

By: Representatives Fillingane, To: Rules  
Robinson (63rd)

## HOUSE CONCURRENT RESOLUTION NO. 2

1 A CONCURRENT RESOLUTION REQUESTING THE SECRETARY OF STATE TO  
2 DEVELOP A REIMBURSEMENT FORMULA FOR CONTRACTS AWARDED TO VENDORS  
3 TO REPLACE LOCAL VOTING SYSTEMS UNDER THE HELP AMERICA VOTE ACT;  
4 AND FOR RELATED PURPOSES.

5 WHEREAS, the federal and state Help America Vote Act (HAVA)  
6 requires many counties in Mississippi to replace their current  
7 voting systems; and

8 WHEREAS, the Secretary of State has awarded a contract to a  
9 vendor that creates a state procurement plan for the purchase by  
10 counties of direct recording devices (DRE's); and

11 WHEREAS, many local officials have expressed a desire to  
12 purchase other types of machines; and

13 WHEREAS, the Legislature, in the 2005 Regular Session, passed  
14 Senate Bill No. 2829, which provided certain provisions relating  
15 to DRE's, the creation of a task force to study voting systems and  
16 the development by the Secretary of State of a reimbursement  
17 formula for counties opting out of the state procurement plan; and

18 WHEREAS, Section 16 of Senate Bill No. 2829, provides as  
19 follows:

20 "SECTION 16. Section 23-15-169.3, Mississippi Code of 1972,  
21 is amended as follows:

22 23-15-169.3. (1) The Secretary of State shall have the  
23 authority to accept federal funds authorized under the Help  
24 America Vote Act of 2002 and to meet all the requirements of the  
25 Help America Vote Act of 2002 in order to expend the funds.

26 (2) Counties that purchase or have purchased since January  
27 1, 2001, voting systems that comply with the requirements of the  
28 Help America Vote Act of 2002 shall be eligible for federal funds

29 accepted by the Secretary of State for Help America Vote Act of  
30 2002 compliance efforts. The only restriction that the Secretary  
31 of State may place on the expenditure of federal funds for the  
32 purchase of voting systems is that the systems comply with the  
33 criteria and rules established in the Help America Vote Act of  
34 2002 for voting systems.

35 (3) Counties may purchase voting systems under the Help  
36 America Vote Act of 2002 (HAVA) if:

37 (a) The system selected is HAVA compliant as determined  
38 by the rules promulgated to effectuate the Help America Vote Act  
39 of 2002 in this state; and

40 (b) The county board of supervisors spreads upon its  
41 minutes a certification of the following:

42 (i) The county determined it is in its best  
43 interest to opt out of any statewide bulk purchase to be  
44 effectuated by the Secretary of State pursuant to his duties under  
45 HAVA;

46 (ii) The voting system selected by the county  
47 meets all of the foregoing requirements under HAVA;

48 (iii) The county understands and accepts any and  
49 all liability for said system; and

50 (iv) The county is solely responsible for the  
51 purchase of said system.

52 Upon meeting the foregoing requirements, a county shall be  
53 reimbursed for its costs for said system from the HAVA funds for  
54 this purpose; however, the county shall be limited in its  
55 reimbursement to an amount to be determined by the Secretary of  
56 State based upon an objective formula implemented for the  
57 statewide, bulk purchase of said voting systems. Any costs over  
58 and above the set formula described herein shall be the sole  
59 responsibility of the county.

60 (c) In addition to other information required by  
61 paragraph (b) of this subsection, any county that purchases voting

62 systems after the effective date of this act shall spread upon its  
63 minutes certification of the following:

64 (i) All voting systems within the county are the  
65 same, except those machines that are handicap accessible as  
66 required by HAVA; and

67 (ii) The voting systems have a device or mechanism  
68 that allows any votes cast to be verified by paper audit trail."

69 WHEREAS, the reimbursement formula provided for in Section 16  
70 of Senate Bill No. 2829 has not been promulgated by the Secretary  
71 of State; and

72 WHEREAS, the counties who are the voting authorities of the  
73 state, are in an uncertain situation and are not in a position to  
74 adequately and intelligently make a decision about the proper  
75 choice for the purchase of necessary voting systems; and

76 WHEREAS, the Legislative Committee of the Association of  
77 Circuit Clerks of Mississippi has adopted a resolution supporting  
78 a change in the language of Section 16 of Senate Bill No. 2829 to  
79 clarify--although the Legislature is of the opinion that the  
80 language is clear--that counties who opt out of the state  
81 procurement plan will not be penalized for such opt out and will  
82 be treated on as equal footing as counties who stay in the plan;  
83 and

84 WHEREAS, it was and is the intent of the Legislature that any  
85 reimbursement to the counties for the purchase of voting systems  
86 include all costs reasonably associated with such purchase  
87 including, but not limited to, training, maintenance, software,  
88 interfaces voter registration systems and related items, and that  
89 such reimbursement be done in a fair and equitable manner and,  
90 particularly, that counties who opt out of the state procurement  
91 plan not be penalized for doing so; and

92 WHEREAS, voting is a right that is the bedrock of American  
93 democracy and should be exercised in a manner that does not hinder  
94 or intimidate anyone from participating in the voting process:

95           NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF  
96 REPRESENTATIVES OF THE STATE OF MISSISSIPPI, THE SENATE CONCURRING  
97 THEREIN, That the Legislature respectfully requests that the  
98 Secretary of State expeditiously develop the voting system  
99 reimbursement formula provided for in Senate Bill No. 2829 and  
100 that this formula not be discriminatory toward nor penalize  
101 counties who opt out of the state procurement plan.

102           BE IT FURTHER RESOLVED, That the Secretary of State is  
103 advised to not expend HAVA funds for the implementation of the  
104 state procurement plan, but for the purpose of communicating  
105 information only with regard to the plan.

106           BE IT FURTHER RESOLVED, That the Secretary of State should  
107 direct the vendor awarded the state voting system procurement  
108 contract to contact counties only for the purpose of communicating  
109 information with regard to the plan and not for the purpose of  
110 attempting, directly or indirectly, to have counties sign  
111 contracts or commit to sign contracts to participate in the state  
112 procurement plan until the reimbursement formula is formally and  
113 finally adopted.

114           BE IT FURTHER RESOLVED, That copies of this resolution be  
115 furnished to the Secretary of State and the chair person of the  
116 Legislative Committee of the Association of Circuit Clerks of  
117 Mississippi.