

By: Representative Smith (35th)

To: Apportionment and
Elections

HOUSE BILL NO. 1241

1 AN ACT TO PROVIDE THAT AT ANY PRIMARY ELECTION, ALL QUALIFIED
 2 ELECTORS SHALL BE ENTITLED TO VOTE FOR THE CANDIDATE OF THEIR
 3 CHOICE FOR EACH OFFICE REGARDLESS OF THE PARTY AFFILIATION OF THE
 4 CANDIDATE; TO PROVIDE THAT QUALIFIED ELECTORS MAY VOTE FOR ONLY
 5 ONE CANDIDATE FOR EACH OFFICE AT A PRIMARY ELECTION; TO AMEND
 6 SECTIONS 23-15-265, 23-15-267, 23-15-303, 23-15-333, 23-15-335 AND
 7 23-15-597, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE COUNTY
 8 COMMISSIONERS OF ELECTION SHALL APPOINT MANAGERS AND CLERKS FOR
 9 PRIMARY ELECTIONS UPON THE RECOMMENDATION OF THE COUNTY EXECUTIVE
 10 COMMITTEE; TO PROVIDE THAT THE COMMISSIONERS OF ELECTION SHALL
 11 APPOINT AN EQUAL NUMBER OF POLL WORKERS FROM EACH POLITICAL PARTY
 12 THAT PARTICIPATES IN THE PRIMARY ELECTION; TO PROVIDE THAT THE
 13 COUNTY COMMISSIONERS OF ELECTION SHALL DISTRIBUTE THE BALLOT BOXES
 14 FOR PRIMARY ELECTIONS; TO PROVIDE THAT WHEN TWO OR MORE POLITICAL
 15 PARTIES ARE HOLDING PRIMARY ELECTIONS, THE ELECTIONS SHALL BE
 16 CONDUCTED TOGETHER; TO PROVIDE THAT THE COUNTY COMMISSIONERS OF
 17 ELECTION SHALL PRINT ALL NECESSARY BALLOTS FOR PRIMARY ELECTIONS;
 18 TO PROVIDE THAT THE PRIMARY ELECTION BALLOT SHALL CONTAIN THE
 19 NAMES OF ALL THE CANDIDATES OF ALL THE POLITICAL PARTIES
 20 PARTICIPATING IN THE PRIMARY ELECTION; TO PROVIDE THAT THE TITLE
 21 OF EACH OFFICE SHALL BE LISTED ON THE PRIMARY ELECTION BALLOT BY
 22 PARTY AND THE CANDIDATES LISTED UNDER THE APPROPRIATE PARTY
 23 DESIGNATION; TO PROVIDE THAT THE COUNTY COMMISSIONERS OF ELECTION
 24 SHALL DESIGNATE THE PERSON WHOSE DUTY IT IS TO DISTRIBUTE THE
 25 BALLOTS NECESSARY FOR USE IN PRIMARY ELECTIONS; TO PROVIDE THAT
 26 THE STATE BOARD OF ELECTION COMMISSIONERS AND THE COUNTY
 27 COMMISSIONERS OF ELECTION SHALL CANVASS THE RETURNS OF PRIMARY
 28 ELECTIONS AND CERTIFY THE RESULT TO THE APPROPRIATE EXECUTIVE
 29 COMMITTEE; TO AMEND SECTIONS 23-15-129, 23-15-171, 23-15-263,
 30 23-15-295, 23-15-331, 23-15-403, 23-15-465 AND 23-15-507,
 31 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
 32 PURPOSES.

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

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

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



43 23-15-265. (1) The commissioners of election of each county
44 shall meet not less than two (2) weeks before the date of any
45 primary election and appoint the managers and clerks for
46 same * * *. The number of managers and clerks appointed by the
47 commissioners shall be the same number as commissioners of
48 election are allowed to appoint pursuant to Sections 23-15-231 and
49 23-15-235. The commissioners of election shall appoint managers
50 and clerks pursuant to this section upon the recommendation of the
51 county executive committee. The commissioners of election shall
52 appoint an equal number of managers and clerks from each political
53 party that participates in the primary to serve at each precinct.
54 If the commissioners of election fails to meet on the date named,
55 supra, further notice shall be given of the time and place of
56 meeting.

