

By: Senator(s) Burton

To: Elections

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2822

1 AN ACT TO AUTHORIZE A QUALIFIED ELECTOR TO VOTE EARLY NOT  
2 MORE THAN 21 DAYS NOR LESS THAN 5 DAYS BEFORE THE DATE OF AN  
3 ELECTION; TO PROVIDE THAT EARLY VOTING MAY BE CONDUCTED IN THE  
4 REGISTRAR'S OFFICE; TO REQUIRE A PERSON WHO DESIRES TO VOTE EARLY  
5 TO APPEAR AT THE REGISTRAR'S OFFICE AND TO PROVIDE THAT AFTER  
6 SIGNING THE RECEIPT BOOK SUCH PERSON SHALL BE ENTITLED TO VOTE AT  
7 THE REGISTRAR'S OFFICE DURING THE EARLY VOTING PERIOD IN THE SAME  
8 MANNER AS HE WOULD AT HIS VOTING PRECINCT ON THE DAY OF THE  
9 ELECTION; TO PROVIDE THAT THE ELECTION LAWS THAT GOVERN PROCEDURES  
10 FOR A PERSON WHO APPEARS TO VOTE ON THE DAY OF ELECTION SHALL  
11 APPLY WHEN A PERSON APPEARS TO VOTE DURING THE EARLY VOTING  
12 PERIOD; TO PROVIDE THAT ALL VOTES CAST DURING THE EARLY VOTING  
13 PERIOD SHALL BE FINAL; TO PROVIDE THAT THE VOTES CAST DURING EARLY  
14 VOTING SHALL BE ANNOUNCED SIMULTANEOUSLY WITH THE VOTE CAST ON  
15 ELECTION DAY; TO PROVIDE THAT EACH CANDIDATE SHALL HAVE THE RIGHT  
16 TO BE PRESENT AT THE REGISTRAR'S OFFICE AND TO CHALLENGE THE  
17 QUALIFICATIONS OF ANY PERSON OFFERING TO VOTE EARLY IN THE SAME  
18 MANNER AS PROVIDED BY LAW AT THE POLLING PLACE ON THE DAY OF THE  
19 ELECTION; TO REQUIRE THE SECRETARY OF STATE TO PROMULGATE RULES  
20 AND REGULATIONS NECESSARY TO EFFECTUATE EARLY VOTING; TO AMEND  
21 SECTIONS 23-15-195, 23-15-653 AND 23-15-353, MISSISSIPPI CODE OF  
22 1972, IN CONFORMITY THERETO; TO REQUIRE PERSONS WHO APPEAR TO VOTE  
23 IN PERSON AT A POLLING PLACE OR THE REGISTRAR'S OFFICE, AND TO  
24 IDENTIFY THEMSELVES BY PRESENTING CERTAIN TYPES OF IDENTIFICATION  
25 TO AN ELECTION MANAGER OR THE REGISTRAR BEFORE THEY ARE ALLOWED TO  
26 VOTE; TO AMEND SECTION 23-15-639, MISSISSIPPI CODE OF 1972, TO  
27 AUTHORIZE THE SECRETARY OF STATE TO TAKE CERTAIN ACTION TO ENSURE  
28 THAT THE IDENTIFICATION REQUIREMENTS OF THE HELP AMERICA VOTE ACT  
29 OF 2002 ARE MET IN REGARD TO ABSENTEE BALLOTS; TO AMEND SECTIONS  
30 23-15-11 AND 23-15-541, MISSISSIPPI CODE OF 1972, IN CONFORMITY  
31 THERETO; TO AMEND SECTIONS 23-15-625, 23-15-627, 23-15-631,  
32 23-15-635, 23-15-637, 23-15-713, 23-15-715 AND 23-15-721,  
33 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ALL PERSONS WHO VOTE BY  
34 ABSENTEE BALLOT MUST DO SO BY MAIL; TO REPEAL SECTION 23-15-719,  
35 MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE MANNER IN WHICH  
36 PERSONS VOTE ABSENTEE IN THE REGISTRAR'S OFFICE; AND FOR RELATED  
37 PURPOSES.

