

By: Representatives Denny, Akins, Baker (74th), Baker (8th), Barnett, Beckett, Chism, Davis, Ellington, Fillingane, Formby, Frierson, Gunn, Hamilton (109th), Hamilton (6th), Horne, Howell, Ishee, Jennings, Lott, Masterson, Mims, Moore, Nicholson, Rogers (61st), Staples, Upshaw, Woods, Zuber, Rotenberry, Morgan

To: Apportionment and Elections

HOUSE BILL NO. 309

1 AN ACT TO REQUIRE ELECTORS TO PRESENT CURRENT, VALID
 2 GOVERNMENT-ISSUED PHOTO IDENTIFICATION FOR WHICH PROOF OF
 3 CITIZENSHIP IS REQUIRED BEFORE VOTING IN PERSON OR BY ABSENTEE
 4 BALLOT; TO PROVIDE THAT ANY ELECTOR WITHOUT VALID IDENTIFICATION
 5 SHALL SIGN A STATEMENT UNDER OATH AFFIRMING THAT HE IS THE PERSON
 6 IDENTIFIED ON THE POLLBOOKS; TO PRESCRIBE A PENALTY FOR FALSELY
 7 AFFIRMING THE STATEMENT; TO AMEND SECTION 23-15-631, MISSISSIPPI
 8 CODE OF 1972, TO REQUIRE AN ELECTOR TO ENCLOSE CURRENT, VALID
 9 GOVERNMENT-ISSUED PHOTO IDENTIFICATION FOR WHICH PROOF OF
 10 CITIZENSHIP IS REQUIRED WITH THE ABSENTEE BALLOT BEFORE SEALING
 11 THE ABSENTEE BALLOT ENVELOPE; TO AMEND SECTIONS 23-15-11,
 12 23-15-541, 23-15-639, 23-15-641, 23-15-719, 23-15-721,
 13 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTIONS;
 14 AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** (1) Each elector shall present current, valid
 17 government-issued photo identification for which proof of
 18 citizenship is required to an election manager, or the circuit
 19 clerk or deputy circuit clerk in the case of absentee voting,
 20 before he shall be allowed to vote.

21 (2) If an elector is unable to produce the item of
 22 identification listed in subsection (1) of this section, he or she
 23 shall sign a statement under oath in a form approved by the State
 24 Board of Election Commissioners, swearing or affirming that he or
 25 she is the person identified on the pollbooks. One (1) of the
 26 election managers, or the circuit clerk or deputy circuit clerk in
 27 the case of absentee voting, shall sign the statement as a witness
 28 to the oath taken by the elector. The person shall be allowed to
 29 vote without undue delay. Any elector who falsely swears or
 30 affirms the statement prescribed in this subsection shall be
 31 guilty of a felony and, upon conviction, shall be fined not more
 32 than Five Thousand Dollars (\$5,000.00) or imprisoned not less than
 33 one (1) year, but not more than five (5) years, or both.

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

36 23-15-11. Every inhabitant of this state, except idiots and
37 insane persons, who is a citizen of the United States of America,
38 eighteen (18) years old and upwards, who has resided in this state
39 for thirty (30) days and for thirty (30) days in the county in
40 which he offers to vote, and for thirty (30) days in the
41 incorporated city or town in which he offers to vote, and who
42 shall have been duly registered as an elector pursuant to Section
43 23-15-33, and who has never been convicted of any crime listed in
44 Section 241, Mississippi Constitution of 1890, shall be a
45 qualified elector in and for the county, municipality and voting
46 precinct of his residence, and shall be entitled to vote at any
47 election, provided he complies with the provisions of Section 1 of
48 this act. Any person who will be eighteen (18) years of age or
49 older on or before the date of the general election and who is
50 duly registered to vote not less than thirty (30) days prior to
51 the primary election associated with such general election, may
52 vote in such primary election even though such person has not
53 reached his or her eighteenth birthday at the time such person
54 offers to vote at such primary election. No others than those
55 above included shall be entitled, or shall be allowed, to vote at
56 any election.