57 (2) (a) If it is eligible under Section 23-15-266, the
58 county executive committee may enter into a written agreement with
59 the circuit clerk or the county election commission authorizing
60 the circuit clerk or the county election commission to perform any
61 of the duties required of the county executive committee pursuant
62 to this section. Any agreement entered into pursuant to this
63 subsection shall be signed by the chairman of the county executive
64 committee and the circuit clerk or the chairman of the county
65 election commission, as appropriate. The county executive
66 committee shall notify the State Executive Committee and the
67 Secretary of State of the existence of such agreement.

68 (b) If it is eligible under Section 23-15-266, the
69 municipal executive committee may enter into a written agreement
70 with the municipal clerk or the municipal election commission
71 authorizing the municipal clerk or the municipal election
72 commission to perform any of the duties required of the municipal
73 executive committee pursuant to this section. Any agreement
74 entered into pursuant to this subsection shall be signed by the
75 chairman of the municipal executive committee and the municipal



76 clerk or the chairman of the municipal election commission, as
77 appropriate. The municipal executive committee shall notify the
78 State Executive Committee and the Secretary of State of the
79 existence of such agreement.

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

82 23-15-267. (1) The ballot boxes provided by the * * *
83 commissioners of election in each county shall be used in primary
84 elections, and the county commissioners of election shall
85 distribute them to the voting precincts of the county before the
86 time for opening the polls, in the same manner, as near as may be,
87 as that provided for in general elections.

88 (2) If an adjournment shall take place after the polls are
89 open and before all votes are counted, the ballot box shall be
90 securely locked so as to prevent the admission into it or the
91 taking of anything from it during the time of adjournment; and the
92 box shall be kept by one of the managers, and the key by another
93 of the managers, and the manager having the box shall carefully
94 keep it, and neither undertake to open it himself or permit it to
95 be done, or to permit any person to have access to it during the
96 time of adjournment. The box shall not be removed from the
97 polling building or place after the polls are open until the count
98 is completed if as many as three (3) electors qualified to vote at
99 the election object.

100 (3) After each election, the ballot boxes of those provided
101 by the * * * commissioners of election shall be delivered, with
102 the keys thereof immediately and as soon thereafter as possible,
103 and without delay to the clerk of the circuit court of the county.

104 (4) (a) If it is eligible under Section 23-15-266, the
105 county executive committee may enter into a written agreement with
106 the circuit clerk or the county election commission authorizing
107 the circuit clerk or the county election commission to perform any
108 of the duties required of the county executive committee pursuant



109 to this section. Any agreement entered into pursuant to this
110 subsection shall be signed by the chairman of the county executive
111 committee and the circuit clerk or the chairman of the county
112 election commission, as appropriate. The county executive
113 committee shall notify the State Executive Committee and the
114 Secretary of State of the existence of such agreement.

115 (b) If it is eligible under Section 23-15-266, the
116 municipal executive committee may enter into a written agreement
117 with the municipal clerk or the municipal election commission
118 authorizing the municipal clerk or the municipal election
119 commission to perform any of the duties required of the municipal
120 executive committee pursuant to this section. Any agreement
121 entered into pursuant to this subsection shall be signed by the
122 chairman of the municipal executive committee and the municipal
123 clerk or the chairman of the municipal election commission, as
124 appropriate. The municipal executive committee shall notify the
125 State Executive Committee and the Secretary of State of the
126 existence of such agreement.

127 (5) The person, or persons, whose duty it is to comply with
128 the provisions of this section and who shall fail, or neglect,
129 from any cause, to deliver said boxes or any of them as herein
130 provided shall, upon conviction, be fined not less than Two
131 Hundred Dollars (\$200.00) and be imprisoned in the county jail of
132 the residence of the person, or persons, who violates any of the
133 provisions of this section, for a period of not less than thirty
134 (30) days or more than six (6) months, and fined not more than
135 Five Hundred Dollars (\$500.00).

