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To: Apportionment and
Elections

HOUSE BILL NO. 765
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 23-15-673, 23-15-677, 23-15-685,
2 23-15-687, 23-15-695 AND 23-15-699, MISSISSIPPI CODE OF 1972, TO
3 INCLUDE WITHIN THE DEFINITION OF THE TERM "ABSENT VOTER" UNDER THE
4 ARMED FORCES ABSENTEE BALLOT LAW, CITIZENS OF MISSISSIPPI WHO ARE
5 ENROLLED AT A UNITED STATES MILITARY ACADEMY; TO PROVIDE THAT
6 ABSENT VOTERS MAY USE A DULY EXECUTED FEDERAL POSTCARD APPLICATION
7 TO REQUEST A BALLOT OR TO REGISTER TO VOTE OR TO DO BOTH
8 SIMULTANEOUSLY UNDER THE ARMED FORCES ABSENTEE BALLOT LAW; TO
9 PROVIDE THAT A REQUEST FOR AN ARMED FORCES ABSENTEE BALLOT SHALL
10 SERVE AS A REQUEST FOR AN ABSENTEE BALLOT FOR EACH ELECTION HELD
11 WITHIN THE CALENDAR YEAR FOR WHICH THE VOTER IS ELIGIBLE TO VOTE;
12 TO ALLOW NONCOMMISSIONED OFFICERS AND PETTY OFFICERS TO ADMINISTER
13 AND ATTEST OATHS UNDER THE ARMED FORCES ABSENTEE BALLOT LAW; TO
14 AUTHORIZE THE USE OF ELECTRONIC FACSIMILE DEVICES TO TRANSMIT
15 ABSENTEE BALLOTS, TO RECEIVE VOTED ABSENTEE BALLOTS AND TO RECEIVE
16 COMPLETED FEDERAL POSTCARD APPLICATIONS UNDER THE ARMED FORCES
17 ABSENTEE BALLOT LAW; TO PROVIDE THAT ABSENTEE VOTERS WHO RESIDE
18 OUTSIDE THE UNITED STATES, WHO ARE MEMBERS OF THE UNITED STATES
19 ARMED FORCES OR WHO ARE FAMILY MEMBERS OF A MEMBER OF THE UNITED
20 STATES ARMED FORCES, AND WHO ARE REGISTERED VOTERS IN THE STATE OF
21 MISSISSIPPI, MAY USE THE FEDERAL WRITE-IN-ABSENTEE BALLOT UNDER
22 CERTAIN CIRCUMSTANCES; TO REPEAL SECTION 23-15-689, MISSISSIPPI
23 CODE OF 1972, WHICH PROVIDES THE MANNER IN WHICH PERSONS ARE
24 REGISTERED TO VOTE UNDER THE ARMED SERVICES ABSENTEE VOTERS LAW;
25 TO GRANT THE SECRETARY OF STATE EMERGENCY POWERS IN THE CONDUCT OF
26 ELECTIONS DURING MILITARY CONTINGENCIES OR ARMED CONFLICT; AND FOR
27 RELATED PURPOSES.

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

29 SECTION 1. Section 23-15-673, Mississippi Code of 1972, is
30 amended as follows:[WAN1]

31 23-15-673. (1) For the purposes of this subarticle, the
32 term "absent voter" shall mean and include the following:

33 (a) Any enlisted or commissioned members, male or
34 female, of the United States Army, or any of its respective
35 components or various divisions thereof; any enlisted or
36 commissioned members, male or female, of the United States Navy,
37 or any of its respective components or various divisions thereof;
38 any enlisted or commissioned members, male or female, of the

39 United States Air Force, or any of its respective components or
40 various divisions thereof; any enlisted or commissioned members,
41 male or female, of the United States Marines, or any of its
42 respective components or various divisions thereof; or any persons
43 in any division of the armed services of the United States, who
44 are citizens of Mississippi;

45 (b) Any member of the Merchant Marine and the American
46 Red Cross who is a citizen of Mississippi;

47 (c) Any disabled war veteran who is a patient in any
48 hospital and who is a citizen of Mississippi;

49 (d) Any civilian attached to and serving outside of the
50 United States with any branch of the Armed Forces or with the
51 Merchant Marine or American Red Cross, and who is a citizen of
52 Mississippi;

53 (e) Any citizen of Mississippi temporarily residing
54 outside the territorial limits of the United States and the
55 District of Columbia;

56 (f) Any citizen of Mississippi enrolled as a student at
57 a United States Military Academy.

