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To: Elections

SENATE BILL NO. 2002

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 (3) Any person who utilizes the provisions of this section
46 to intimidate a voter or to prevent from voting a person who is
47 otherwise qualified to vote shall be guilty of a misdemeanor and,
48 upon conviction, shall be punished by imprisonment for not more
49 than six (6) months or fined in an amount not to exceed One
50 Thousand Dollars (\$1,000.00), or both.

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

53 23-15-631. (1) The registrar shall enclose with each ballot
54 provided to an absent elector separate printed instructions
55 furnished by him containing the following:

56 (a) All absentee voters, excepting those with temporary
57 or permanent physical disabilities or those who are sixty-five
58 (65) years of age or older, who mark their ballots in the county
59 of the residence shall use the registrar of that county as the
60 witness. Said absentee voter shall come to the office of the
61 registrar and neither the registrar nor his deputy shall be

62 required to go out of the registrar's office to serve as an
63 attesting witness.

64 (b) Upon receipt of the enclosed ballot, you will not
65 mark same except in view or sight of the attesting witness. In
66 the sight or view of the attesting witness, mark the ballot
67 according to instructions.

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

84 Any notary public, United States postmaster, assistant United
85 States postmaster, United States postal supervisor, clerk in
86 charge of a contract postal station, or any officer having
87 authority to administer an oath or take an acknowledgment may be
88 an attesting witness; provided, however, that in the case of an
89 absent elector who is temporarily or permanently physically
90 disabled, the attesting witness may be any person eighteen (18)
91 years of age or older and such person is not required to have the
92 authority to administer an oath. If a postmaster, assistant
93 postmaster, postal supervisor, or clerk in charge of a contract
94 postal station acts as an attesting witness, his signature on the

elector's certificate must be authenticated by the cancellation stamp of their respective post offices. If one or the other officers herein named acts as attesting witness, his signature on the elector's certificate, together with his title and address, but no seal, shall be required. Any affidavits made by an absent elector who is in the Armed Forces may be executed before a commissioned officer, warrant officer, or noncommissioned officer not lower in grade than sergeant rating or any person authorized to administer oaths.

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

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

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

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

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

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

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

(2) The election managers shall also take such action as may be prescribed by the Secretary of State to ensure compliance with

the identification requirements of the Help America Vote Act of 2002.

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

23-15-11. Every inhabitant of this state, except idiots and insane persons, who is a citizen of the United States of America, eighteen (18) years old and upwards, who has resided in this state for thirty (30) days and for thirty (30) days in the county in which he offers to vote, and for thirty (30) days in the incorporated city or town in which he offers to vote, and who shall have been duly registered as an elector pursuant to Section 23-15-33, and who has never been convicted of any crime listed in Section 241, Mississippi Constitution of 1890, shall be a qualified elector in and for the county, municipality and voting precinct of his residence, and shall be entitled to vote at any election upon compliance with Section 1 of Senate Bill No. _____, 2004 First Extraordinary Session. Any person who will be eighteen (18) years of age or older on or before the date of the general election and who is duly registered to vote not less than thirty (30) days prior to the primary election associated with such general election, may vote in such primary election even though such person has not reached his or her eighteenth birthday at the time such person offers to vote at such primary election. No others than those above included shall be entitled, or shall be allowed, to vote at any election.

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

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

193 respectively as the initialing manager and the alternate
194 initialing manager. The alternate initialing manager, in the
195 absence of the initialing manager, shall perform all of the duties
196 and undertake all of the responsibilities of the initialing
197 manager. When any person entitled to vote shall appear to vote,
198 the managers shall identify the voter by requiring the voter to
199 submit identification as required by Section 1 of Senate Bill No.
200 ____, 2004 First Extraordinary Session, and then such person
201 shall * * * sign his name in a receipt book or booklet provided
202 for that purpose and to be used at that election only and said
203 receipt book or booklet shall be used in lieu of the list of
204 voters who have voted formerly made by the managers or clerks;
205 whereupon and not before, the initialing manager or, in his
206 absence, the alternate initialing manager shall indorse his
207 initials on the back of an official blank ballot, prepared in
208 accordance with law, and at such place on the back of the ballot
209 that the initials may be seen after the ballot has been marked and
210 folded, and when so indorsed he shall deliver it to the voter,
211 which ballot the voter shall mark in the manner provided by law,
212 which when done the voter shall deliver the same to the initialing
213 manager or, in his absence, to the alternate initialing manager,
214 in the presence of the others, and the manager shall see that the
215 ballot so delivered bears on the back thereof the genuine initials
216 of the initialing manager, or alternate initialing manager, and if
217 so, but not otherwise, the ballot shall be put into the ballot
218 box; and when so done one (1) of the managers or a duly appointed
219 clerk shall make the proper entry on the pollbook. If the voter
220 is unable to write his name on the receipt book, a manager or
221 clerk shall note on the back of the ballot that it was receipted
222 for by his assistance.

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

225 23-15-719. (1) Immediately upon completion of an
226 application filed pursuant to the provisions of paragraph (a) of
227 Section 23-15-715, the registrar shall deliver the necessary
228 ballots to the applicant. The registrar shall identify the
229 applicant by requiring him to present identification as required
230 by Section 1 of Senate Bill No. _____, 2004 First Extraordinary
231 Session, and shall then deliver the ballots to the applicant by
232 mail or to the applicant in the registrar's office. The registrar
233 shall not personally hand deliver ballots to voters, unless he
234 delivers the ballots in the office of the registrar. The elector
235 shall fill in his ballot in secret. After the applicant has
236 properly marked the ballot and properly folded it, he shall
237 deposit it in the envelope furnished him by the registrar.

238 After he has sealed the envelope, he shall subscribe and
239 swear to an affidavit in the following form, which shall be
240 printed on the back of the envelope containing the applicant's
241 ballot:

242 "STATE OF MISSISSIPPI
243 COUNTY OF _____

244 I, _____, do solemnly swear that this envelope contains
245 the ballot marked by me indicating my choice of the candidates or
246 propositions to be submitted at the election to be held on the ____
247 day of _____, 2____, and I hereby authorize the registrar to
248 place this envelope in the ballot box on my behalf, and I further
249 authorize the election managers to open this envelope and place my
250 ballot among the other ballots cast before such ballots are
251 counted, and record my name on the poll list as if I were present
252 in person and voted.

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

254 _____
255 (Signature of voter)

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

258 (Registrar) _____

259 (Registrar)"

260 After the completion of the requirements of this section, the
261 elector shall deliver the envelope containing the ballot to the
262 registrar.

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

267 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE
268 (To be completed only if the voter has received assistance in
269 marking the enclosed ballot.) I hereby certify that the
270 above-named voter declared to me that he or she is blind,
271 temporarily or permanently physically disabled, or cannot read or
272 write, and that the voter requested that I assist the voter in
273 marking the enclosed absentee ballot. I hereby certify that the
274 ballot preferences on the enclosed ballot are those communicated
275 by the voter to me, and that I have marked the enclosed ballot in
276 accordance with the voter's instructions.

277 _____

278 Signature of person providing assistance

279 _____

280 Printed name of person providing assistance

281 _____

282 Address of person providing assistance

283 _____

284 Date and time assistance provided

285 _____

286 Family relationship to voter (if any)"

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

289 **SECTION 7.** The Attorney General of the State of Mississippi
290 shall submit this act, immediately upon approval by the Governor,

291 or upon approval by the Legislature subsequent to a veto, to the
292 Attorney General of the United States or to the United States
293 District Court for the District of Columbia in accordance with the
294 provisions of the Voting Rights Act of 1965, as amended and
295 extended.

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