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

138 23-15-303. When two (2) or more political parties or
139 political organizations are holding primary elections, each shall
140 be conducted together and at the same time.



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

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

149 23-15-333. (1) The commissioners of election of each county
150 shall have printed all necessary ballots, for use in primary
151 elections. The commissioners of election of each county shall
152 have printed all necessary absentee ballots forty-five (45) days
153 prior to the election as required by law. The ballots shall
154 contain the names of all the candidates of all the political
155 parties participating in the primary election to be voted for at
156 such election * * *. The title of each office shall be listed by
157 party and the candidates listed under the appropriate party
158 designation. There shall be left on each ballot one (1) blank
159 space under the title of each office for which a nominee is to be
160 elected; and in the event of the death of any candidate whose name
161 shall have been printed on the ballot, the name of the candidate
162 duly substituted in the place of the deceased candidate may be
163 written in such blank space by the voter. Except as otherwise
164 provided in subsection (2) of this section, the order in which the
165 titles to the various offices shall be printed, and the size,
166 print and quality of the paper of the ballot is left to the
167 discretion of the commissioners of election. Provided, however,
168 that in all cases the arrangement of the names of the candidates
169 for each office shall be alphabetical. No ballot shall be used
170 except those so printed.

171 (2) The titles for the various offices shall be listed in
172 the following order:

173 (a) Candidates for national office;



- 174 (b) Candidates for statewide office;
- 175 (c) Candidates for state district office;
- 176 (d) Candidates for legislative office;
- 177 (e) Candidates for countywide office;
- 178 (f) Candidates for county district office.

179 The order in which the titles for the various offices are
180 listed within each of the categories listed in this subsection is
181 left to the discretion of the county executive committee.

182 (3) The commissioners of election shall also prepare full
183 instructions for the guidance of electors at elections as to
184 obtaining ballots, the manner of marking them, and the mode of
185 obtaining new ballots in the place of those spoiled by accident.
186 The instructions shall be printed in large, clear type on "Cards
187 of Instruction," and the commissioners of election shall furnish
188 the same in sufficient numbers for the use of electors. The cards
189 shall be preserved by the officers of election and returned by
190 them to the county executive committee and they may be used, if
191 applicable, in subsequent elections.

192 (4) (a) If it is eligible under Section 23-15-266, the
193 county executive committee may enter into a written agreement with
194 the circuit clerk or the county election commission authorizing
195 the circuit clerk or the county election commission to perform any
196 of the duties required of the county executive committee pursuant
197 to this section. Any agreement entered into pursuant to this
198 subsection shall be signed by the chairman of the county executive
199 committee and the circuit clerk or the chairman of the county
200 election commission, as appropriate. The county executive
201 committee shall notify the State Executive Committee and the
202 Secretary of State of the existence of such agreement.

203 (b) If it is eligible under Section 23-15-266, the
204 municipal executive committee may enter into a written agreement
205 with the municipal clerk or the municipal election commission
206 authorizing the municipal clerk or the municipal election

207 commission to perform any of the duties required of the municipal
208 executive committee pursuant to this section. Any agreement
209 entered into pursuant to this subsection shall be signed by the
210 chairman of the municipal executive committee and the municipal
211 clerk or the chairman of the municipal election commission, as
212 appropriate. The municipal executive committee shall notify the
213 State Executive Committee and the Secretary of State of the
214 existence of such agreement.

