MISSISSIPPI LEGISLATURE REGULAR SESSION 2012

By: Representative Miles

To: Apportionment and Elections

HOUSE BILL NO. 511

AN ACT TO AUTHORIZE A QUALIFIED ELECTOR TO VOTE EARLY NOT MORE THAN 21 DAYS NOR LESS THAN 5 DAYS BEFORE THE DATE OF AN ELECTION; TO PROVIDE THAT EARLY VOTING MAY BE CONDUCTED IN THE REGISTRAR'S OFFICE OR AT A LOCATION DESIGNATED BY THE REGISTRAR; TO REQUIRE A PERSON WHO DESIRES TO VOTE EARLY TO APPEAR AT THE REGISTRAR'S OFFICE AND TO PROVIDE THAT AFTER SIGNING THE RECEIPT BOOK SUCH PERSON SHALL BE ENTITLED TO VOTE AT THE REGISTRAR'S OFFICE OR AT THE LOCATION DESIGNATED BY THE REGISTRAR DURING THE EARLY VOTING PERIOD IN THE SAME MANNER AS HE WOULD AT HIS VOTING PRECINCT ON THE DAY OF THE ELECTION; TO PROVIDE THAT THE ELECTION LAWS THAT GOVERN PROCEDURES FOR A PERSON WHO APPEARS TO VOTE ON THE DAY OF ELECTION SHALL APPLY WHEN A PERSON APPEARS TO VOTE DURING THE EARLY VOTING PERIOD; TO PROVIDE THAT ALL VOTES CAST DURING THE EARLY VOTING PERIOD SHALL BE FINAL; TO PROVIDE THAT THE VOTES CAST DURING EARLY VOTING SHALL BE ANNOUNCED SIMULTANEOUSLY WITH THE VOTE CAST ON ELECTION DAY; TO PROVIDE THAT EACH CANDIDATE SHALL HAVE THE RIGHT TO BE PRESENT AT THE REGISTRAR'S OFFICE AND TO CHALLENGE THE QUALIFICATIONS OF ANY PERSON OFFERING TO VOTE EARLY IN THE SAME MANNER AS PROVIDED BY LAW AT THE POLLING PLACE ON THE DAY OF THE ELECTION; TO REQUIRE THE SECRETARY OF STATE TO PROMULGATE RULES AND REGULATIONS NECESSARY TO EFFECTUATE EARLY VOTING; TO AMEND SECTIONS 23-15-195, 23-15-653, 23-15-353, 23-15-449 and 23-15-463, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO AMEND SECTIONS 23-15-627, 23-15-637, 23-15-641, 23-15-713 AND 23-15-715, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT VOTERS MAY NOT CAST ABSENTEE BALLOTS AT THE OFFICE OF THE REGISTRAR DURING THE EARLY VOTING PERIOD; AND FOR RELATED PURPOSES.

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

SECTION 1. Sections 1 through 5 of this act shall be known and may be cited as the "Early Voting Act."

SECTION 2. (1) A qualified elector may vote early not more than twenty-one (21) days nor less than five (5) days before the date of an election in the office of the registrar or at a location designated by the registrar of the county in which such elector is registered to vote during the times established for early voting in this section.

(2) If only one (1) person has qualified for each office on the ballot, early voting shall not be conducted.

(3) Early voting shall be conducted at the office of the registrar during the following times:

(a) Weekdays from 8:00 a.m. until 5:00 p.m., except that the office of the registrar shall remain open until 7:00 p.m. the last two (2) days of the early voting period; and

(b) One (1) Saturday during the early voting period from 8:00 a.m. until 4:00 p.m.

(4) Notice of the early voting hours shall be given by the commissioners of election not less than twenty-five (25) days before the day of election by publication in a newspaper of general circulation in the county. If a state holiday occurs on any day in which early voting is allowed, the commissioners of election may authorize the closing of the office of the registrar or the designated location on such holiday by including a notice of such closure in the notice published pursuant to this subsection.

SECTION 3. (1) A person who desires to vote early shall appear at the office of the registrar or the location authorized by the registrar for early voting. After signing the appropriate receipt book, the elector shall vote at the location in the same manner as he would at his voting precinct on the day of the election. Except as may be otherwise provided by Sections 1 through 5 of this act, the election laws that govern procedures for a person who appears to vote on the day of election shall apply when a person appears to vote during the early voting period.

(2) All votes cast at an early voting location shall be final.

(3) The votes cast during early voting shall be announced simultaneously with the vote cast on election day.