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

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

41 **SECTION 2.** (1) A qualified elector may vote early not more  
42 than twenty-one (21) days nor less than five (5) days before the  
43 date of an election in the office of the registrar of the county

44 in which such elector is registered to vote during the times  
45 established for early voting in this section.

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

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

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

53 (b) One Saturday during the early voting period from  
54 8:00 a.m. until 4:00 p.m.

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

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

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

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

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

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

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

85           23-15-195. All elections by the people shall be by  
86 ballot \* \* \*.

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

89           23-15-653. Except as otherwise provided in Section 2 of  
90 Senate Bill No. 2822, 2007 Regular Session, all registrars'  
91 offices shall remain open until noon on the two (2) Saturdays  
92 prior to each election.

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

95           23-15-353. (1) The officer charged with printing and  
96 distributing the official ballot shall ascertain from the  
97 registrar, at least ten (10) days before the day of election, the  
98 number of registered voters in each voting precinct; and he shall  
99 have printed and distributed a sufficient number of ballots for  
100 use in each precinct. He shall also prepare full instructions for  
101 the guidance of electors at elections as to obtaining ballots, the  
102 manner of marking them, and the mode of obtaining new ballots in  
103 the place of those spoiled by accident. The instructions shall be  
104 printed in large, clear type, on "cards of instruction," and the  
105 officer shall furnish the same in sufficient numbers for the use  
106 of electors. The cards shall be preserved by the officers of  
107 election and returned by them to the commissioners of election;  
108 and they may be used, if applicable, in subsequent elections.

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

113       **SECTION 9.** (1) Each person who shall appear to vote in  
114 person at a polling place or the office of the registrar shall be  
115 required to identify himself or herself to an election manager or  
116 the registrar by presenting current and valid photo  
117 identification, a government document that shows the name and  
118 address of the person, or a social security card that shows the  
119 name of the person, before such person shall be allowed to vote.

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

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

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

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

126           (d) A current and valid employee identification card  
127 containing a photograph of the elector and issued by any branch,  
128 department, agency or entity of the United States government, the  
129 State of Mississippi, or any county, municipality, board,  
130 authority or other entity of this state;

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

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

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

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

143 (i) A current and valid United States military  
144 identification card; and

145 (j) Official voter registration card.

146 (3) A person who appears to vote in person at a polling  
147 place or the office of the registrar and does not have  
148 identification as required by this section may vote by affidavit  
149 ballot. If, upon examination of the affidavit, the person is  
150 found to be a registered voter, the person's vote shall be  
151 counted.

152 (4) Any person who utilizes the provisions of this section  
153 to intimidate a voter, or to prevent from voting a person who is  
154 otherwise qualified to vote, shall, upon conviction, be sentenced  
155 to pay a fine of not less than Five Thousand Dollars (\$5,000.00),  
156 or by imprisonment for not less than one (1) year nor more than  
157 five (5) years, or both.

158 **SECTION 10.** Section 23-15-639, Mississippi Code of 1972, is  
159 amended as follows:

160 23-15-639. (1) In elections in which direct recording  
161 electronic voting systems are not utilized, the examination and  
162 counting of absentee ballots shall be conducted as follows:

163 (a) At the close of the regular balloting and at the  
164 close of the polls, the election managers of each voting precinct  
165 shall first take the envelopes containing the absentee ballots of  
166 such electors from the box, and the name, address and precinct  
167 inscribed on each envelope shall be announced by the election  
168 managers.

169 (b) The signature on the application shall then be  
170 compared with the signature on the back of the envelope. If it  
171 corresponds and the affidavit, if one is required, is sufficient  
172 and the election managers find that the applicant is a registered

173 and qualified voter or otherwise qualified to vote, and that he  
174 has not appeared in person and voted at the election, the envelope  
175 shall then be opened and the ballot removed from the envelope,  
176 without its being unfolded, or permitted to be unfolded or  
177 examined.

