AN ACT TO REQUIRE ELECTION COMMISSIONS AND EXECUTIVE COMMITTEES RESPONSIBLE FOR THE CONDUCT OF ELECTIONS IN WHICH BALLOTS ARE GENERATED AND ARE COUNTED BY HAND OR BY AN ELECTRONIC TABULATING DEVICE TO REPORT TO THE SECRETARY OF STATE CERTAIN INFORMATION ON RESIDUAL VOTES; TO SPECIFY THE CONTENTS OF SUCH REPORTS; TO REQUIRE ELECTION COMMISSIONS AND EXECUTIVE COMMITTEES RESPONSIBLE FOR THE CONDUCT OF ELECTIONS IN WHICH ELECTRONIC DEVICES THAT DO NOT GENERATE BALLOTS THAT ARE COUNTED BY HAND OR BY ELECTRONIC TABULATING DEVICES TO REPORT CERTAIN INFORMATION TO THE SECRETARY OF STATE; TO AMEND SECTIONS 23-15-599, 23-15-601, 23-15-603, 23-15-605, 23-15-607 AND 23-15-611, MISSISSIPPI CODE OF 1972, TO REQUIRE COUNTY EXECUTIVE COMMITTEES TO TRANSMIT TO THE SECRETARY OF STATE CERTIFIED STATEMENTS OF THE VOTE IN THEIR COUNTY FOR ELECTIONS FOR COUNTY AND COUNTY DISTRICT OFFICES AND FOR ELECTIONS FOR LEGISLATIVE OFFICES FOR DISTRICTS CONTAINING ONE COUNTY OR LESS; TO PROVIDE THAT STATEMENTS OF THE VOTE CAST AT PRIMARY AND GENERAL ELECTIONS THAT ARE REQUIRED TO BE TRANSMITTED TO THE SECRETARY OF STATE INCLUDE THE VOTE BY PRECINCTS; TO REQUIRE THAT SUCH STATEMENT BE TRANSMITTED TO THE SECRETARY OF STATE ON SUCH FORMS AND BY SUCH METHODS AS MAY BE REQUIRED BY RULES AND REGULATIONS PROMULGATED BY THE SECRETARY OF STATE; TO REQUIRE SUCH STATEMENTS TO HAVE A CERTIFICATION SIGNED BY THE APPROPRIATE ELECTION OFFICIALS; TO REQUIRE THE GENERAL ELECTION RETURNS FOR VOTES FOR STATEWIDE OFFICE TO CONTAIN A STATEMENT OF THE WHOLE NUMBER OF VOTES GIVEN IN EACH HOUSE OF REPRESENTATIVE DISTRICT FOR EACH CANDIDATE; TO PROVIDE FOR THE AVAILABILITY OF FORMS; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) As used in this section "residual votes" means overvotes, undervotes and any other vote not counted for any reason.

(2) For every election, election commissions and county and municipal executive committees shall report to the Secretary of State residual vote information; however, if the voting devices utilized in the election do not produce a ballot, other information shall be reported as required in this section.

(3) For every election, election commissions and county and municipal executive committees responsible for the conduct of elections in which ballots are generated that are counted by hand
or by an electronic or automatic tabulating device shall report to
the Secretary of State all residual votes for all candidates and
ballot measures in the elections for which they are responsible
for conducting. Such residual vote reports shall:

(a) Be received by the Secretary of State no later than
December 15 of the year in which the election is held;
(b) Include any suggested explanation or suspected
cause of the residual votes;
(c) Include a copy of a voided official ballot for the
election as such ballot appeared to voters at the election and
copies of voided affidavit and absentee ballots if they are
different from the official ballot;
(d) Include the total voter turnout for each election
to be determined by totaling the number of persons signing the
receipt book at each precinct, absentee voters and persons who
voted by affidavit ballot and persons whose ballots were
challenged and rejected; and
(e) Include a copy of any printed voting instructions
given or visible to voters in the election and a description of
any verbal instructions and any other evidence of voter education
that was utilized in the election.

(4) For every election, election commissions and county and
municipal executive committees responsible for the conduct of
elections in which voting devices are used that do not generate
ballots that are counted by hand or by electronic or automatic
tabulating devices, shall file a report with the Secretary of
State which shall:

(a) Be received by the Secretary of State no later than
December 15 of the year in which the election is held;
(b) Include the total voter turnout for each election
to be determined by totaling the number of persons signing the
receipt book at each precinct, absentee voters and persons who
voted by affidavit ballot and persons whose ballots were challenged and rejected;

(c) Include in the report any anecdotal information obtained concerning voter problems with the voting equipment or ballot layout;

(d) Include in the report any suggested explanation or suspected cause of any difference in the amount of total voter turnout and the number of counted votes for candidates for various offices; and

(e) Include a copy of any printed voting instructions given or visible to voters in the election and a description of any verbal instructions and any other evidence of voter education that was utilized in the election.

