

By: Representatives Denny, Akins, Aldridge, Baker (74th), Baker (8th), Barker, Beckett, Bell, Bennett, Bondurant, Bounds, Byrd, Campbell, Carpenter, Chism, Currie, Ellington, Fillingane, Formby, Frierson, Gipson, Guice, Gunn, Hamilton (109th), Hamilton (6th), Horne, Howell, Huddleston (15th), Ishee, Janus, Jennings, Martinson, Mayhall, McGee, Mims, Monsour, Moore, Morgan, Nicholson, Nowell, Palazzo, Pigott, Read, Reed, Rogers (14th), Rogers (61st), Shows, Smith (39th), Snowden, Staples, Stevens, Turner, Upshaw, Warren, Weathersby, Woods, Zuber

To: Apportionment and Elections

HOUSE BILL NO. 1520

1 AN ACT TO REQUIRE A QUALIFIED ELECTOR WHO APPEARS TO VOTE AT
 2 THE REGISTRAR'S OFFICE OR A POLLING PLACE TO PRESENT
 3 IDENTIFICATION BEFORE VOTING; TO AMEND SECTIONS 23-15-11,
 4 23-15-541 AND 23-15-719, MISSISSIPPI CODE OF 1972, TO CONFORM TO
 5 THE PRECEDING SECTIONS; TO AMEND SECTION 23-15-631, MISSISSIPPI
 6 CODE OF 1972, TO REQUIRE THE SECRETARY OF STATE TO PREPARE
 7 INSTRUCTIONS ON HOW ABSENT VOTERS MAY COMPLY WITH THE
 8 IDENTIFICATION REQUIREMENTS OF THE HELP AMERICA VOTE ACT OF 2002;
 9 TO AMEND SECTION 23-15-639, MISSISSIPPI CODE OF 1972, TO REQUIRE
 10 THE SECRETARY OF STATE TO ENSURE THAT THE VOTING REQUIREMENTS OF
 11 THE HELP AMERICA VOTE ACT OF 2002 ARE MET; AND FOR RELATED
 12 PURPOSES.

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

14 **SECTION 1.** (1) Except as provided in subsection (6), each
 15 person who shall appear to vote in person at a polling place or
 16 the registrar's office shall be required to identify himself or
 17 herself to an election manager or the registrar by presenting
 18 current and valid government issued photo identification, before
 19 such person shall be allowed to vote.

20 (2) The identification required by subsection (1) of this
 21 section shall include, but not be limited to, the following:

22 (a) A current and valid Mississippi driver's license;

23 (b) A current and valid identification card containing
 24 a photograph of the elector issued by a branch, department, agency
 25 or entity of the State of Mississippi;

26 (c) A current and valid United States passport;

27 (d) A current and valid employee identification card
 28 containing a photograph of the elector and issued by any branch,
 29 department, agency or entity of the United States government, the
 30 State of Mississippi, or any county, municipality, board,
 31 authority or other entity of this state;



32 (e) A current and valid student identification card
33 containing a photograph of the elector from any public or private
34 college, university, or postgraduate, technical or professional
35 school located within the State of Mississippi;

36 (f) A current and valid Mississippi license to carry a
37 pistol or revolver; and

38 (g) A current and valid United States military
39 identification card.

40 (3) A person who appears to vote in person at a polling
41 place and does not have identification as required by this section
42 may vote by affidavit ballot. If, upon examination of the
43 affidavit, the person is found to be a registered voter, the
44 person's vote shall be counted.

45 (4) A person who does not have a government issued photo
46 identification and who cannot afford such identification may
47 obtain a state issued photo identification free of charge from the
48 Mississippi Department of Public Safety. The voter must show
49 appropriate identifying documents required by the Mississippi
50 Department of Public Safety as provided by law.

51 (5) Any person who utilizes the provisions of this section
52 to intimidate a voter, or to prevent from voting a person who is
53 otherwise qualified to vote, shall, upon conviction, be sentenced
54 to pay a fine of not less than Five Thousand Dollars (\$5,000.00),
55 or by imprisonment for not less than one (1) year nor more than
56 five (5) years, or both.

57 (6) A person living and voting in a state-licensed care
58 facility shall not be required to show a government issued photo
59 identification before being allowed to vote.

60 A person who has a religious objection to being photographed
61 will be allowed to cast a provision ballot, and the voter, within
62 five (5) days after the election, shall execute an affidavit in
63 the appropriate circuit clerk's office affirming that the
64 exemption applies.