178 (c) Having observed and found the ballot to be regular  
179 as far as can be observed from its official endorsement, the  
180 election managers shall deposit it in the ballot box with the  
181 other ballots before counting any ballots and enter the voter's  
182 name in the receipt book provided for that purpose and mark  
183 "VOTED" in the pollbook or poll list as if he had been present and  
184 voted in person. If voting machines are used, all absentee  
185 ballots shall be placed in the ballot box before any ballots are  
186 counted, and the election managers in each precinct shall  
187 immediately count such absentee ballots and add them to the votes  
188 cast in the voting machine or device.

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

192 (a) At the close of the regular balloting and at the  
193 close of the polls, the election managers of each voting precinct  
194 shall first take the envelopes containing the absentee ballots of  
195 such electors from the box, and the name, address and precinct  
196 inscribed on each envelope shall be announced by the election  
197 managers.

198 (b) The signature on the application shall then be  
199 compared with the signature on the back of the envelope. If it  
200 corresponds and the affidavit, if one is required, is sufficient  
201 and the election managers find that the applicant is a registered  
202 and qualified voter or otherwise qualified to vote, and that he  
203 has not appeared in person and voted at the election, the unopened  
204 envelope shall be marked "ACCEPTED" and the election managers  
205 shall enter the voter's name in the receipt book provided for that

206 purpose and mark "VOTED" in the pollbook or poll list as if he had  
207 been present and voted in person.

208 (c) All absentee ballot envelopes shall then be placed  
209 in the secure ballot transfer case and delivered to the officials  
210 in charge of conducting the election at the central tabulation  
211 point of the county. The official in charge of the election shall  
212 open the envelopes marked "ACCEPTED" and remove the ballot from  
213 the envelope.

214 (d) Having observed the ballot to be regular as far as  
215 can be observed from its official endorsement, the absentee ballot  
216 shall be processed through the central optical scanner. The  
217 scanned totals shall then be combined with the direct recording  
218 electronic voting system totals for the unofficial vote count.

219 When there is a conflict between an electronic voting system  
220 and a paper record, then there is a rebuttable presumption that  
221 the paper record is correct.

222 (3) The election managers shall also take such action as may  
223 be prescribed by the Secretary of State to ensure compliance with  
224 the identification requirements of the Help America Vote Act of  
225 2002.

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

228 23-15-11. Every inhabitant of this state, except idiots and  
229 insane persons, who is a citizen of the United States of America,  
230 eighteen (18) years old and upwards, who has resided in this state  
231 for thirty (30) days and for thirty (30) days in the county in  
232 which he offers to vote, and for thirty (30) days in the  
233 incorporated city or town in which he offers to vote, and who  
234 shall have been duly registered as an elector pursuant to Section  
235 23-15-33, and who has never been convicted of any crime listed in  
236 Section 241, Mississippi Constitution of 1890, shall be a  
237 qualified elector in and for the county, municipality and voting  
238 precinct of his residence, and shall be entitled to vote at any

239 election upon compliance with Section 9 of Senate Bill No. 2822,  
240 2007 Regular Session. Any person who will be eighteen (18) years  
241 of age or older on or before the date of the general election and  
242 who is duly registered to vote not less than thirty (30) days  
243 prior to the primary election associated with such general  
244 election, may vote in such primary election even though such  
245 person has not reached his or her eighteenth (18th) birthday at  
246 the time such person offers to vote at such primary election. No  
247 others than those above included shall be entitled, or shall be  
248 allowed, to vote at any election.