(5) Not later than January 31 of the year following the election, the Secretary of State shall submit a report to the Governor, Lieutenant Governor and Speaker of the House of Representatives analyzing the reports required to be filed pursuant to this section. The analysis shall include the following:

(a) The performance of each voting device type used in the election;

(b) Any problems with voter or poll worker instructions or ballot design and layout that have been identified as a result of analyzing the reports received;

(c) Recommendations for reducing the number of residual votes reported; and

(d) Such other information as the Secretary of State deems beneficial.

(6) The reports required pursuant to this section shall be in such form as may be required by rules and regulations promulgated by the Secretary of State.

SECTION 2. Section 23-15-599, Mississippi Code of 1972, is amended as follows:
23-15-599. (1) (a) Within ten (10) days after the first primary election and within ten (10) days after the second primary election, if any, the Chairman of the State Executive Committee shall transmit to the Secretary of State a tabulated statement of the party vote cast in each county and precinct in each county in each state and state district election, and each legislative election for districts consisting of more than one (1) county or parts of more than one (1) county. The statement shall be transmitted by the State Executive Committee on such forms and by such methods as may be required by rules and regulations promulgated by the Secretary of State. The statement shall be filed by the Secretary of State and preserved among the records of his office.

(b) The statement provided for in paragraph (a) of this subsection shall contain a certification signed and dated by the Chairman of the State Executive Committee, which shall read as follows:

"I _______________, Chairman of the _________ Party State Executive Committee, do hereby certify that, on a majority vote of the ________ Party State Executive Committee, these vote totals for each county and for each candidate are the official vote totals for the election reflected therein."

(2) (a) Within ten (10) days after the first primary election and within ten (10) days after the second primary election, if any, the county executive committee shall transmit to the Secretary of State a tabulated statement of the party vote cast in their county and each precinct in their county in each election for county and county district office and each election for legislative office for districts containing one (1) county or less. The statement shall be transmitted by the county executive committee on such forms and by such methods as may be required by rules and regulations promulgated by the Secretary of State. The
statement shall be filed by the Secretary of State and preserved among the records of his office.

(b) The statement provided for in paragraph (a) of this subsection shall contain a certification signed and dated by the majority of the members of the county executive committee, which shall read as follows:

"We, the undersigned members of the county executive committee, do hereby certify that these vote totals for each candidate are the official vote totals for the election reflected therein."

SECTION 3. Section 23-15-601, Mississippi Code of 1972, is amended as follows:

23-15-601. (1) When the result of the election shall have been ascertained by the managers they, or one (1) of their number, or some fit person designated by them, shall, by noon of the second day after the election, deliver to the commissioners of election, at the courthouse, a statement of the whole number of votes given for each person and for what office; and the commissioners of election shall canvass the returns, ascertain and declare the result, and, within ten (10) days after the day of the election, shall deliver a certificate of his election to the person having the greatest number of votes for representative in the Legislature of districts composed of one (1) county or less, or other county office, board of supervisors, justice court judge and constable. If it appears that two (2) or more candidates for Representative of the county, or part of the county, or for any county office, board of supervisors, justice court judge or constable standing highest on the list, and not elected, have an equal number of votes, the election shall be decided by lot fairly and publicly drawn by the commissioners, with the aid of two (2) or more respectable electors of the county, and a certificate of election shall be given accordingly. The foregoing provisions shall apply to Senators, if the county be a senatorial district.
(2) The commissioners of election shall transmit to the Secretary of State, on such forms and by such methods as may be required by rules and regulations promulgated by the Secretary of State, a statement of the total number of votes cast in the county for each candidate for each office and the total number of votes cast for such candidates in each precinct in the district in which the candidate ran.

SECTION 4. Section 23-15-603, Mississippi Code of 1972, is amended as follows:

23-15-603. (1) The commissioners of election shall, within ten (10) days after the general election, transmit to the Secretary of State, to be filed in his office, a statement of the whole number of votes given in their county and the whole number of votes given in each precinct in their county, for each candidate for any office at the election; but the returns of every election for Governor, Lieutenant Governor, Secretary of State, Attorney General, Auditor of Public Accounts, State Treasurer, Commissioner of Insurance and other state officers, shall each be made out separately, sealed up together and transmitted to the seat of government, directed to the Secretary of State, and endorsed the "VOTE FOR STATE OFFICERS," to be delivered by the Secretary of State to the Speaker of the House of Representatives at the next ensuing session of the Legislature. In addition to the other information required pursuant to this subsection, the returns for state officers shall contain a statement of the whole number of votes given in each House of Representative district or portion thereof for each candidate for state office at the election.

(2) Constitutional amendments shall be voted for at the time fixed by the concurrent resolution. The election, whether held separately or with other elections, shall be conducted, in all respects, as required for elections generally. The commissioners of election shall, within ten (10) days after the election,
transmit to the Secretary of State a statement of the whole number of votes given in their county and the whole number of votes given in each precinct in their county for or against constitutional amendments.

