To: Apportionment and Elections

MISSISSIPPI LEGISLATURE

By: Representative Robinson (84th)

HOUSE BILL NO. 792

MISSISSIPPI LEGISLATURE REGULAR SESSION 2001

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

SECTION 1. At any primary election, all qualified electors shall be entitled to vote for the candidate of their choice for each office regardless of the party affiliation of the candidate. Qualified electors may vote for only one (1) candidate for each office at a primary election. If a qualified elector votes for more than one (1) candidate for any one (1) office, the elector's vote for that office shall not be counted.

SECTION 2. Section 23-15-265, Mississippi Code of 1972, is amended as follows:

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23-15-265. The commissioners of election of each county shall meet not less than two (2) weeks before the date of any primary election and appoint the managers and clerks for the same. The number of managers and clerks appointed by the commissioners of election shall be the same number as the commissioners of election are allowed to appoint pursuant to Sections 23-15-231 and 23-15-235. The commissioners of election shall appoint managers and clerks pursuant to this section upon the recommendation of the county executive committee. The commissioners of election shall appoint an equal number of managers and clerks from each political party that participates in the primary election to serve at each precinct. If the county commissioners of election fail to meet on the date named, supra, further notice shall be given of the time and place of meeting.

SECTION 3. Section 23-15-267, Mississippi Code of 1972, is amended as follows:

23-15-267. The ballot boxes provided by the commissioners of election in each county shall be used in primary elections, and the county commissioners of election shall distribute them to the voting precincts of the county before the time for opening the polls, in the same manner, as near as may be, as that provided for in general elections. If an adjournment shall take place after the polls are open and before all votes are counted, the ballot box shall be securely locked so as to prevent the admission into it or the taking of anything from it during the time of adjournment; and the box shall be kept by one of the managers, and the key by another of the managers, and the manager having the box shall carefully keep it, and neither undertake to open it himself or permit it to be done, or to permit any person to have access to it during the time of adjournment. The box shall not be removed from the polling building or place after the polls are open until the count is completed if as many as three (3) electors qualified to vote at the election object. After each
election, the ballot boxes of those provided by the commissioners of election shall be delivered, with the keys thereof immediately and as soon thereafter as possible, and without delay to the clerk of the circuit court of the county. The person, or persons, whose duty it is to comply with the provisions of this section and who shall fail, or neglect, for any cause, to deliver said boxes or any of them as provided for in this section shall, upon conviction, be fined not less than Two Hundred Dollars ($200.00) and be imprisoned in the county jail of the residence of the person, or persons, who violates any of the provisions of this section, for a period of not less than thirty (30) days or more than six (6) months, and fined not more than Five Hundred Dollars ($500.00).

SECTION 4. Section 23-15-303, Mississippi Code of 1972, is amended as follows:

23-15-303. When two (2) or more political parties or political organizations are holding primary elections, each shall be conducted together and at the same time.

The board of supervisors or the supervisor of the district in which the voting precinct is located shall have authority, and it is made its and his duty when requested, to specifically designate the respective places where the precinct primary election shall be held where there may be a dispute as to the room or exact place for holding such precinct elections.

SECTION 5. Section 23-15-333, Mississippi Code of 1972, is amended as follows:

23-15-333. (1) The commissioners of election of each county shall have printed all necessary ballots, for use in primary elections. The ballots shall contain the names of all the candidates of all the political parties participating in the primary election to be voted for at such election. The title of each office shall be listed by party and the candidates listed under the appropriate party designation. There shall be left on
each ballot one (1) blank space under the title of each office for
which a nominee is to be elected; and in the event of the death of
any candidate whose name shall have been printed on the ballot,
the name of the candidate duly substituted in the place of the
deceased candidate may be written in such blank space by the
voter. Except as otherwise provided in subsection (2) of this
section, the order in which the titles to the various offices
shall be printed, and the size, print and quality of the paper of
the ballot is left to the discretion of the commissioners of
election. Provided, however, that in all cases the arrangement of
the names of the candidates for each office shall be alphabetical.
No ballot shall be used except those so printed.

(2) The titles for the various offices shall be listed in
the following order:
(a) Candidates for national office;
(b) Candidates for statewide office;
(c) Candidates for state district office;
(d) Candidates for legislative office;
(e) Candidates for countywide office;
(f) Candidates for county district office.

The order in which the titles for the various offices are
listed within each of the categories listed in this subsection is
left to the discretion of the commissioners of election.