65 **SECTION 2.** Section 23-15-11, Mississippi Code of 1972, is
66 amended as follows:

67 23-15-11. Every inhabitant of this state, except persons
68 adjudicated to be non compos mentis, who is a citizen of the
69 United States of America, eighteen (18) years old and upwards, who
70 has resided in this state for thirty (30) days and for thirty (30)
71 days in the county in which he seeks to vote, and for thirty (30)
72 days in the incorporated municipality in which he seeks to vote,
73 and who has been duly registered as an elector under Section
74 23-15-33, and who has never been convicted of any crime listed in
75 Section 241, Mississippi Constitution of 1890, shall be a
76 qualified elector in and for the county, municipality and voting
77 precinct of his residence, and shall be entitled to vote at any
78 election upon compliance with Section 1 of House Bill No. _____,
79 2009 Regular Session. Any person who will be eighteen (18) years
80 of age or older on or before the date of the general election and
81 who is duly registered to vote not less than thirty (30) days
82 before the primary election associated with the general election,
83 may vote in the primary election even though the person has not
84 reached his or her eighteenth birthday at the time that the person
85 seeks to vote at the primary election. No others than those
86 specified in this section shall be entitled, or shall be allowed,
87 to vote at any election.

88 **SECTION 3.** Section 23-15-541, Mississippi Code of 1972, is
89 amended as follows:

90 23-15-541. (1) At all elections, the polls shall be opened
91 at seven o'clock in the morning and be kept open until seven
92 o'clock in the evening and no longer. Upon the opening of the
93 polls, and not before, the managers of the election shall
94 designate two (2) of their number, other than the manager
95 theretofore designated to receive the blank ballots, who shall
96 thereupon be known respectively as the initialing manager and the
97 alternate initialing manager. The alternate initialing manager,



98 in the absence of the initialing manager, shall perform all of the
99 duties and undertake all of the responsibilities of the initialing
100 manager. When any person entitled to vote shall appear to vote,
101 the managers shall identify the voter by requiring the voter to
102 submit identification as required by Section 1 of House Bill
103 No. , 2009 Regular Session, and then such person shall first
104 sign his name in a receipt book or booklet provided for that
105 purpose and to be used at that election only and said receipt book
106 or booklet shall be used in lieu of the list of voters who have
107 voted formerly made by the managers or clerks; whereupon and not
108 before, the initialing manager or, in his absence, the alternate
109 initialing manager shall endorse his initials on the back of an
110 official blank ballot, prepared in accordance with law, and at
111 such place on the back of the ballot that the initials may be seen
112 after the ballot has been marked and folded, and when so endorsed
113 he shall deliver it to the voter, which ballot the voter shall
114 mark in the manner provided by law, which when done the voter
115 shall deliver the same to the initialing manager or, in his
116 absence, to the alternate initialing manager, in the presence of
117 the others, and the manager shall see that the ballot so delivered
118 bears on the back thereof the genuine initials of the initialing
119 manager, or alternate initialing manager, and if so, but not
120 otherwise, the ballot shall be put into the ballot box; and when
121 so done one (1) of the managers or a duly appointed clerk shall
122 make the proper entry on the pollbook. If the voter is unable to
123 write his name on the receipt book, a manager or clerk shall note
124 on the back of the ballot that it was receipted for by his
125 assistance.

126 (2) (a) A poll manager shall be authorized to allow a
127 physically disabled person to vote curbside during the hours in
128 which the polls are open as described in this section.

129 Where the managers of an election, exercising their sound
130 discretion, determine that a physically disabled person has



131 arrived at the polls in a motor vehicle to vote, two (2) or more
132 managers shall carry the pollbook, the receipt book, and a ballot
133 or voting device to the motor vehicle, and after determining
134 whether the disabled person is a qualified elector as provided by
135 law, shall allow the disabled elector to cast his or her ballot in
136 secret. After the disabled elector casts his or her ballot, the
137 managers shall mark the pollbook "voted" by the elector's name in
138 the pollbook.

139 (b) If the ballot that is provided to the disabled
140 elector is a paper ballot, the initialing manager shall initial
141 the ballot as provided by law, and the disabled elector, after
142 marking his or her ballot shall fold the ballot or place it in the
143 ballot sleeve. The initialing manager or alternate initialing
144 manager shall determine whether the initials on the ballot are
145 genuine, and upon a determination that the initials are genuine,
146 mark "voted" by the elector's name. The initialing manager or
147 alternate initialing manager shall without delay place the ballot
148 in the ballot box.

149 (c) If, while a voter is voting by curbside, there are
150 less than three (3) managers immediately present within the
151 polling place conducting an election or a political party primary,
152 all voting at the polls shall stop until the managers conducting
153 the curbside voting procedure return so that there are at least
154 three (3) poll managers immediately present within the polling
155 place to conduct the election or party primary at all times, and
156 until a minimum of three (3) managers are present, the remaining
157 poll manager or managers shall ensure the security of the ballot
158 box, the voting devices, and any ballots and election materials.