249 **SECTION 12.** Section 23-15-541, Mississippi Code of 1972, is  
250 amended as follows:

251 23-15-541. At all elections, the polls shall be opened at  
252 seven o'clock in the morning and be kept open until seven o'clock  
253 in the evening and no longer. Upon the opening of the polls, and  
254 not before, the managers of the election shall designate two (2)  
255 of their number, other than the manager theretofore designated to  
256 receive the blank ballots, who shall thereupon be known  
257 respectively as the initialing manager and the alternate  
258 initialing manager. The alternate initialing manager, in the  
259 absence of the initialing manager, shall perform all of the duties  
260 and undertake all of the responsibilities of the initialing  
261 manager. When any person entitled to vote shall appear to vote,  
262 the managers shall identify the voter by requiring the voter to  
263 submit identification as required by Section 9 of Senate Bill No.  
264 2822, 2007 Regular Session, and then such person shall \* \* \* sign  
265 his name in a receipt book or booklet provided for that purpose  
266 and to be used at that election only and said receipt book or  
267 booklet shall be used in lieu of the list of voters who have voted  
268 formerly made by the managers or clerks; whereupon and not before,  
269 the initialing manager or, in his absence, the alternate  
270 initialing manager shall indorse his initials on the back of an  
271 official blank ballot, prepared in accordance with law, and at



272 such place on the back of the ballot that the initials may be seen  
273 after the ballot has been marked and folded, and when so indorsed  
274 he shall deliver it to the voter, which ballot the voter shall  
275 mark in the manner provided by law, which when done the voter  
276 shall deliver the same to the initialing manager or, in his  
277 absence, to the alternate initialing manager, in the presence of  
278 the others, and the manager shall see that the ballot so delivered  
279 bears on the back thereof the genuine initials of the initialing  
280 manager, or alternate initialing manager, and if so, but not  
281 otherwise, the ballot shall be put into the ballot box; and when  
282 so done one (1) of the managers or a duly appointed clerk shall  
283 make the proper entry on the pollbook. If the voter is unable to  
284 write his name on the receipt book, a manager or clerk shall note  
285 on the back of the ballot that it was receipted for by his  
286 assistance.

287       **SECTION 13.** Section 23-15-625, Mississippi Code of 1972, is  
288 amended as follows:

289       23-15-625. The registrar shall be responsible for providing  
290 applications for absentee voting as provided in this section. At  
291 least sixty (60) days prior to any election in which absentee  
292 voting is provided for by law, the registrar shall provide a  
293 sufficient number of applications. In the event a special  
294 election is called and set at a date which makes it impractical or  
295 impossible to prepare applications for absent elector's ballot  
296 sixty (60) days prior to the election, the registrar shall provide  
297 applications as soon as practicable after the election is called.  
298 The registrar shall fill in the date of the particular election on  
299 the application for which the application will be used.

300       The registrar shall be authorized to disburse applications  
301 for absentee ballots to any qualified elector within the county  
302 where he serves as provided in this paragraph. Any person who  
303 presents to the registrar an oral or written request for an  
304 absentee ballot application for a voter entitled to vote

305 absentee \* \* \*, other than the elector who seeks to vote by  
306 absentee ballot, shall, in the presence of the registrar, sign the  
307 application and print on the application his or her name and  
308 address and the name of the elector for whom the application is  
309 being requested in the place provided for on the application for  
310 that purpose. However, if for any reason such person is unable to  
311 write the information required, then the registrar shall write the  
312 information on a printed form which has been prescribed by the  
313 Secretary of State. The form shall provide a place for such  
314 person to place his mark after the form has been filled out by the  
315 registrar.

316       The registrar in the county wherein a voter is qualified to  
317 vote upon receiving the envelope containing the absentee ballots  
318 shall keep an accurate list of all persons preparing such ballots,  
319 which list shall be kept in a conspicuous place accessible to the  
320 public near the entrance to his office. The registrar shall also  
321 furnish to each precinct manager a list of the names of all  
322 persons in each respective precinct voting absentee ballots to be  
323 posted in a conspicuous place at the polling place for public  
324 notice. The application on file with the registrar and the  
325 envelopes containing the ballots shall be kept by the registrar  
326 and deposited in the proper precinct ballot boxes before such  
327 boxes are delivered to the election commissioners or managers. At  
328 the time such boxes are delivered to the election commissioners or  
329 managers, the registrar shall also turn over a list of all such  
330 persons who have voted and whose ballots are in the box.