SECTION 4. Each candidate or his representatives shall have the right to be present at the office of the registrar or designated location when it is open for early voting and to challenge the qualifications of any person offering to vote in the same manner as provided by law at the polling place on election day.

SECTION 5. The Secretary of State shall promulgate rules and regulations necessary to effectuate early voting.

SECTION 6. Section 23-15-195, Mississippi Code of 1972, is amended as follows:

23-15-195. All elections by the people shall be by ballot *** * ***.

SECTION 7. Section 23-15-653, Mississippi Code of 1972, is amended as follows:

23-15-653. Except as otherwise provided in Section 2 of this act, all registrars' offices shall remain open until noon on the two (2) Saturdays prior to each election.

SECTION 8. Section 23-15-353, Mississippi Code of 1972, is amended as follows:

23-15-353. (1) The officer charged with printing and distributing the official ballot shall ascertain from the registrar, at least ten (10) days before the day of election, the number of registered voters in each voting precinct; and he shall have printed and distributed a sufficient number of ballots for use in each precinct. He shall also prepare full instructions for the guidance of electors at elections as to obtaining ballots, the manner of marking them, and the mode of obtaining new ballots in the place of those spoiled by accident. The instructions shall be printed in large, clear type, on "cards of instruction," and the officer shall furnish the same in sufficient numbers for the use of electors. The cards shall be preserved by the officers of election and returned by them to the commissioners of election; and they may be used, if applicable, in subsequent elections.

(2) The officer charged with printing and distributing the official ballot shall ascertain from the registrar, at least ten (10) days before the beginning of early voting, the number of ballots that the registrar desires for early voting.

SECTION 9. Section 23-15-627, Mississippi Code of 1972, is amended as follows:

23-15-627. The registrar shall be responsible for furnishing an absentee ballot application form to any elector authorized to receive an absentee ballot. Except as otherwise provided in Section 23-15-625, absentee ballot applications shall be furnished to a person only upon the oral or written request of the elector who seeks to vote by absentee ballot; however, the parent, child, spouse, sibling, legal guardian, those empowered with a power of attorney for that elector's affairs or agent of the elector, who is designated in writing and witnessed by a resident of this state who shall write his or her physical address on such designation, may orally request an absentee ballot application on behalf of the elector. The written designation shall be valid for one (1) year after the date of the designation. An absentee ballot application must have the seal of the circuit or municipal clerk affixed to it and be initialed by the registrar or his deputy in order to be utilized to obtain an absentee ballot. A reproduction of an absentee ballot application shall not be valid unless it is a reproduction provided by the office of the registrar of the jurisdiction in which the election is being held and which contains the seal and initials required by this section. Such application shall be substantially in the following form:

"OFFICIAL APPLICATION FOR ABSENT ELECTOR'S BALLOT

I, _____, duly qualified and registered in the ___ Precinct of the County of _____, and State of Mississippi, coming within the purview of the definition 'ABSENT ELECTOR' will be absent from the county of my residence on election day and all days upon which

early voting may be conducted, or unable to vote in person because (check appropriate reason):

( ) (PRESIDENTIAL APPLICANT ONLY:) I am currently a resident of Mississippi or have moved therefrom within thirty (30) days of the coming presidential election and will be absent from the county of my residence on election day and all days upon which early voting may be conducted.

( ) I am an enlisted or commissioned member, male or female, of any component of the United States Armed Forces and am a citizen of Mississippi, or spouse or dependent of such member and will be absent from the county of my residence on election day and all days upon which early voting may be conducted.

( ) I am a member of the Merchant Marine or the American Red Cross and am a citizen of Mississippi or spouse or dependent of such member and will be absent from the county of my residence on election day and all days upon which early voting may be conducted.

( ) I am a disabled war veteran who is a patient in any hospital and am a citizen of Mississippi or I am the spouse or dependent of such veteran and I will be absent from the county of my residence on election day and all days upon which early voting may be conducted.

( ) I am a civilian attached to and serving outside of the United States with any branch of the Armed Forces or with the Merchant Marine or American Red Cross, and am a citizen of Mississippi or spouse or dependent of such civilian and will be absent from the county of my residence on election day and all days upon which early voting may be conducted.

( ) I am a citizen of Mississippi temporarily residing outside the territorial limits of the United States and the District of Columbia and will be absent from the county of my residence on election day and all days upon which early voting may be conducted.

( ) I am a student, teacher or administrator at a college, university, junior or community college, high, junior high, elementary or grade school, whose studies or employment at such institution necessitates my absence from the county of my voting residence or spouse or dependent of such student, teacher or administrator who maintains a common domicile outside the county of my voting residence with such student, teacher or administrator and will be absent from the county of my residence on election day and all days upon which early voting may be conducted.