(3) The commissioners of election shall also prepare full
instructions for the guidance of electors at elections as to
obtaining ballots, the manner of marking them, and the mode of
obtaining new ballots in the place of those spoiled by accident.
The instructions shall be printed in large, clear type on "Cards
of Instruction," and the commissioners of election shall furnish
the same in sufficient numbers for the use of electors. The cards
shall be preserved by the officers of election and returned by
them to the commissioners of election and they may be used, if
applicable, in subsequent elections.
SECTION 6. Section 23-15-335, Mississippi Code of 1972, is amended as follows:

23-15-335. The commissioners of election of each county shall designate a person whose duty it shall be to distribute all necessary ballots for use in a primary election, and shall designate one (1) among the managers at each polling place to receive and receipt for the blank ballots to be used at that place. When the blank ballots are delivered to a local manager, the distributor shall take from the local manager a receipt therefor signed in duplicate by both the distributor and the manager, one of which receipts the distributor shall deliver to the circuit clerk and the other shall be retained by the local manager and said last mentioned duplicate receipt shall be enclosed in the ballot box with the voted ballots when the polls have been closed and the votes have been counted. The printer of the ballots shall take a receipt from the distributor of the ballots for the total number of the blank ballots delivered to the distributor. The printer shall secure all ballots printed by him in such a safe manner that no person can procure them or any of them, and he shall deliver no blank ballot or ballots to any person except the distributor above mentioned, and then only upon his receipt therefor as above specified. The distributor of the blank ballots shall so securely hold the same that no person can obtain any of them, and he shall not deliver any of them to any person other than to the authorized local managers and upon their respective receipts therefor. The commissioners of election shall see to it that the total blank ballots delivered to the distributor, shall correspond with the total of the receipts executed by the local managers. Any person charged with any of the duties prescribed in this section who shall willfully or with culpable carelessness violate the same shall be guilty of a misdemeanor.
SECTION 7. Section 23-15-597, Mississippi Code of 1972, is amended as follows:

23-15-597. The commissioners of election of each county shall meet on the first or second day after each primary election, shall receive and canvass the returns which must be made within the time fixed by law for returns of general elections and certify the result to the county executive committee. The county executive committee shall announce the name of the nominees for county and county district offices and legislative offices for districts containing one (1) county or less, and the names of those candidates to be submitted to the second primary. The vote for state and state district offices and legislative offices for districts containing more than one (1) county or parts of more than one (1) county shall be tabulated by precincts and certified to and returned to the State Board of Election Commissioners, such returns to be mailed by registered letter or any safe mode of transmission within thirty-six (36) hours after the returns are canvassed and the result ascertained. The State Board of Election Commissioners shall meet a week from the day following the first primary election held for state and state district offices and legislative offices for districts containing more than one (1) county or parts of more than one (1) county, and shall proceed to canvass the returns and to certify the result to the State Executive Committee. The State Executive Committee shall announce the names of those nominated for the different offices in the first primary and the names of those candidates whose names are to be submitted to the second primary election. The State Board of Election Commissioners shall also meet a week from the day on which the second primary election was held and receive and canvass the returns for state and district offices, if any, and legislative offices for districts containing more than one (1) county or parts of more than one (1) county, if any, voted on in such second primary and certify the result to the State Executive Board.
Committee. An exact and full duplicate of all tabulations by precincts as certified under this section shall be filed with the circuit clerk of the county who shall safely preserve the same in his office.

SECTION 8. Section 23-15-129, Mississippi Code of 1972, is amended as follows:

23-15-129. The commissioners of election and the registrars of the respective counties are hereby directed to make an administrative division of the pollbook for each county immediately following any reapportionment of the Mississippi Legislature or any realignment of supervisors districts, if necessary. Such an administrative division shall form subprecincts whenever necessary within each voting precinct so that all persons within a subprecinct shall vote on the same candidates for each public office. Separate pollbooks for each subprecinct shall be made. The polling place for all subprecincts within any given voting precinct shall be the same as the polling place for the voting precinct. Additional managers may be appointed for subprecincts in the discretion of the commissioners of election.

SECTION 9. Section 23-15-171, Mississippi Code of 1972, is amended as follows:

23-15-171. (1) Municipal primary elections shall be held on the first Tuesday in May preceding the general municipal election and, in the event a second primary shall be necessary, such second primary shall be held on the third Tuesday in May preceding such general municipal election.

(2) At municipal primary elections the municipal executive committee shall perform the same duties as are specified by law and performed by members of the county executive committee with regard to state and county primary elections. Each municipal executive committee shall have as many members as there are elective officers of the municipality, and such members of the
municipal executive committee of each political party shall be
elected in the primary elections held for the nomination of
candidates for municipal offices.