331       The registrar shall also be authorized to mail one (1)  
332 application to any qualified elector of the county for use in a  
333 particular election.

334       **SECTION 14.** Section 23-15-627, Mississippi Code of 1972, is  
335 amended as follows:

336       23-15-627. The registrar shall be responsible for furnishing  
337 an absentee ballot application form to any elector authorized to

338 receive an absentee ballot. Absentee ballot applications shall be  
339 furnished to a person only upon the oral or written request of the  
340 elector who seeks to vote by absentee ballot; however, the parent,  
341 child, spouse, sibling, legal guardian, those empowered with a  
342 power of attorney for that elector's affairs or agent of the  
343 elector may orally request an absentee ballot application on  
344 behalf of the elector. An absentee ballot application must have  
345 the seal of the circuit or municipal clerk affixed to it and be  
346 initialed by the registrar or his deputy in order to be utilized  
347 to obtain an absentee ballot. A reproduction of an absentee  
348 ballot application shall not be valid unless it is a reproduction  
349 provided by the office of the registrar of the jurisdiction in  
350 which the election is being held and which contains the seal and  
351 initials required by this section. Such application shall be  
352 substantially in the following form:

353 "OFFICIAL APPLICATION FOR ABSENT ELECTOR'S BALLOT

354 I, \_\_\_\_\_, duly qualified and registered in the \_\_\_\_ Precinct  
355 of the County of \_\_\_\_\_, and State of Mississippi, coming within  
356 the purview of the definition 'ABSENT ELECTOR' will be \* \* \*  
357 unable to vote in person because (check appropriate reason):

358 ( ) (PRESIDENTIAL APPLICANT ONLY:) I am currently a  
359 resident of Mississippi or have moved therefrom within thirty (30)  
360 days of the coming presidential election.

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

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

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

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

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

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

396 \* \* \*

397 ( ) I have a temporary or permanent physical disability.

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

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

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

408 \* \* \*

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

411 Mail 'Absent Elector's Ballot' to me at the following address  
412 \_\_\_\_\_ \* \* \*.

413 I realize that I can be fined up to Five Thousand Dollars  
414 (\$5,000.00) and sentenced up to five (5) years in the Penitentiary  
415 for making a false statement in this application and for selling  
416 my vote and violating the Mississippi Absentee Voter Law. (This  
417 sentence is to be in bold print.)

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

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

426 IN WITNESS WHEREOF I have hereunto set my hand and seal this  
427 the \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

428 \_\_\_\_\_

429 (Signature of absent elector)

430 SWORN TO AND SUBSCRIBED before me this the \_\_\_\_ day of \_\_\_\_\_,  
431 2\_\_\_\_.

432 \_\_\_\_\_

433 (Official authorized to administer oaths  
434 for absentee balloting.)

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

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

441 \_\_\_\_\_  
442 (Signature of witness)

443 CERTIFICATE OF DELIVERY

444 I hereby certify that \_\_\_\_\_ (print name of voter)  
445 has requested that I, \_\_\_\_\_ (print name of person  
446 delivering application), deliver to the voter this absentee ballot  
447 application.

448 \_\_\_\_\_  
449 (Signature of person delivering application)

450 \_\_\_\_\_  
451 (Address of person delivering application)"

452 **SECTION 15.** Section 23-15-631, Mississippi Code of 1972, is  
453 amended as follows:

454 23-15-631. (1) The registrar shall enclose with each ballot  
455 provided to an absent elector separate printed instructions  
456 furnished by him containing the following:

457 \* \* \*

458 (a) Upon receipt of the enclosed ballot, you will not  
459 mark the ballot except in view or sight of the attesting witness.  
460 In the sight or view of the attesting witness, mark the ballot  
461 according to instructions.

