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To: Elections

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2250

1 AN ACT TO REQUIRE PERSONS WHO APPEAR TO VOTE IN PERSON AT A  
2 POLLING PLACE OR THE REGISTRAR'S OFFICE TO IDENTIFY THEMSELVES BY  
3 PRESENTING CERTAIN TYPES OF IDENTIFICATION TO AN ELECTION MANAGER  
4 OR THE REGISTRAR BEFORE THEY ARE ALLOWED TO VOTE; TO AMEND  
5 SECTIONS 23-15-631 AND 23-15-637, MISSISSIPPI CODE OF 1972, TO  
6 AUTHORIZE THE SECRETARY OF STATE TO TAKE CERTAIN ACTION TO ENSURE  
7 THAT THE IDENTIFICATION REQUIREMENTS OF THE HELP AMERICA VOTE ACT  
8 OF 2002 ARE MET IN REGARD TO ABSENTEE BALLOTS; TO AMEND SECTIONS  
9 23-15-11, 23-15-541 AND 23-15-719, MISSISSIPPI CODE OF 1972, IN  
10 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** (1) Each person who shall appear to vote in  
13 person at a polling place or the registrar's office shall be  
14 required to identify himself or herself to an election manager or  
15 the registrar by presenting current and valid photo identification  
16 or a copy of a current utility bill, bank statement, government  
17 check, paycheck or a government document that shows the name and  
18 address of the person before such person shall be allowed to vote.

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

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

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

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

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

30 (e) A current and valid employee identification card  
31 containing a photograph of the elector and issued by any employer  
32 of the elector in the ordinary course of the employer's business;

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

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

39 (h) A current and valid pilot's license issued by the  
40 Federal Aviation Administration or other authorized agency of the  
41 United States;

42 (i) A current and valid United States military  
43 identification card; and

44 (j) Official voter registration card.

45 **SECTION 2.** Section 23-15-631, Mississippi Code of 1972, is  
46 amended as follows:

47 23-15-631. (1) The registrar shall enclose with each ballot  
48 provided to an absent elector separate printed instructions  
49 furnished by him containing the following:

50 (a) All absentee voters, excepting those with temporary  
51 or permanent physical disabilities or those who are sixty-five  
52 (65) years of age or older, who mark their ballots in the county  
53 of the residence shall use the registrar of that county as the  
54 witness. Said absentee voter shall come to the office of the  
55 registrar and neither the registrar nor his deputy shall be  
56 required to go out of the registrar's office to serve as an  
57 attesting witness.

58 (b) Upon receipt of the enclosed ballot, you will not  
59 mark same except in view or sight of the attesting witness. In  
60 the sight or view of the attesting witness, mark the ballot  
61 according to instructions.

62           (c) After marking the ballot, fill out and sign the  
63 "ELECTOR'S CERTIFICATE" on back of the envelope so that the  
64 signature shall be across the flap of the envelope so as to insure  
65 the integrity of the ballot. All absent electors shall have the  
66 attesting witness sign the "ATTESTING WITNESS CERTIFICATE" across  
67 the flap on back of the envelope. Place necessary postage on the  
68 envelope and deposit it in the post office or some government  
69 receptacle provided for deposit of mail so that the absent  
70 elector's ballot, excepting presidential absentee ballots, will  
71 reach the registrar in which your precinct is located not later  
72 than 5:00 p.m. on the day preceding the date of the election, or  
73 by personally delivering such ballot to the registrar's office not  
74 later than 12:00 noon on the Saturday immediately preceding  
75 elections held on Tuesday, the Thursday immediately preceding  
76 elections held on Saturday, and the second day immediately  
77 preceding elections held on other days.

78           Any notary public, United States postmaster, assistant United  
79 States postmaster, United States postal supervisor, clerk in  
80 charge of a contract postal station, or any officer having  
81 authority to administer an oath or take an acknowledgment may be  
82 an attesting witness; provided, however, that in the case of an  
83 absent elector who is temporarily or permanently physically  
84 disabled, the attesting witness may be any person eighteen (18)  
85 years of age or older and such person is not required to have the  
86 authority to administer an oath. If a postmaster, assistant  
87 postmaster, postal supervisor, or clerk in charge of a contract  
88 postal station acts as an attesting witness, his signature on the  
89 elector's certificate must be authenticated by the cancellation  
90 stamp of their respective post offices. If one or the other  
91 officers herein named acts as attesting witness, his signature on  
92 the elector's certificate, together with his title and address,  
93 but no seal, shall be required. Any affidavits made by an absent  
94 elector who is in the Armed Forces may be executed before a

95 commissioned officer, warrant officer, or noncommissioned officer  
96 not lower in grade than sergeant rating or any person authorized  
97 to administer oaths.

98 (d) When the application accompanies the ballot it  
99 shall not be returned in the same envelope as the ballot but shall  
100 be returned in a separate preaddressed envelope provided by the  
101 registrar.