( ) I will be outside the county on election day and all days upon which early voting may be conducted.

( ) I have a temporary or permanent physical disability.

( ) I am sixty-five (65) years of age or older.

( ) I am the parent, spouse or dependent of a person with a temporary or permanent physical disability who is hospitalized outside his county of residence or more than fifty (50) miles away from his residence, and I will be with such person on election day and all days upon which early voting may be conducted.

( ) I am a member of the congressional delegation, or spouse or dependent of a member of the congressional delegation and will be absent from the county of my residence on election day and all days upon which early voting may be conducted.

( ) I am required to be at work on election day and all days upon which early voting may be conducted during the times which the polls will be open.

I hereby make application for an official ballot, or ballots, to be voted by me at the election to be held in _____, on _____.

Mail 'Absent Elector's Ballot' to me at the following address _____ (if eligible to vote by mail).

I realize that I can be fined up to Five Thousand Dollars ($5,000.00) and sentenced up to five (5) years in the Penitentiary for making a false statement in this application and for selling

my vote and violating the Mississippi Absentee Voter Law. (This sentence is to be in bold print.)

If you are temporarily or permanently disabled, you are not required to have this application notarized or signed by an official authorized to administer oaths for absentee balloting. You are required to sign this application in the proper place and have a person eighteen (18) years of age or older witness your signature and sign this application in the proper place.

DO NOT SIGN WITHOUT READING. (This sentence is to be in bold print.)

IN WITNESS WHEREOF I have hereunto set my hand and seal this the ____ day of _____, 2___.

_____

(Signature of absent elector)

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

_____

(Official authorized to administer oaths for absentee balloting.)

TO BE SIGNED BY WITNESS FOR VOTERS TEMPORARILY OR PERMANENTLY DISABLED:

I HEREBY CERTIFY that this application for an absent elector's ballot was signed by the above-named disabled elector in my presence and that I am at least eighteen (18) years of age, this the _____ day of _____, 2___.

_____

(Signature of witness)

CERTIFICATE OF DELIVERY

I hereby certify that _____ (print name of voter) has requested that I, _____ (print name of person delivering application), deliver to the voter this absentee ballot application.

_____

(Signature of person delivering application)

_____

(Address of person delivering application)"

SECTION 10. Section 23-15-637, Mississippi Code of 1972, is amended as follows:

23-15-637. Absentee ballots received by mail, excluding presidential ballots as provided for in Sections 23-15-731 and 23-15-733, must be received by the registrar by 5:00 p.m. on the date preceding the election; any received after such time shall be handled as provided in Section 23-15-647 and shall not be counted. All ballots cast by the absent elector appearing in person in the office of the registrar shall be cast not later * * * the day immediately preceding the beginning of the early voting period. The registrar shall deposit all absentee ballots which have been timely cast in the ballot boxes upon receipt.

SECTION 11. Section 23-15-641, Mississippi Code of 1972, is amended as follows:

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

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

(3) If an affidavit is required and the officials find that the affidavit is insufficient, or if the officials find that the absentee voter is otherwise disqualified to vote, the envelope shall not be opened and a commissioner or executive committee member shall write across the face of the envelope "REJECTED" giving the reason therefor, and the registrar shall promptly notify the voter of such rejection.

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

SECTION 12. Section 23-15-713, Mississippi Code of 1972, is amended as follows:

23-15-713. For the purpose of this subarticle, any duly qualified elector may vote as provided in this subarticle if he be one who falls within the following categories:

(a) Any qualified elector who is a bona fide student, teacher or administrator at any college, university, junior college, high, junior high, or elementary grade school whose studies or employment at such institution necessitates his absence from the county of his voting residence on the <u>election day and all days upon which early voting may be conducted</u>, or the spouse and dependents of <u>the</u> student, teacher or administrator if <u>the</u> spouse or dependent(s) maintain a common domicile, outside of the

county of his voting residence, with the student, teacher or administrator.

(b) Any qualified elector who is required to be away from his place of residence on any election day and all days upon which early voting may be conducted due to his employment as an employee of a member of the Mississippi congressional delegation and the spouse and dependents of the person if he or she shall be residing with such absentee voter away from the county of the spouse's voting residence.

(c) Any qualified elector who is away from his county of residence on election day and all days upon which early voting may be conducted for any reason.