462 (b) After marking the ballot, fill out and sign the  
463 "ELECTOR'S CERTIFICATE" on back of the envelope so that the  
464 signature shall be across the flap of the envelope so as to insure  
465 the integrity of the ballot. All absent electors shall have the  
466 attesting witness sign the "ATTESTING WITNESS CERTIFICATE" across  
467 the flap on back of the envelope. Place necessary postage on the  
468 envelope and deposit it in the post office or some government  
469 receptacle provided for deposit of mail so that the absent

470 elector's ballot, excepting presidential absentee ballots, will  
471 reach the registrar in which your precinct is located not later  
472 than 5:00 p.m. on the day preceding the date of the election.

473 Any notary public, United States postmaster, assistant United  
474 States postmaster, United States postal supervisor, clerk in  
475 charge of a contract postal station, or any officer having  
476 authority to administer an oath or take an acknowledgment may be  
477 an attesting witness; \* \* \* however, \* \* \* in the case of an  
478 absent elector who is temporarily or permanently physically  
479 disabled, the attesting witness may be any person eighteen (18)  
480 years of age or older and such person is not required to have the  
481 authority to administer an oath. If a postmaster, assistant  
482 postmaster, postal supervisor, or clerk in charge of a contract  
483 postal station acts as an attesting witness, his signature on the  
484 elector's certificate must be authenticated by the cancellation  
485 stamp of their respective post offices. If one or the other  
486 officers herein named acts as attesting witness, his signature on  
487 the elector's certificate, together with his title and address,  
488 but no seal, shall be required. Any affidavits made by an absent  
489 elector who is in the Armed Forces may be executed before a  
490 commissioned officer, warrant officer, or noncommissioned officer  
491 not lower in grade than sergeant rating or any person authorized  
492 to administer oaths.

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

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

500 (e) Any voter casting an absentee ballot who declares  
501 that he requires assistance to vote by reason of blindness,  
502 temporary or permanent physical disability or inability to read or

503 write, shall be entitled to receive assistance in the marking of  
504 his absentee ballot and in completing the affidavit on the  
505 absentee ballot envelope. The voter may be given assistance by  
506 anyone of the voter's choice other than a candidate whose name  
507 appears on the absentee ballot being marked, or the voter's  
508 employer, or agent of that employer. In order to ensure the  
509 integrity of the ballot, any person who provides assistance to an  
510 absentee voter shall be required to sign and complete the  
511 "Certificate of Person Providing Voter Assistance" on the absentee  
512 ballot envelope.

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

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

521 **SECTION 16.** Section 23-15-635, Mississippi Code of 1972, is  
522 amended as follows:

523 23-15-635. \* \* \* The form of the elector's certificate,  
524 attesting witness certification and certificate of person  
525 providing voter assistance on the back of the envelope used by  
526 voters \* \* \* shall be as follows:

527 "ELECTOR'S CERTIFICATE

528 STATE OF \_\_\_\_\_

529 COUNTY OR PARISH OF \_\_\_\_\_

530 I, \_\_\_\_\_, do solemnly swear that this envelope contains  
531 the ballot marked by me indicating my choice of the candidates or  
532 propositions to be submitted at the election to be held on the \_\_\_\_  
533 day of \_\_\_\_\_, 2\_\_\_\_, and I hereby authorize the registrar to  
534 place this envelope in the ballot box on my behalf, and I further  
535 authorize the election managers to open this envelope and place my



536 ballot among the other ballots cast before such ballots are  
537 counted, and record my name on the poll list as if I were present  
538 in person and voted.

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

540 \_\_\_\_\_  
541 (Signature of voter)

542 CERTIFICATE OF ATTESTING WITNESS

543 Personally appeared before me, on this the \_\_\_ day of  
544 \_\_\_\_\_, 2\_\_\_\_, the above-named voter, known by me to be the  
545 person named, who after being duly sworn or having affirmed,  
546 subscribed the foregoing oath or affirmation. That said voter  
547 exhibited to me his blank ballot; that said ballot was not marked  
548 or voted before the said voter exhibited the ballot to me; that  
549 the said voter was not solicited or advised by me to vote for any  
550 candidate, question or issue, and that the voter, after marking  
551 his ballot, placed it in the envelope, closed and sealed the  
552 envelope in my presence, and signed and swore or affirmed the  
553 above certificate.