(3) The statements certified by the election commissioners and transmitted to the Secretary of State, as required by this section, shall be tabulated by the Secretary of State and submitted to each branch of the Legislature, at the session next ensuing. Certified county vote totals shall represent the final results of the election.

(4) The statements required by this section shall contain a certification, signed and dated by a majority of the commissioners of election, which shall read as follows:

"We, the undersigned commissioners of election, do hereby certify that this statement of the whole number of votes contains the official vote for the election reflected therein."

(5) The statements required by this section shall be transmitted to the Secretary of State on such forms and by such methods as may be required by rules and regulations promulgated by the Secretary of State.

SECTION 5. Section 23-15-605, Mississippi Code of 1972, is amended as follows:

23-15-605. The Secretary of State, immediately after receiving the returns of an election, not longer than thirty (30) days after the election, shall sum up the whole number of votes given for each candidate other than candidates for state offices, legislative offices composed of one (1) county or less, county offices and county district offices, according to the statements of the votes certified to him and ascertain the person or persons having the largest number of votes for each office, and declare such person or persons to be duly elected; and thereupon all persons chosen to any office at the election shall be commissioned by the Governor; but if it appears that two (2) or more candidates
for any district office where the district is composed of two (2) or more counties, standing highest on the list, and not elected, have an equal number of votes, the election shall be forthwith decided between the candidates having an equal number of votes by lot, fairly and publicly drawn, under the direction of the Governor and Secretary of State.

**SECTION 6.** Section 23-15-607, Mississippi Code of 1972, is amended as follows:

23-15-607. (1) The commissioners of election shall, within ten (10) days after an election for judges of the Supreme Court or Court of Appeals, transmit to the Secretary of State, to be filed in his office, a statement of the whole number of votes given in their county, and the whole number of votes given in each precinct in their county, for each candidate for the office of judge of the Supreme Court or Court of Appeals, and the Secretary of State shall immediately notify each member of the State Board of Election Commissioners in writing to assemble at his office on a day to be fixed by him, to be within ten (10) days after the receipt by him of such statement, and when assembled pursuant to such notice the State Board of Election Commissioners shall sum up the whole number of votes given for each candidate for judge of the Supreme Court or Court of Appeals according to the total number of votes in each county for each candidate as certified to the Secretary of State, ascertain the person or persons to be elected; and thereupon all persons chosen to such office at the election shall be commissioned by the Governor; but if it appears that two (2) or more candidates for judge of the Supreme Court or Court of Appeals standing highest on the list, and not elected, have an equal number of votes, the election shall be forthwith decided between the candidates having an equal number of votes by lots, fairly and publicly drawn under the direction of the State Board of Election Commissioners.
(2) The statements required by this section shall contain a certification, signed and dated by a majority of the commissioners of election, which shall read as follows:

"We, the undersigned commissioners of election, do hereby certify that this statement of the whole number of votes contain the official vote for the election reflected therein."

(3) The statements required by this section shall be transmitted to the Secretary of State on such forms and by such methods as may be required by rules and regulations promulgated by the Secretary of State.

SECTION 7. Section 23-15-611, Mississippi Code of 1972, is amended as follows:

23-15-611. (1) In municipal elections, managers of elections shall, immediately upon the closing of the polls, count the ballots and ascertain the number of votes cast in each voting precinct for each of the candidates or ballot measures and make a return thereof to the municipal election commissioners. On the day following the election, the election commissioners shall canvass the returns so received from all voting precincts and shall, within five (5) days after such election, deliver to each person receiving the highest number of votes a certificate of election. If it shall appear that any two (2) or more of the candidates receiving the highest number of votes shall have received an equal number of votes, the election shall be decided by lot, fairly and publicly drawn by the election commissioners with the aid of two (2) or more qualified electors of the municipality.

(2) Within five (5) days after any election, the municipal election commissioners shall transmit a statement to the Secretary of State certifying the name or names of the person or persons elected thereat, and such person or persons shall be issued commissions by the Governor. The statement shall also include vote totals for each candidate for each office and vote totals for
and against ballot measures, if any, including the vote totals for
each candidate a ballot measure in each precinct in the
municipality.

(3) The statements required by this subsection shall contain
a certification, signed and dated by a majority of the municipal
election commissioners, which shall read as follows:

"We, the undersigned municipal election commissioners, do
hereby certify that this statement contains the official vote for
the election reflected therein."

(4) The statements required by this section shall be
transmitted to the Secretary of State on such forms and by such
methods as may be required by rules and regulations promulgated by
the Secretary of State.

SECTION 8. All forms to be prescribed by the Secretary of
State for the reporting of election returns hereunder shall be
either hard copy forms on which precincts are listed horizontally
and candidates are listed vertically and/or a web-based system in
which these forms, or forms similar to them, are made available to
counties electronically.

SECTION 9. 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 10. 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.