(3) The municipal commissioners of election shall perform
all duties specified by law to be performed by the county
commissioners of election with regard to state and county primary
elections.

(4) The provisions of this section shall govern all
municipal primary elections as far as applicable, but * * * the
returns of such election shall be made to such municipal executive
committee. Vacancies in the executive committee shall be filled
by it.

(5) Provided, however, that in municipalities operating
under a special or private charter which fixes a time for holding
elections, other than the time fixed by Chapter 491, Laws of 1950,
the first primary election shall be held exactly four (4) weeks
before the time for holding the general election, as fixed by the
charter, and the second primary election, where necessary, shall
be held two (2) weeks after the first primary election, unless the
charter of any such municipality provides otherwise, in which
event the provisions of the special or private charter shall
prevail as to the time of holding such primary elections.

(6) All primary elections in municipalities shall be held
and conducted in the same manner as is provided by law for state
and county primary elections.

SECTION 10. Section 23-15-263, Mississippi Code of 1972, is
amended as follows:

23-15-263. (1) The county commissioners of election shall
perform all the duties specified by law to be performed by the
county commissioners of election with regard to state and county
primary elections.

(2) Unless otherwise provided in this chapter, the county
executive committee at primary elections shall perform all duties
that relate to the qualification of candidates for primary elections, * * * resolve contests in regard to primary elections, and perform all other duties required by law to be performed by the county executive committee; however, each house of the Legislature shall rule on the qualifications of the membership of its respective body in contests involving the qualifications of such members. The executive committee shall be subject to all the penalties to which county election commissioners are subject, except that Section 23-15-217 shall not apply to members of the county executive committee who seek elective office.

(3) A member of a county executive committee shall be automatically disqualified to serve on the county executive committee, and shall be considered to have resigned therefrom, upon his qualification as a candidate for any elective office. The provisions of this subsection shall not apply to a member of a county executive committee who qualifies as a candidate for a municipal elective office.

(4) The primary election officers appointed by the commissioners of election shall have the powers and perform the duties, where not otherwise provided, required of such officers in a general election, and any and every act or omission which by law is an offense when committed in or about or in respect to such general elections, shall be an offense if committed in or about or in respect to a primary election; and the same shall be indictable and punishable in the same way as if the election was a general election for the election of state and county officers, except as specially modified or otherwise provided in this chapter.

SECTION 11. Section 23-15-295, Mississippi Code of 1972, is amended as follows:

23-15-295. When any person has qualified in the manner provided by law as a candidate for party nomination in any primary election, such person shall have the right to withdraw his name as a candidate by giving notice of his withdrawal in writing to the
secretary of the proper executive committee at any time prior to
the printing of the official ballots, and in the event of such
withdrawal the name of such candidate shall not be printed on the
ballot. When a candidate for party nomination for a state or
district office who has qualified with the State Executive
Committee withdraws as a candidate as provided for in this section
after the sample of the official ballot has been approved and
certified by the State Executive Committee, the Secretary or
Chairman of the State Executive Committee shall forthwith notify
the commissioners of election of each county affected or involved
of the fact of such withdrawal and such notification shall
authorize the commissioners of election to omit the name of the
withdrawn candidate from the ballot if such notification is
received prior to the printing of the ballot. In the case of the
withdrawal of any candidate, the fee paid by such candidate shall
be retained by the state or county executive committee, as the
case may be.

SECTION 12. Section 23-15-331, Mississippi Code of 1972, is
amended as follows:

23-15-331. It shall be the duty of the State Executive
Committee of each political party to furnish to the commissioners
of election of each county, not less than fifty (50) days prior to the
primary election, the names of all state and state district
candidates and all candidates for legislative districts composed
of more than one county or parts of more than one county who have
qualified as provided by law, and in accordance with the
requirements of Section 23-15-333 a sample of the official ballot
to be used in the primary, the general form of which shall be
followed as nearly as practicable.