554 \_\_\_\_\_  
555 (Attesting witness) (Address)

556 \_\_\_\_\_  
557 (Official title) (City and State)

558 CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

559 (To be completed only if the voter has received assistance in  
560 marking the enclosed ballot.) I hereby certify that the  
561 above-named voter declared to me that he or she is blind,  
562 temporarily or permanently physically disabled, or cannot read or  
563 write, and that the voter requested that I assist the voter in  
564 marking the enclosed absentee ballot. I hereby certify that the  
565 ballot preferences on the enclosed ballot are those communicated  
566 by the voter to me, and that I have marked the enclosed ballot in  
567 accordance with the voter's instructions.

568 \_\_\_\_\_

569 Signature of person providing assistance

570 \_\_\_\_\_

571 Printed name of person providing assistance

572 \_\_\_\_\_

573 Address of person providing assistance

574 \_\_\_\_\_

575 Date and time assistance provided

576 \_\_\_\_\_

577 Family relationship to voter (if any)"

578 \* \* \*

579 **SECTION 17.** Section 23-15-637, Mississippi Code of 1972, is  
580 amended as follows:

581 23-15-637. Absentee ballots received by mail, excluding  
582 presidential ballots as provided for in Sections 23-15-731 and  
583 23-15-733, must be received by the registrar by 5:00 p.m. on the  
584 date preceding the election; any received after such time shall be  
585 handled as provided in Section 23-15-647 and shall not be  
586 counted. \* \* \* The registrar shall deposit all absentee ballots  
587 which have been timely cast in the ballot boxes upon receipt.

588 **SECTION 18.** Section 23-15-641, Mississippi Code of 1972, is  
589 amended as follows:

590 23-15-641. (1) If an affidavit or the certificate of the  
591 officer before whom the affidavit is taken is required and such  
592 affidavit or certificate is found to be insufficient, or if it is  
593 found that the signatures do not correspond, or that the applicant  
594 is not a duly qualified elector in the precinct, or otherwise  
595 qualified to vote, or that the ballot envelope is open or has been  
596 opened and resealed, or the voter is not eligible to vote absentee  
597 or that the voter is present and has voted within the precinct  
598 where he represents himself to be a qualified elector, or  
599 otherwise qualified to vote, on the date of the election at such  
600 precinct or has voted early, the \* \* \* vote cast by absentee  
601 ballot shall not be allowed. Without opening the voter's envelope

602 the commissioners of election, designated executive committee  
603 members or election managers, as appropriate, shall mark across  
604 its face "REJECTED", with the reason therefor.

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

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

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

624 **SECTION 19.** Section 23-15-713, Mississippi Code of 1972, is  
625 amended as follows:

626 23-15-713. For the purpose of this subarticle, any duly  
627 qualified elector may vote as provided in this subarticle if he be  
628 one who falls within the following categories:

629 (a) Any qualified elector who is a bona fide student,  
630 teacher or administrator at any college, university, junior  
631 college, high, junior high, or elementary grade school whose  
632 studies or employment at such institution necessitates his absence  
633 from the county of his voting residence on election day and all  
634 days upon which early voting may be conducted, or the spouse and

635 dependents of said student, teacher or administrator if such  
636 spouse or dependent(s) maintain a common domicile, outside of the  
637 county of his voting residence, with such student, teacher or  
638 administrator.