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

105 (f) Any voter casting an absentee ballot who declares  
106 that he requires assistance to vote by reason of blindness,  
107 temporary or permanent physical disability or inability to read or  
108 write, shall be entitled to receive assistance in the marking of  
109 his absentee ballot and in completing the affidavit on the  
110 absentee ballot envelope. The voter may be given assistance by  
111 anyone of the voter's choice other than a candidate whose name  
112 appears on the absentee ballot being marked, or the voter's  
113 employer, or agent of that employer. In order to ensure the  
114 integrity of the ballot, any person who provides assistance to an  
115 absentee voter shall be required to sign and complete the  
116 "Certificate of Person Providing Voter Assistance" on the absentee  
117 ballot envelope.

118 (2) The Secretary of State shall prepare instructions on how  
119 absent voters may comply with the identification requirements of  
120 the Help America Vote Act of 2002 which shall be provided to the  
121 registrar and enclosed with each absentee ballot.

122 (3) The foregoing instructions required to be provided by  
123 the registrar to the elector shall also constitute the substantive  
124 law pertaining to the handling of absentee ballots by the elector  
125 and registrar.

126 **SECTION 3.** Section 23-15-639, Mississippi Code of 1972, is  
127 amended as follows:

128           23-15-639. (1) At the close of the regular balloting and at  
129 the close of the polls, the election managers of each voting  
130 precinct shall first take the envelopes containing the absentee  
131 ballots of such electors from the box, and the name, address and  
132 precinct inscribed on each such envelope shall be announced by the  
133 election managers. The signature on the application shall then be  
134 compared with the signature on the back of the envelope. If it  
135 corresponds and the affidavit, if one is required, is sufficient  
136 and the election managers find that the applicant is a registered  
137 and qualified voter or otherwise qualified to vote, and that he  
138 has not appeared in person and voted at such election, the  
139 envelope shall then be opened and the ballot removed from the  
140 envelope, without its being unfolded, or permitted to be unfolded  
141 or examined. Having observed and found the ballot to be regular  
142 as far as can be observed from its official endorsement, the  
143 election managers shall deposit it in the ballot box with the  
144 other ballots before counting any ballots and enter the voter's  
145 name in the receipt book provided for that purpose and mark  
146 "VOTED" in the pollbook or poll list as if he had been present and  
147 voted in person. If voting machines are used, all absentee  
148 ballots shall be placed in the ballot box before any ballots are  
149 counted, and the election managers in each precinct shall  
150 immediately count such absentee ballots and add them to the votes  
151 cast in the voting machine or device.

152           (2) The election managers shall also take such action as may  
153 be prescribed by the Secretary of State to ensure compliance with  
154 the identification requirements of the Help America Vote Act of  
155 2002.

156           **SECTION 4.** Section 23-15-11, Mississippi Code of 1972, is  
157 amended as follows:

158           23-15-11. Every inhabitant of this state, except idiots and  
159 insane persons, who is a citizen of the United States of America,  
160 eighteen (18) years old and upwards, who has resided in this state

161 for thirty (30) days and for thirty (30) days in the county in  
162 which he offers to vote, and for thirty (30) days in the  
163 incorporated city or town in which he offers to vote, and who  
164 shall have been duly registered as an elector pursuant to Section  
165 23-15-33, and who has never been convicted of any crime listed in  
166 Section 241, Mississippi Constitution of 1890, shall be a  
167 qualified elector in and for the county, municipality and voting  
168 precinct of his residence, and shall be entitled to vote at any  
169 election upon compliance with Section 1 of Senate Bill No. 2250,  
170 2004 Regular Session. Any person who will be eighteen (18) years  
171 of age or older on or before the date of the general election and  
172 who is duly registered to vote not less than thirty (30) days  
173 prior to the primary election associated with such general  
174 election, may vote in such primary election even though such  
175 person has not reached his or her eighteenth birthday at the time  
176 such person offers to vote at such primary election. No others  
177 than those above included shall be entitled, or shall be allowed,  
178 to vote at any election.

179 **SECTION 5.** Section 23-15-541, Mississippi Code of 1972, is  
180 amended as follows:

181 23-15-541. At all elections, the polls shall be opened at  
182 seven o'clock in the morning and be kept open until seven o'clock  
183 in the evening and no longer. Upon the opening of the polls, and  
184 not before, the managers of the election shall designate two (2)  
185 of their number, other than the manager theretofore designated to  
186 receive the blank ballots, who shall thereupon be known  
187 respectively as the initialing manager and the alternate  
188 initialing manager. The alternate initialing manager, in the  
189 absence of the initialing manager, shall perform all of the duties  
190 and undertake all of the responsibilities of the initialing  
191 manager. When any person entitled to vote shall appear to vote,  
192 the managers shall identify the voter by requiring the voter to  
193 submit identification as required by Section 1 of Senate Bill No.