159 **SECTION 4.** Section 23-15-631, Mississippi Code of 1972, is
160 amended as follows:

161 23-15-631. (1) The registrar shall enclose with each ballot
162 provided to an absent elector separate printed instructions
163 furnished by him containing the following:



164 (a) All absentee voters, excepting those with temporary
165 or permanent physical disabilities or those who are sixty-five
166 (65) years of age or older, who mark their ballots in the county
167 of the residence shall use the registrar of that county as the
168 witness. The absentee voter shall come to the office of the
169 registrar and neither the registrar nor his deputy shall be
170 required to go out of the registrar's office to serve as an
171 attesting witness.

172 (b) Upon receipt of the enclosed ballot, you will not
173 mark the ballot except in view or sight of the attesting witness.
174 In the sight or view of the attesting witness, mark the ballot
175 according to instructions.

176 (c) After marking the ballot, fill out and sign the
177 "ELECTOR'S CERTIFICATE" on back of the envelope so that the
178 signature shall be across the flap of the envelope so as to insure
179 the integrity of the ballot. All absent electors shall have the
180 attesting witness sign the "ATTESTING WITNESS CERTIFICATE" across
181 the flap on back of the envelope. Place necessary postage on the
182 envelope and deposit it in the post office or some government
183 receptacle provided for deposit of mail so that the absent
184 elector's ballot, excepting presidential absentee ballots, will
185 reach the registrar in which your precinct is located not later
186 than 5:00 p.m. on the day preceding the date of the election.

187 Any notary public, United States postmaster, assistant United
188 States postmaster, United States postal supervisor, clerk in
189 charge of a contract postal station, or any officer having
190 authority to administer an oath or take an acknowledgment may be
191 an attesting witness; provided, however, that in the case of an
192 absent elector who is temporarily or permanently physically
193 disabled, the attesting witness may be any person eighteen (18)
194 years of age or older and such person is not required to have the
195 authority to administer an oath. If a postmaster, assistant
196 postmaster, postal supervisor, or clerk in charge of a contract



197 postal station acts as an attesting witness, his signature on the
198 elector's certificate must be authenticated by the cancellation
199 stamp of their respective post offices. If one or the other
200 officers herein named acts as attesting witness, his signature on
201 the elector's certificate, together with his title and address,
202 but no seal, shall be required. Any affidavits made by an absent
203 elector who is in the Armed Forces may be executed before a
204 commissioned officer, warrant officer, or noncommissioned officer
205 not lower in grade than sergeant rating or any person authorized
206 to administer oaths.

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

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

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

227 (2) The Secretary of State shall prepare instructions on how
228 absent voters may comply with the identification requirements of



229 the Help America Vote Act of 2002, which shall be provided to the
230 registrar and enclosed with each absentee ballot.

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

235 **SECTION 5.** Section 23-15-639, Mississippi Code of 1972, is
236 amended as follows:

237 23-15-639. (1) In elections in which direct recording
238 electronic voting systems are not utilized, the examination and
239 counting of absentee ballots shall be conducted as follows:

240 (a) At the close of the regular balloting and at the
241 close of the polls, the election managers of each voting precinct
242 shall first take the envelopes containing the absentee ballots of
243 such electors from the box, and the name, address and precinct
244 inscribed on each envelope shall be announced by the election
245 managers.

246 (b) The signature on the application shall then be
247 compared with the signature on the back of the envelope. If it
248 corresponds and the affidavit, if one is required, is sufficient
249 and the election managers find that the applicant is a registered
250 and qualified voter or otherwise qualified to vote, and that he
251 has not appeared in person and voted at the election, the envelope
252 shall then be opened and the ballot removed from the envelope,
253 without its being unfolded, or permitted to be unfolded or
254 examined.

255 (c) Having observed and found the ballot to be regular
256 as far as can be observed from its official endorsement, the
257 election managers shall deposit it in the ballot box with the
258 other ballots before counting any ballots and enter the voter's
259 name in the receipt book provided for that purpose and mark
260 "VOTED" in the pollbook or poll list as if he had been present and
261 voted in person. If voting machines are used, all absentee



262 ballots shall be placed in the ballot box before any ballots are
263 counted, and the election managers in each precinct shall
264 immediately count such absentee ballots and add them to the votes
265 cast in the voting machine or device.

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

269 (a) At the close of the regular balloting and at the
270 close of the polls, the election managers of each voting precinct
271 shall first take the envelopes containing the absentee ballots of
272 such electors from the box, and the name, address and precinct
273 inscribed on each envelope shall be announced by the election
274 managers.