58 (2) The spouse and dependents of any absent voter as set out
59 in paragraphs (a), (b), (c) and (d) of subsection (1) of this
60 section shall also be included in the meaning of absent voter and
61 may vote an absentee ballot as provided in this subarticle if also
62 absent from the county of their residence on the date of the
63 election and otherwise qualified to vote in Mississippi.

64 (3) For the purpose of this subarticle, the term "election"
65 shall mean and include the following sets of elections: special
66 and runoff special elections, preferential and general elections,
67 first and second primary elections or general elections without
68 preferential elections, whichever system is applicable.

69 SECTION 2. Section 23-15-677, Mississippi Code of 1972, is
70 amended as follows:

71 23-15-677. All absent voters as defined in Section
72 23-15-673(1) and (2) may use a duly executed federal postcard
73 application (as provided for in the Uniformed and Overseas
74 Citizens Absentee Voting Act, 42 USCS 1973 ff et seq.) to request
75 a ballot or to register to vote, or to do both simultaneously.

76 SECTION 3. Section 23-15-685, Mississippi Code of 1972, is
77 amended as follows:

78 23-15-685. Within forty-five (45) days next prior to any
79 election upon application first made to the registrar of the
80 county by any absent voter as defined in this subarticle, such
81 person shall be sent an absentee voter ballot * * * of the county
82 of which he is a citizen and resident. The registrar shall send
83 to such absent voter a proper absentee voter ballot containing the
84 names of all candidates who qualify or the proposition to be voted
85 upon in such elections, and with such ballot there shall be sent
86 an official envelope containing upon it in printed form the
87 recitals and data hereinafter required.

88 SECTION 4. Section 23-15-687, Mississippi Code of 1972, is
89 amended as follows:

90 23-15-687. The registrar shall keep all applications for
91 absentee ballots and shall, within twenty-four (24) hours, if
92 possible, send to such absent voter on whose behalf the
93 application is made the proper affidavit and the proper ballot or
94 ballots applicable to the elections. One (1) application shall
95 serve as a request for an absentee ballot for each election held
96 within the calendar year for which the voter is eligible to vote.

97 The registrar shall preserve all applications for absentee voter
98 ballots for one (1) year as a record to be furnished to any court
99 or constituted authority for inspection or evidence if properly
100 called for.

101 SECTION 5. Section 23-15-695, Mississippi Code of 1972, is
102 amended as follows:

103 23-15-695. Those persons authorized to administer and attest
104 oaths shall be:

105 (a) Any commissioned officer or noncommissioned officer
106 (NCO) or petty officer in the active service of the Armed Forces;

107 (b) Any member of the Merchant Marine of the United
108 States designated for this purpose by the Secretary of Commerce;

109 (c) The head of any department or agency of the United
110 States;

111 (d) Any civilian official empowered by state or federal
112 law to administer oaths; or

113 (e) Any civilian employee designated by the head of any
114 department or agency of the United States.

115 SECTION 6. Section 23-15-699, Mississippi Code of 1972, is
116 amended as follows:

117 23-15-699. The registrar shall be authorized to use
118 electronic facsimile (FAX) devices to transmit absentee
119 ballots * * * and receive voted absentee ballots, and to receive
120 completed federal postcard applications as described in Section
121 23-15-677, which shall serve to request absentee ballots or to
122 register to vote or to do both simultaneously.

123 SECTION 7. An absent voter who resides outside the United
124 States, who is a member of the United States Armed Forces or who
125 is a family member of a member of the Armed Forces, and who is a
126 registered voter of the State of Mississippi, may use the Federal
127 Write-In-Absentee Ballot as provided for by 42 USCS 1973 ff-2 in
128 general, special, primary and run-off elections for local, state
129 and federal offices.

130 SECTION 8. Section 23-15-689, Mississippi Code of 1972,
131 which provides the manner in which persons are registered to vote
132 under the Armed Services Absentee Voters Law, is repealed.

133 SECTION 9. The Secretary of State may exercise emergency
134 powers concerning absentee voting and registration of military
135 personnel over any election during an armed conflict or other
136 military contingencies involving United States Armed Forces or
137 mobilization of those forces, including state national guard or
138 reserve components. The Secretary of State shall adopt rules
139 describing the emergency powers and the situations in which the
140 powers will be exercised.

141 SECTION 10. The Attorney General of the State of Mississippi

142 shall submit this act, immediately upon approval by the Governor,
143 or upon approval by the Legislature subsequent to a veto, to the
144 Attorney General of the United States or to the United States
145 District Court for the District of Columbia in accordance with the
146 provisions of the Voting Rights Act of 1965, as amended and
147 extended.

148 SECTION 11. This act shall take effect and be in force from
149 and after the date it is effectuated under Section 5 of the Voting
150 Rights Act of 1965, as amended and extended.