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

59 23-15-541. At all elections, the polls shall be opened at
60 seven o'clock in the morning and be kept open until seven o'clock
61 in the evening and no longer. Upon the opening of the polls, and
62 not before, the managers of the election shall designate two (2)
63 of their number, other than the manager theretofore designated to
64 receive the blank ballots, who shall thereupon be known
65 respectively as the initialing manager and the alternate
66 initialing manager. The alternate initialing manager, in the

67 absence of the initialing manager, shall perform all of the duties
68 and undertake all of the responsibilities of the initialing
69 manager. When any person entitled to vote shall appear to vote,
70 the managers shall first identify the voter by requiring the voter
71 to present current, valid government-issued photo identification
72 for which proof of citizenship is required; and then the person
73 shall * * * sign his name in a receipt book or booklet provided
74 for that purpose and to be used at that election only and said
75 receipt book or booklet shall be used in lieu of the list of
76 voters who have voted formerly made by the managers or clerks;
77 whereupon and not before, the initialing manager or, in his
78 absence, the alternate initialing manager shall indorse his
79 initials on the back of an official blank ballot, prepared in
80 accordance with law, and at such place on the back of the ballot
81 that the initials may be seen after the ballot has been marked and
82 folded, and when so indorsed he shall deliver it to the voter,
83 which ballot the voter shall mark in the manner provided by law,
84 which when done the voter shall deliver the same to the initialing
85 manager or, in his absence, to the alternate initialing manager,
86 in the presence of the others, and the manager shall see that the
87 ballot so delivered bears on the back thereof the genuine initials
88 of the initialing manager, or alternate initialing manager, and if
89 so, but not otherwise, the ballot shall be put into the ballot
90 box; and when so done one (1) of the managers or a duly appointed
91 clerk shall make the proper entry on the pollbook. If the voter
92 is unable to write his name on the receipt book, a manager or
93 clerk shall note on the back of the ballot that it was receipted
94 for by his assistance.

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

97 23-15-631. (1) The registrar shall enclose with each ballot
98 provided to an absent elector separate printed instructions
99 furnished by him containing the following:

100 (a) All absentee voters, excepting those with temporary
101 or permanent physical disabilities or those who are sixty-five
102 (65) years of age or older, who mark their ballots in the county
103 of the residence shall use the registrar of that county as the
104 witness. The absentee voter shall come to the office of the
105 registrar and neither the registrar nor his deputy shall be
106 required to go out of the registrar's office to serve as an
107 attesting witness.

108 (b) Upon receipt of the enclosed ballot, you will not
109 mark the ballot except in view or sight of the attesting witness.
110 In the sight or view of the attesting witness, mark the ballot
111 according to instructions.

112 (c) After marking the ballot, fill out and sign the
113 "ELECTOR'S CERTIFICATE" on back of the envelope so that the
114 signature shall be across the flap of the envelope so as to insure
115 the integrity of the ballot. Before sealing the envelope, enclose
116 a copy of a current, valid government-issued photo identification
117 for which proof of citizenship is required, with the marked
118 ballot. All absent electors shall have the attesting witness sign
119 the "ATTESTING WITNESS CERTIFICATE" across the flap on back of the
120 envelope. Place necessary postage on the envelope and deposit it
121 in the post office or some government receptacle provided for
122 deposit of mail so that the absent elector's ballot, excepting
123 presidential absentee ballots, will reach the registrar in which
124 your precinct is located not later than 5:00 p.m. on the day
125 preceding the date of the election.

126 Any notary public, United States postmaster, assistant United
127 States postmaster, United States postal supervisor, clerk in
128 charge of a contract postal station, or any officer having
129 authority to administer an oath or take an acknowledgment may be
130 an attesting witness; provided, however, that in the case of an
131 absent elector who is temporarily or permanently physically
132 disabled, the attesting witness may be any person eighteen (18)

133 years of age or older and such person is not required to have the
134 authority to administer an oath. If a postmaster, assistant
135 postmaster, postal supervisor, or clerk in charge of a contract
136 postal station acts as an attesting witness, his signature on the
137 elector's certificate must be authenticated by the cancellation
138 stamp of their respective post offices. If one or the other
139 officers herein named acts as attesting witness, his signature on
140 the elector's certificate, together with his title and address,
141 but no seal, shall be required. Any affidavits made by an absent
142 elector who is in the Armed Forces may be executed before a
143 commissioned officer, warrant officer, or noncommissioned officer
144 not lower in grade than sergeant rating or any person authorized
145 to administer oaths.

146 (d) When the application accompanies the ballot it
147 shall not be returned in the same envelope as the ballot but shall
148 be returned in a separate preaddressed envelope provided by the
149 registrar.

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

153 (f) Any voter casting an absentee ballot who declares
154 that he requires assistance to vote by reason of blindness,
155 temporary or permanent physical disability or inability to read or
156 write, shall be entitled to receive assistance in the marking of
157 his absentee ballot and in completing the affidavit on the
158 absentee ballot envelope. The voter may be given assistance by
159 anyone of the voter's choice other than a candidate whose name
160 appears on the absentee ballot being marked, or the voter's
161 employer, or agent of that employer. In order to ensure the
162 integrity of the ballot, any person who provides assistance to an
163 absentee voter shall be required to sign and complete the
164 "Certificate of Person Providing Voter Assistance" on the absentee
165 ballot envelope.