275 (b) The signature on the application shall then be
276 compared with the signature on the back of the envelope. If it
277 corresponds and the affidavit, if one is required, is sufficient
278 and the election managers find that the applicant is a registered
279 and qualified voter or otherwise qualified to vote, and that he
280 has not appeared in person and voted at the election, the unopened
281 envelope shall be marked "ACCEPTED" and the election managers
282 shall enter the voter's name in the receipt book provided for that
283 purpose and mark "VOTED" in the pollbook or poll list as if he had
284 been present and voted in person.

285 (c) All absentee ballot envelopes shall then be placed
286 in the secure ballot transfer case and delivered to the officials
287 in charge of conducting the election at the central tabulation
288 point of the county. The official in charge of the election shall
289 open the envelopes marked "ACCEPTED" and remove the ballot from
290 the envelope.

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



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

296 When there is a conflict between an electronic voting system
297 and a paper record, then there is a rebuttable presumption that
298 the paper record is correct.

299 (3) The election managers shall also take such action as may
300 be prescribed by the Secretary of State to ensure compliance with
301 the identification requirements of the Help America Vote Act of
302 2002.

303 **SECTION 6.** Section 23-15-719, Mississippi Code of 1972, is
304 amended as follows:

305 23-15-719. (1) Immediately upon completion of an
306 application filed pursuant to the provisions of paragraph (a) of
307 Section 23-15-715, the registrar shall deliver the necessary
308 ballots to the applicant. The registrar shall identify the
309 applicant by requiring him to present identification as required
310 by Section 1 of House Bill No. _____, 2009 Regular Session, and
311 shall then deliver the ballots to the applicant by mail or to the
312 applicant in the registrar's office. The registrar shall not
313 personally hand deliver ballots to voters, unless he delivers the
314 ballots in the office of the registrar. The elector shall fill in
315 his ballot in secret. After the applicant has properly marked the
316 ballot and properly folded it, he shall deposit it in the envelope
317 furnished him by the registrar.

318 After he has sealed the envelope, he shall subscribe and
319 swear to an affidavit in the following form, which shall be
320 printed on the back of the envelope containing the applicant's
321 ballot:

322 "STATE OF MISSISSIPPI
323 COUNTY OF _____

324 I, _____, do solemnly swear that this envelope contains
325 the ballot marked by me indicating my choice of the candidates or
326 propositions to be submitted at the election to be held on the ____



327 day of _____, 2____, and I hereby authorize the registrar to
328 place this envelope in the ballot box on my behalf, and I further
329 authorize the election managers to open this envelope and place my
330 ballot among the other ballots cast before such ballots are
331 counted, and record my name on the poll list as if I were present
332 in person and voted.

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

334 _____
335 (Signature of voter)

336 SWORN TO AND SUBSCRIBED before me, _____, this the ____
337 day of _____, 2____.

338 (Registrar) _____
339 (Registrar) "

340 After the completion of the requirements of this section, the
341 elector shall deliver the envelope containing the ballot to the
342 registrar.

343 (2) If the voter has received assistance in marking his
344 ballot, the person providing the assistance shall complete the
345 following form which shall be printed on the back of the envelope
346 containing the applicant's ballot:

347 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

348 (To be completed only if the voter has received assistance in
349 marking the enclosed ballot.) I hereby certify that the
350 above-named voter declared to me that he or she is blind,
351 temporarily or permanently physically disabled, or cannot read or
352 write, and that the voter requested that I assist the voter in
353 marking the enclosed absentee ballot. I hereby certify that the
354 ballot preferences on the enclosed ballot are those communicated
355 by the voter to me, and that I have marked the enclosed ballot in
356 accordance with the voter's instructions.

357 _____
358 Signature of person providing assistance

359 _____



360 Printed name of person providing assistance

361 _____

362 Address of person providing assistance

363 _____

364 Date and time assistance provided

365 _____

366 Family relationship to voter (if any)"

367 (3) The envelope used pursuant to this section shall not
368 contain the form prescribed by Section 23-15-635 and shall have
369 printed on the flap on the back of the envelope in bold print and
370 in a distinguishing color, the following: **"YOUR VOTE WILL BE**
371 **REJECTED AND NOT COUNTED IF THIS ENVELOPE IS NOT SIGNED ACROSS THE**
372 **FLAP OF THIS ENVELOPE BY YOU AND AN ATTESTING WITNESS."**

373 **SECTION 7.** The Attorney General of the State of Mississippi
374 shall submit this act, immediately upon approval by the Governor,
375 or upon approval by the Legislature subsequent to a veto, to the
376 Attorney General of the United States or to the United States
377 District Court for the District of Columbia in accordance with the
378 provisions of the Voting Rights Act of 1965, as amended and
379 extended.

380 **SECTION 8.** This act shall take effect and be in force from
381 and after the date it is effectuated under Section 5 of the Voting
382 Rights Act of 1965, as amended and extended.

