

Administrative Rule Promulgated Pursuant to § 23-15-701, Miss. Code Ann.

Re: The Secretary of State's Adoption of Necessary and Essential Rules to Comply with the Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA")

- I. Pursuant to the Military and Overseas Voter Empowerment Act of 2009 ("MOVE Act"), Congress amended UOCAVA to require absentee ballots be transmitted at least forty-five (45) days prior to an election to every UOCAVA voter who has submitted a request therefor on or prior to that date. The forty-five (45) day transmittal deadline for the March 8, 2016 Primary Election occurred on Saturday, January 23, 2016. Absentee voting has continued since that date.
- II. By reason of the Mississippi Supreme Court's decision in *Dr. Willie Wilson v. Delbert Hosemann, in his capacity as Mississippi Secretary of State*, bearing cause number 1016-IA-00148, Willie Wilson's name was required to be placed upon the Democratic Primary Election ballot as a presidential candidate on Friday, February 26, 2016.
- III. Pursuant to § 23-15-701, Miss. Code Ann., the Secretary of State is authorized to adopt rules necessary and essential to bring all Mississippi counties into compliance with UOCAVA, 42 U. S.C. § 1973ff, *et seq.*
- IV. To comply with the requirements of UOCAVA, it is necessary and essential for the Secretary of State to promulgate a temporary administrative rule to extend the deadline by which all UOCAVA voters who have requested and received a Democratic Primary Election ballot now receive a second Democratic Primary Election ballot as revised, having the name of Willie Wilson thereon as a Democratic presidential candidate. Therefore, the following rule is hereby adopted:
 - A. The deadline by which each respective Circuit Clerk's Office must receive by e-mail or fax, a second, revised Democratic Primary Election absentee ballot from any UOCAVA absentee voter previously provided a Democratic Primary Election absentee ballot shall remain until 7:00 p.m. on March 8, 2016.
 - B. The deadline by which each respective Circuit Clerk's Office must receive, by mail, a second, revised Democratic Primary Election absentee ballot from any UOCAVA absentee voter previously provided a Democratic Primary Election ballot is hereby extended until 5:00 p.m. on Thursday, March 17, 2016, provided, however, the envelope thereof is postmarked no later than March 8, 2016.
 - C. The Circuit Clerks shall have the affirmative obligation to transmit a second, revised Democratic Primary Election absentee ballot to each Democratic UOCAVA absentee voter previously provided a Democratic Primary Election ballot.
 - D. The election officials charged with conducting the Democratic Primary

Election in each county shall have the affirmative obligation and duty to examine and count any late-transmitted Democratic Primary Election absentee ballot received pursuant to this administrative rule. Any Democratic UOCAVA absentee ballot, if received by the Circuit Clerk subsequent to the delivery of ballot boxes to election managers on Primary Election day, yet on or prior to 5:00 p.m. on March 17, 2016 as provided herein, shall be retained by the Circuit Clerk. The Circuit Clerk shall deliver to the county election officials these Democratic UOCAVA absentee ballots, if received between delivery of the ballot boxes to election managers on election day and 5:00 p.m. on March 17, 2016, together with the corresponding applications, for which the Circuit Clerk shall receive a receipt from the election officials. Upon the canvassing of the returns, these Democratic UOCAVA absentee ballots shall be deemed valid for all purposes, as if the same had been deposited in the proper precinct ballot box, and the county election officials shall count these Democratic UOCAVA absentee ballots as if delivered to the proper precinct. Except as provided in the Mississippi Armed Services Absentee Voting Law and this rule, an absentee ballot received pursuant to this rule shall be treated, examined and counted in the same manner as other absentee ballots.

- E. Any UOCAVA absentee ballot received after 5:00p.m. on Thursday, March 17, 2016 shall be handled as provided in § 23-15-647, Miss. Code Ann., and shall therefore not be counted.