of Section 23-15-851, there shall be printed  
247 on the ballot the name of any candidate who, not having been  
248 nominated by a political party, shall have been requested to be a  
249 candidate for any office by a petition filed with the State Board  
250 of Election Commissioners for districts composed of more than one  
251 (1) county or parts of more than one (1) county, or the proper  
252 circuit clerk for districts composed of one (1) county or less, by  
253 5:00 p.m. on or before the date set in the writ of election as the  
254 qualifying deadline, and signed by not less than fifty (50)  
255 qualified electors.



256 (8) The appropriate election commission shall determine  
257 whether each candidate is a qualified elector of the state, state  
258 district, county or county district they seek to serve, and  
259 whether each candidate meets all other qualifications to hold the  
260 office he is seeking or presents absolute proof that he will,  
261 subject to no contingencies, meet all qualifications on or before  
262 the date of the general or special election at which he could be  
263 elected to office. The election commission shall determine  
264 whether the candidate has taken the steps necessary to qualify for  
265 more than one (1) office at the election. The election commission  
266 also shall determine whether any candidate has been convicted of  
267 any felony in a court of this state, or has been convicted on or  
268 after December 8, 1992, of any offense in another state which is a  
269 felony under the laws of this state, or has been convicted of any  
270 felony in a federal court on or after December 8, 1992. Excepted  
271 from the above are convictions of manslaughter and violations of  
272 the United States Internal Revenue Code or any violations of the  
273 tax laws of this state, unless the offense also involved misuse or  
274 abuse of his office or money coming into his hands by virtue of  
275 his office. If the appropriate election commission finds that a  
276 candidate either (a) is not a qualified elector, (b) does not meet  
277 all qualifications to hold the office he seeks and fails to  
278 provide absolute proof, subject to no contingencies, that he will  
279 meet the qualifications on or before the date of the general or  
280 special election at which he could be elected, or (c) has been  
281 convicted of a felony as described in this subsection, and not  
282 pardoned, then the name of such candidate shall not be placed upon  
283 the ballot. If the appropriate election commission determines  
284 that the candidate has taken the steps necessary to qualify for  
285 more than one (1) office at the election, the action required by  
286 Section 1 of Senate Bill No. 2056, 2007 Regular Session, shall be  
287 taken.

288 (9) If after the deadline to qualify as a candidate for an  
289 office or after the time for holding any party primary for an  
290 office, there shall be only one (1) person who has duly qualified  
291 to be a candidate for the office in the general election, the name  
292 of such person shall be placed on the ballot; provided, however,  
293 that if there shall be not more than one (1) person duly qualified  
294 to be a candidate for each office on the general election ballot,  
295 the election for all offices on the ballot shall be dispensed with  
296 and the appropriate election commission shall declare each  
297 candidate elected without opposition if the candidate meets all  
298 the qualifications to hold the office as determined pursuant to a  
299 review by the commission in accordance with the provisions of  
300 subsection (8) of this section and if the candidate has filed all  
301 required campaign finance disclosure reports as required by  
302 Section 23-15-807.

303 (10) The petition required by this section may not be filed  
304 by using the Internet.

305 **SECTION 3.** The Attorney General of the State of Mississippi  
306 shall submit this act, immediately upon approval by the Governor,  
307 or upon approval by the Legislature subsequent to a veto, to the  
308 Attorney General of the United States or to the United States  
309 District Court for the District of Columbia in accordance with the  
310 provisions of the Voting Rights Act of 1965, as amended and  
311 extended.

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

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 23-15-851, MISSISSIPPI CODE OF 1972,  
2 TO ISSUE WRITS OF ELECTION FOR VACANCIES IN LEGISLATIVE OFFICE  
3 WITHIN 30 DAYS AFTER THE VACANCIES OCCUR; TO PROVIDE THAT AT LEAST  
4 30 DAYS' NOTICE OF THE ELECTION SHALL BE GIVEN; TO PROVIDE THAT  
5 THE WRIT OF ELECTION SHALL SPECIFY A DAY AS THE QUALIFYING

6 DEADLINE FOR THE ELECTION THAT IS AT LEAST 10 DAYS AFTER THE WRIT  
7 IS ISSUED AND AT LEAST 20 DAYS PRIOR TO THE ELECTION AND TO  
8 PROVIDE THAT IF A VACANCY OCCURS ON OR AFTER JUNE 1 OF A YEAR IN  
9 WHICH THE GENERAL ELECTION FOR STATE OFFICERS IS HELD, THE  
10 GOVERNOR MAY ELECT NOT TO ISSUE A WRIT OF ELECTION TO FILL THE  
11 VACANCY; TO AMEND SECTION 23-15-359, MISSISSIPPI CODE OF 1972, IN  
12 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

CONFEREES FOR THE SENATE

X (SIGNED)  
Burton

(NOT SIGNED)  
Harden

X (SIGNED)  
Bryan

CONFEREES FOR THE HOUSE

X (SIGNED)  
Reynolds

X (SIGNED)  
Smith (27th)

X (SIGNED)  
Warren