166 (2) The foregoing instructions required to be provided by
167 the registrar to the elector shall also constitute the substantive
168 law pertaining to the handling of absentee ballots by the elector
169 and registrar.

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

172 23-15-639. (1) In elections in which direct recording
173 electronic voting systems are not utilized, the examination and
174 counting of absentee ballots shall be conducted as follows:

175 (a) At the close of the regular balloting and at the
176 close of the polls, the election managers of each voting precinct
177 shall first take the envelopes containing the absentee ballots of
178 such electors from the box, and the name, address and precinct
179 inscribed on each envelope shall be announced by the election
180 managers.

181 (b) The signature on the application shall then be
182 compared with the signature on the back of the envelope. If it
183 corresponds and the affidavit, if one is required, is sufficient
184 and the election managers find that the applicant is a registered
185 and qualified voter or otherwise qualified to vote, and that he
186 has not appeared in person and voted at the election, the envelope
187 shall then be opened and the ballot removed from the envelope,
188 without its being unfolded, or permitted to be unfolded or
189 examined.

190 (c) Having observed and found the ballot to be regular
191 as far as can be observed from its official endorsement and having
192 found a copy of a current, valid government-issued photo
193 identification for which proof of citizenship is required
194 enclosed, the election managers shall deposit it in the ballot box
195 with the other ballots before counting any ballots and enter the
196 voter's name in the receipt book provided for that purpose and
197 mark "VOTED" in the pollbook or poll list as if he had been
198 present and voted in person. If voting machines are used, all

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

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

206 (a) At the close of the regular balloting and at the
207 close of the polls, the election managers of each voting precinct
208 shall first take the envelopes containing the absentee ballots of
209 such electors from the box, and the name, address and precinct
210 inscribed on each envelope shall be announced by the election
211 managers.

212 (b) The signature on the application shall then be
213 compared with the signature on the back of the envelope. If it
214 corresponds and the affidavit, if one is required, is sufficient
215 and the election managers find that the applicant is a registered
216 and qualified voter or otherwise qualified to vote, and that he
217 has not appeared in person and voted at the election, the unopened
218 envelope shall be marked "ACCEPTED" and the election managers
219 shall enter the voter's name in the receipt book provided for that
220 purpose and mark "VOTED" in the pollbook or poll list as if he had
221 been present and voted in person.

222 (c) All absentee ballot envelopes shall then be placed
223 in the secure ballot transfer case and delivered to the officials
224 in charge of conducting the election at the central tabulation
225 point of the county. The official in charge of the election shall
226 open the envelopes marked "ACCEPTED" and remove the ballot from
227 the envelope.

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

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

233 When there is a conflict between an electronic voting system
234 and a paper record, then there is a rebuttable presumption that
235 the paper record is correct.

236 **SECTION 6.** Section 23-15-641, Mississippi Code of 1972, is
237 amended as follows:

238 23-15-641. (1) If an affidavit or the certificate of the
239 officer before whom the affidavit is taken is required and such
240 affidavit or certificate is found to be insufficient, or if it is
241 found that the signatures do not correspond, or that the applicant
242 is not a duly qualified elector in the precinct, or otherwise
243 qualified to vote, or that the ballot envelope is open or has been
244 opened and resealed, or the voter is not eligible to vote absentee
245 or that the voter is present and has voted within the precinct
246 where he represents himself to be a qualified elector, or
247 otherwise qualified to vote, on the date of the election at such
248 precinct, the previously cast vote shall not be allowed. Without
249 opening the voter's envelope the commissioners of election,
250 designated executive committee members or election managers, as
251 appropriate, shall mark across its face "REJECTED", with the
252 reason therefor.

253 (2) If the ballot envelope contains more than one (1) ballot
254 of any kind, the ballot shall not be counted but shall be marked
255 "REJECTED", with the reason therefor. The voter's envelopes and
256 affidavits, and the voter's envelope with its contents unopened,
257 when such vote is rejected, shall be retained and preserved in the
258 same manner as other ballots at the election. Such votes may be
259 challenged in the same manner and for the same reasons that any
260 other vote cast in such election may be challenged.

261 (3) (a) If an affidavit is required and the officials find
262 that the affidavit is insufficient, or if the officials find that
263 the absentee voter is otherwise disqualified to vote, the envelope

264 shall not be opened and a commissioner or executive committee
265 member shall write across the face of the envelope "REJECTED"
266 giving the reason therefor, and the registrar shall promptly
267 notify the voter of such rejection.