(d) Any person who has a temporary or permanent physical disability and who, because of such disability, is unable to vote in person without substantial hardship to himself or others, or whose attendance at the voting place could reasonably cause danger to himself or others.

(e) The parent, spouse or dependent of a person with a temporary or permanent physical disability who is hospitalized outside of his county of residence or more than fifty (50) miles distant from his residence, if the parent, spouse or dependent will be with such person on election day and all days upon which early voting may be conducted.

(f) Any person who is sixty-five (65) years of age or older.

(g) Any member of the Mississippi congressional delegation absent from Mississippi on election day and all days upon which early voting may be conducted, and the spouse and dependents of the member of the congressional delegation.

(h) Any qualified elector who will be unable to vote in person because he is required to be at work on election day and all days upon which early voting may be conducted during the times at which the polls will be open.

SECTION 13. Section 23-15-715, Mississippi Code of 1972, is amended as follows:

23-15-715. Any elector desiring an absentee ballot as provided in this subarticle may secure same if:

(a) Not more than forty-five (45) days nor later than *** * *** the day immediately preceding the beginning of the early voting period, he shall appear in person before the registrar of the county in which he resides, or for municipal elections he shall appear in person before the city clerk of the municipality in which he resides and, when the elector so appears, he shall execute and file an application as provided in Section 23-15-627 and vote by absentee ballot, except that if the ballot has not been printed by forty-five (45) days preceding the election, the elector may appear and file an application anytime before the election. Then the absentee ballot shall be mailed by the circuit clerk to the elector as soon as the ballot has been printed.

(b) Within forty-five (45) days next prior to any election, any elector who cannot comply with paragraph (a) of this section by reason of temporarily residing outside the county, or any person who has a temporary or permanent physical disability, persons who are sixty-five (65) years of age or older, or any person who is the parent, spouse or dependent of a temporarily or permanently physically disabled person who is hospitalized outside of his county of residence or more than fifty (50) miles away from his residence and such parent, spouse or dependent will be with such person on election day and all days upon which early voting may be conducted, may make application for an absentee ballot by mailing the appropriate application to the registrar. Only persons temporarily residing out of the county of their residence, persons having a temporary or permanent physical disability, persons who are sixty-five (65) years of age or older, or any person who is the parent, spouse or dependent of a temporarily or

permanently physically disabled person who is hospitalized outside of his county of residence or more than fifty (50) miles away from his residence, and such parent, spouse or dependent will be with such person on election day and all days upon which early voting may be conducted, may obtain absentee ballots by mail under the provisions of this paragraph and as provided by Section 23-15-713. Applications of persons temporarily residing outside the county shall be sworn to and subscribed before an official who is authorized to administer oaths or other official authorized to witness absentee balloting as provided in this chapter, said application to be accompanied by such verifying affidavits as required by this chapter. The applications of persons having a temporary or permanent physical disability shall not be required to be accompanied by an affidavit but shall be witnessed and signed by a person eighteen (18) years of age or older. The registrar shall send to such absent voter a proper absentee voter ballot within twenty-four (24) hours, or as soon thereafter as the ballots are available, containing the names of all candidates who qualify or the proposition to be voted on in such election, and with such ballot there shall be sent an official envelope containing upon it in printed form the recitals and data hereinafter required.

SECTION 14. Section 23-15-449, Mississippi Code of 1972, is amended as follows:

23-15-449. All laws relating to elections now in force in this state shall apply to all elections under this chapter so far as the same may be applicable thereto, and so far as such provisions are not inconsistent with the provisions of this chapter. Absentee ballots and ballots used during early voting shall be voted as now provided by law.

SECTION 15. Section 23-15-463, Mississippi Code of 1972, is amended as follows:

23-15-463. The board of supervisors of any county in the State of Mississippi and the governing authorities of any municipality in the State of Mississippi are hereby authorized and empowered, in their discretion, to purchase or rent voting devices and automatic tabulating equipment used in an electronic voting system which meets the requirements of Section 23-15-465, and may use such system in all or a part of the precincts within its boundaries, or in combination with paper ballots in any election or primary. It may enlarge, consolidate or alter the boundaries of precincts where an electronic voting system is used. The provisions of Sections 23-15-461 through 23-15-485 shall be controlling with respect to elections where an electronic voting system is used, and shall be liberally construed so as to carry out the purpose of this chapter. The provisions of the election law relating to the conduct of elections with paper ballots, insofar as they are applicable and not inconsistent with the efficient conduct of elections with electronic voting systems, shall apply. Absentee ballots and ballots used during early voting shall be voted as now provided by law.

SECTION 16. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 17. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.