SECTION 13. Section 23-15-403, Mississippi Code of 1972, is
amended as follows:

23-15-403. The board of supervisors of any county in the
State of Mississippi and the governing authorities of any
municipality in the State of Mississippi are hereby authorized and
empowered, in their discretion, to purchase or rent any voting
machine or machines which shall be so constructed as to fulfill
the following requirements:

(a) It shall secure to the voter secrecy in the act of
voting;

(b) It shall provide facilities for voting for all
candidates of as many political parties or organizations as may
make nominations, and for or against as many questions as
submitted;

(c) It shall permit the voter to vote for all the
candidates of one party or in part for the candidates of one
or more other parties;

(d) It shall permit the voter to vote for as many
persons for an office as he is lawfully entitled to vote for, but
not more;

(e) It shall prevent the voter from voting for the same
person more than once for the same office;

(f) It shall permit the voter to vote for or against
any question he may have the right to vote on, but no other;

(g) It shall correctly register or record and
accurately count all votes cast for any and all persons and for or
against any and all questions;

(h) It shall be provided with a "protective counter" or
"protective device" whereby any operation of the machine before or
after the election will be detected;

(i) It shall be provided with a counter which shall
show at all times during an election how many persons have voted;

(j) It shall be provided with a mechanical model,
illustrating the manner of voting on the machine, suitable for the
instruction of voters;

(k) It may also be provided with a device for
voting for all the presidential electors of a party by one (1)
operation, and a ballot therefor containing only the words
"Presidential Electors For" preceded by the name of that party and
followed by the names of the candidates thereof for the offices of
President and Vice President, and a registering device therefor
which shall register the vote cast for said electors when thus
voted collectively; provided, however, that means shall be
furnished whereby the voter can cast a vote for individual
electors when permitted to do so by law.

amended as follows:

23-15-465. No electronic voting system, consisting of a
marking or voting device in combination with automatic tabulating
equipment, shall be acquired or used in accordance with Sections
23-15-461 through 23-15-485 unless it shall:

(a) Provide for voting in secrecy when used with voting
booths;

(b) Permit each voter to vote at any election for all
persons and offices for whom and for which he is lawfully entitled
to vote; to vote for as many persons for an office as he is
entitled to vote for; to vote for or against any question upon
which he is entitled to vote; and the automatic tabulating
equipment shall reject choices recorded on his ballot card or
paper ballot if the number of choices exceeds the number which he
is entitled to vote for the office or on the measure;

(c) Permit each voter, at presidential elections, by
one (1) mark or punch to vote for the candidates of that party for
President, Vice President, and their presidential electors, or to
vote individually for the electors of his choice when permitted by
law;

(d) Permit each voter to vote for the nominees of
one or more parties and for independent nominees;

(e) Permit each voter to vote for candidates only in
the primary in which he is qualified to vote;
(f) Permit each voter to vote for persons whose names are not on the printed ballot or ballot labels;

(g) Prevent the voter from voting for the same person more than once for the same office;

(h) Be suitably designed for the purpose used, of durable construction, and may be used safely, efficiently and accurately in the conduct of elections and counting ballots;

(i) Be provided with means for sealing the voting or marking device against any further voting after the close of the polls and the last voter has voted;

(j) When properly operated, record correctly and count accurately every vote cast;

(k) Be provided with a mechanical model for instructing voters, and be so constructed that a voter may readily learn the method of operating it;

(l) Be safely transportable, and include a light to enable voters to read the ballot labels and instructions.

SECTION 15. Section 23-15-507, Mississippi Code of 1972, is amended as follows:

23-15-507. No optical mark reading system shall be acquired or used in accordance with this chapter unless it shall:

(a) Permit each voter to vote at any election for all persons and no others for whom and for which they are lawfully entitled to vote; to vote for as many persons for an office as they are entitled to vote for; to vote for or against any questions upon which they are entitled to vote;

(b) The OMR tabulating equipment shall be capable of rejecting choices recorded on the ballot if the number of choices exceeds the number which the voter is entitled to vote for the office or on the measure;

(c) Permit each voter, at presidential elections, by one (1) mark to vote for the candidates of that party for President, Vice President, and their presidential electors, or to
ST: Elections; blanket primary and allow voters to vote for candidates regardless of party affiliations.

vote individually for the electors of their choice when permitted by law;

(d) Permit each voter to vote for the nominees of one or more parties and for independent nominees;

(e) Permit each voter to vote for candidates only in the primary in which they are qualified to vote;

(f) Permit each voter to vote for persons whose names are not on the printed ballot;

(g) Be suitably designed for the purpose used, of durable construction, and may be used safely, efficiently and accurately in the conduct of elections and the counting of ballots;

(h) Be provided with means for sealing the ballots after the close of the polls and the last voter has voted;

(i) When properly operated, record correctly and count accurately all votes cast; and

(j) Provide the voter with a set of instructions that will be so displayed that a voter may readily learn the method of voting.

SECTION 16. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 17. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.