268 (b) If after opening the envelope, no copy of a
269 current, valid government-issued photo identification for which
270 proof of citizenship was required is found, the commissioner or
271 executive committee shall write across the face of the envelope
272 "REJECTED" giving the reason therefor, and the registrar shall
273 promptly notify the voter of is rejection.

274 (4) The ballots marked "REJECTED" shall be placed in a
275 separate envelope in the secure ballot transfer case and delivered
276 to the officials in charge of conducting the election at the
277 central tabulation point of the county.

278 **SECTION 7.** Section 23-15-719, Mississippi Code of 1972, is
279 amended as follows:

280 23-15-719. (1) Immediately upon completion of an
281 application filed pursuant to the provisions of paragraph (a) of
282 Section 23-15-715, the registrar shall deliver the necessary
283 ballots to the applicant. The registrar shall only deliver the
284 ballots to the applicant by mail or to the applicant in the
285 registrar's office. The registrar shall not personally hand
286 deliver ballots to voters, unless he delivers the ballots in the
287 office of the registrar. The elector shall fill in his ballot in
288 secret. After the elector has properly marked the ballot and
289 properly folded it, he shall deposit it in the envelope furnished
290 him by the registrar. After the marked ballot is deposited in the
291 envelope, the elector shall enclose a copy of a current, valid
292 government-issued photo identification for which proof of
293 citizenship is required.

294 After he has sealed the envelope, he shall subscribe and
295 swear to an affidavit in the following form, which shall be

296 printed on the back of the envelope containing the applicant's
297 ballot:

298 "STATE OF MISSISSIPPI
299 COUNTY OF _____

300 I, _____, do solemnly swear that this envelope contains
301 the ballot marked by me indicating my choice of the candidates or
302 propositions to be submitted at the election to be held on the ___
303 day of _____, 2____, and I hereby authorize the registrar to
304 place this envelope in the ballot box on my behalf, and I further
305 authorize the election managers to open this envelope and place my
306 ballot among the other ballots cast before such ballots are
307 counted, and record my name on the poll list as if I were present
308 in person and voted.

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

310 _____
311 (Signature of voter)

312 SWORN TO AND SUBSCRIBED before me, _____, this the ___
313 day of _____, 2____.

314 (Registrar) _____
315 (Registrar)"

316 After the completion of the requirements of this section, the
317 elector shall deliver the envelope containing the ballot to the
318 registrar.

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

323 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

324 (To be completed only if the voter has received assistance in
325 marking the enclosed ballot.) I hereby certify that the
326 above-named voter declared to me that he or she is blind,
327 temporarily or permanently physically disabled, or cannot read or
328 write, and that the voter requested that I assist the voter in

329 marking the enclosed absentee ballot. I hereby certify that the
330 ballot preferences on the enclosed ballot are those communicated
331 by the voter to me, and that I have marked the enclosed ballot in
332 accordance with the voter's instructions.

333 _____

334 Signature of person providing assistance

335 _____

336 Printed name of person providing assistance

337 _____

338 Address of person providing assistance

339 _____

340 Date and time assistance provided

341 _____

342 Family relationship to voter (if any)"

343 (3) The envelope used pursuant to this section shall not
344 contain the form prescribed by Section 23-15-635.

345 **SECTION 8.** Section 23-15-721, Mississippi Code of 1972, is
346 amended as follows:

347 23-15-721. (1) Electors temporarily residing outside the
348 county and obtaining an absentee ballot under the provisions of
349 paragraph (b) of Section 23-15-715 shall appear before any
350 official authorized to administer oaths or other official
351 authorized to witness absentee balloting as provided in this
352 chapter. The elector shall exhibit to such official his absentee
353 ballot unmarked and thereupon proceed in secret to fill in his
354 ballot. After the elector has properly marked the ballot and
355 properly folded it, he shall deposit it in the envelope furnished
356 him. After the marked ballot is deposited in the envelope, the
357 elector shall enclose a copy of a current, valid government-issued
358 photo identification for which proof of citizenship is required.

359 After he has sealed the envelope he shall deliver it to the
360 official before whom he is appearing and shall subscribe and swear
361 to the elector's certificate provided for in Section 23-15-635,

362 which affidavit shall be printed on the back of the envelope as
363 provided for in Section 23-15-635.

364 (2) Electors who are temporarily or permanently physically
365 disabled shall sign the elector's certificate and the certificate
366 of attesting witness shall be signed by any person eighteen (18)
367 years of age or older.

368 (3) After the completion of the requirements of this
369 section, the elector shall mail the envelope containing the ballot
370 to the registrar in the county wherein said elector is qualified
371 to vote. Said ballots must be received by the registrar prior to
372 5:00 p.m. on the day preceding the election to be counted.

373 **SECTION 9.** 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 10.** 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.