194 2250, 2004 Regular Session, and then such person shall \* \* \* sign  
195 his name in a receipt book or booklet provided for that purpose  
196 and to be used at that election only and said receipt book or  
197 booklet shall be used in lieu of the list of voters who have voted  
198 formerly made by the managers or clerks; whereupon and not before,  
199 the initialing manager or, in his absence, the alternate  
200 initialing manager shall indorse his initials on the back of an  
201 official blank ballot, prepared in accordance with law, and at  
202 such place on the back of the ballot that the initials may be seen  
203 after the ballot has been marked and folded, and when so indorsed  
204 he shall deliver it to the voter, which ballot the voter shall  
205 mark in the manner provided by law, which when done the voter  
206 shall deliver the same to the initialing manager or, in his  
207 absence, to the alternate initialing manager, in the presence of  
208 the others, and the manager shall see that the ballot so delivered  
209 bears on the back thereof the genuine initials of the initialing  
210 manager, or alternate initialing manager, and if so, but not  
211 otherwise, the ballot shall be put into the ballot box; and when  
212 so done one (1) of the managers or a duly appointed clerk shall  
213 make the proper entry on the pollbook. If the voter is unable to  
214 write his name on the receipt book, a manager or clerk shall note  
215 on the back of the ballot that it was receipted for by his  
216 assistance.

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

219 23-15-719. (1) Immediately upon completion of an  
220 application filed pursuant to the provisions of paragraph (a) of  
221 Section 23-15-715, the registrar shall deliver the necessary  
222 ballots to the applicant. The registrar shall identify the  
223 applicant by requiring him to present identification as required  
224 by Section 1 of Senate Bill No. 2250, 2004 Regular Session, and  
225 shall then deliver the ballots to the applicant by mail or to the  
226 applicant in the registrar's office. The registrar shall not

227 personally hand deliver ballots to voters, unless he delivers the  
228 ballots in the office of the registrar. The elector shall fill in  
229 his ballot in secret. After the applicant has properly marked the  
230 ballot and properly folded it, he shall deposit it in the envelope  
231 furnished him by the registrar.

232 After he has sealed the envelope, he shall subscribe and  
233 swear to an affidavit in the following form, which shall be  
234 printed on the back of the envelope containing the applicant's  
235 ballot:

236 "STATE OF MISSISSIPPI

237 COUNTY OF \_\_\_\_\_

238 I, \_\_\_\_\_, do solemnly swear that this envelope contains  
239 the ballot marked by me indicating my choice of the candidates or  
240 propositions to be submitted at the election to be held on the \_\_\_\_  
241 day of \_\_\_\_\_, 2\_\_\_\_, and I hereby authorize the registrar to  
242 place this envelope in the ballot box on my behalf, and I further  
243 authorize the election managers to open this envelope and place my  
244 ballot among the other ballots cast before such ballots are  
245 counted, and record my name on the poll list as if I were present  
246 in person and voted.

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

248 \_\_\_\_\_

249 (Signature of voter)

250 SWORN TO AND SUBSCRIBED before me, \_\_\_\_\_, this the \_\_\_\_

251 day of \_\_\_\_\_, 2\_\_\_\_.

252 (Registrar) \_\_\_\_\_

253 (Registrar)"

254 After the completion of the requirements of this section, the  
255 elector shall deliver the envelope containing the ballot to the  
256 registrar.

257 (2) If the voter has received assistance in marking his  
258 ballot, the person providing the assistance shall complete the

259 following form which shall be printed on the back of the envelope  
260 containing the applicant's ballot:

261 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

262 (To be completed only if the voter has received assistance in  
263 marking the enclosed ballot.) I hereby certify that the  
264 above-named voter declared to me that he or she is blind,  
265 temporarily or permanently physically disabled, or cannot read or  
266 write, and that the voter requested that I assist the voter in  
267 marking the enclosed absentee ballot. I hereby certify that the  
268 ballot preferences on the enclosed ballot are those communicated  
269 by the voter to me, and that I have marked the enclosed ballot in  
270 accordance with the voter's instructions.

271 \_\_\_\_\_

272 Signature of person providing assistance

273 \_\_\_\_\_

274 Printed name of person providing assistance

275 \_\_\_\_\_

276 Address of person providing assistance

277 \_\_\_\_\_

278 Date and time assistance provided

279 \_\_\_\_\_

280 Family relationship to voter (if any)"

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

283 **SECTION 7.** The Attorney General of the State of Mississippi  
284 shall submit this act, immediately upon approval by the Governor,  
285 or upon approval by the Legislature subsequent to a veto, to the  
286 Attorney General of the United States or to the United States  
287 District Court for the District of Columbia in accordance with the  
288 provisions of the Voting Rights Act of 1965, as amended and  
289 extended.

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