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

646 \* \* \*

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

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

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

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

664 \* \* \*

665 **SECTION 20.** Section 23-15-715, Mississippi Code of 1972, is  
666 amended as follows:

667           23-15-715. Any elector desiring an absentee ballot as  
668 provided in this subarticle may secure same if \* \* \* within  
669 forty-five (45) days next prior to any election, any elector who  
670 cannot vote on the day of the election or any day upon which early  
671 voting is conducted because he temporarily resides outside the  
672 county, or \* \* \* has a temporary or permanent physical  
673 disability, \* \* \* is sixty-five (65) years of age or older,  
674 or \* \* \* is the parent, spouse or dependent of a temporarily or  
675 permanently physically disabled person who is hospitalized outside  
676 of his county of residence or more than fifty (50) miles away from  
677 his residence and such parent, spouse or dependent will be with  
678 such person on election day and any day upon which early voting is  
679 conducted, may make application for an absentee ballot by mailing  
680 the appropriate application to the registrar. Only persons  
681 temporarily residing out of the county of their residence, persons  
682 having a temporary or permanent physical disability, persons who  
683 are sixty-five (65) years of age or older, or any person who is  
684 the parent, spouse or dependent of a temporarily or permanently  
685 physically disabled person who is hospitalized outside of his  
686 county of residence or more than fifty (50) miles away from his  
687 residence, and such parent, spouse or dependent will be with such  
688 person on election day and any day upon which early voting is  
689 conducted, may obtain absentee ballots by mail under the  
690 provisions of this paragraph and as provided by Section 23-15-713.  
691 Applications of persons temporarily residing outside the county  
692 shall be sworn to and subscribed before an official who is  
693 authorized to administer oaths or other official authorized to  
694 witness absentee balloting as provided in this chapter, said  
695 application to be accompanied by such verifying affidavits as  
696 required by this chapter. The applications of persons having a  
697 temporary or permanent physical disability shall not be required  
698 to be accompanied by an affidavit but shall be witnessed and  
699 signed by a person eighteen (18) years of age or older. The

700 registrar shall send to such absent voter a proper absentee voter  
701 ballot within twenty-four (24) hours, or as soon thereafter as the  
702 ballots are available, containing the names of all candidates who  
703 qualify or the proposition to be voted on in such election, and  
704 with such ballot there shall be sent an official envelope  
705 containing upon it in printed form the recitals and data  
706 hereinafter required.

707         **SECTION 21.** Section 23-15-721, Mississippi Code of 1972, is  
708 amended as follows:

709         23-15-721. (1) Electors temporarily residing outside the  
710 county and obtaining an absentee ballot under the provisions  
711 of \* \* \* Section 23-15-715 shall appear before any official  
712 authorized to administer oaths or other official authorized to  
713 witness absentee balloting as provided in this chapter. The  
714 elector shall exhibit to such official his absentee ballot  
715 unmarked and thereupon proceed in secret to fill in his ballot.  
716 After the elector has properly marked the ballot and properly  
717 folded it, he shall deposit it in the envelope furnished him.  
718 After he has sealed the envelope he shall deliver it to the  
719 official before whom he is appearing and shall subscribe and swear  
720 to the elector's certificate provided for in Section 23-15-635,  
721 which affidavit shall be printed on the back of the envelope as  
722 provided for in Section 23-15-635.

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

727         (3) After the completion of the requirements of this  
728 section, the elector shall mail the envelope containing the ballot  
729 to the registrar in the county wherein said elector is qualified  
730 to vote. Said ballots must be received by the registrar prior to  
731 5:00 p.m. on the day preceding the election to be counted.

732           **SECTION 22.** Section 23-15-719, Mississippi Code of 1972,  
733 which provides the manner in which persons vote absentee in the  
734 registrar's office, is repealed.

735           **SECTION 23.** The Attorney General of the State of Mississippi  
736 shall submit this act, immediately upon approval by the Governor,  
737 or upon approval by the Legislature subsequent to a veto, to the  
738 Attorney General of the United States or to the United States  
739 District Court for the District of Columbia in accordance with the  
740 provisions of the Voting Rights Act of 1965, as amended and  
741 extended.

742           **SECTION 24.** This act shall take effect and be in force from  
743 and after the date it is effectuated under Section 5 of the Voting  
744 Rights Act of 1965, as amended and extended.