215 **SECTION 6.** Section 23-15-335, Mississippi Code of 1972, is
216 amended as follows:

217 23-15-335. (1) The commissioners of election of each county
218 shall designate a person whose duty it shall be to distribute all
219 necessary ballots for use in a primary election, and shall
220 designate one (1) among the managers at each polling place to
221 receive and receipt for the blank ballots to be used at that
222 place. When the blank ballots are delivered to a local manager,
223 the distributor shall take from the local manager a receipt
224 therefor signed in duplicate by both the distributor and the
225 manager, one of which receipts the distributor shall deliver to
226 the circuit clerk and the other shall be retained by the local
227 manager and said last mentioned duplicate receipt shall be
228 enclosed in the ballot box with the voted ballots when the polls
229 have been closed and the votes have been counted. The printer of
230 the ballots shall take a receipt from the distributor of the
231 ballots for the total number of the blank ballots delivered to the
232 distributor. The printer shall secure all ballots printed by him
233 in such a safe manner that no person can procure them or any of
234 them, and he shall deliver no blank ballot or ballots to any
235 person except the distributor above mentioned, and then only upon
236 his receipt therefor as above specified. The distributor of the
237 blank ballots shall so securely hold the same that no person can
238 obtain any of them, and he shall not deliver any of them to any
239 person other than to the authorized local managers and upon their



240 respective receipts therefor. The commissioners of election shall
241 see to it that the total blank ballots delivered to the
242 distributor, shall correspond with the total of the receipts
243 executed by the local managers.

244 (2) (a) If it is eligible under Section 23-15-266, the
245 county executive committee may enter into a written agreement with
246 the circuit clerk or the county election commission authorizing
247 the circuit clerk or the county election commission to perform any
248 of the duties required of the county executive committee pursuant
249 to this section. Any agreement entered into pursuant to this
250 subsection shall be signed by the chairman of the county executive
251 committee and the circuit clerk or the chairman of the county
252 election commission, as appropriate. The county executive
253 committee shall notify the State Executive Committee and the
254 Secretary of State of the existence of such agreement.

255 (b) If it is eligible under Section 23-15-266, the
256 municipal executive committee may enter into a written agreement
257 with the municipal clerk or the municipal election commission
258 authorizing the municipal clerk or the municipal election
259 commission to perform any of the duties required of the municipal
260 executive committee pursuant to this section. Any agreement
261 entered into pursuant to this subsection shall be signed by the
262 chairman of the municipal executive committee and the municipal
263 clerk or the chairman of the municipal election commission, as
264 appropriate. The municipal executive committee shall notify the
265 State Executive Committee and the Secretary of State of the
266 existence of such agreement.

267 (3) Any person charged with any of the duties prescribed in
268 this section who shall willfully or with culpable carelessness
269 violate the same shall be guilty of a misdemeanor.

270 **SECTION 7.** Section 23-15-597, Mississippi Code of 1972, is
271 amended as follows:



272 23-15-597. (1) The commissioners of election of each county
273 shall meet on the first or second day after each primary election,
274 shall receive and canvass the returns which must be made within
275 the time fixed by law for returns of general elections and certify
276 the result to the executive committee. The county executive
277 committee shall announce the name of the nominees for county and
278 county district offices and legislative offices for districts
279 containing one (1) county or less, and the names of those
280 candidates to be submitted to the second primary. The vote for
281 state and state district offices and legislative offices for
282 districts containing more than one (1) county or parts of more
283 than one (1) county shall be tabulated by precincts and certified
284 to and returned to the State Board of Election Commissioners, such
285 returns to be mailed by registered letter or any safe mode of
286 transmission within thirty-six (36) hours after the returns are
287 canvassed and the result ascertained. The State Board of Election
288 Commissioners shall meet a week from the day following the first
289 primary election held for state and state district offices and
290 legislative offices for districts containing more than one (1)
291 county or parts of more than one (1) county, and shall proceed to
292 canvass the returns and to certify the result, to the State
293 Executive Committee. The State Executive Committee shall announce
294 the names of those nominated for the different offices in the
295 first primary and the names of those candidates whose names are to
296 be submitted to the second primary election. The State Board of
297 Election Commissioners shall also meet a week from the day on
298 which the second primary election was held and receive and canvass
299 the returns for state and district offices, if any, and
300 legislative offices for districts containing more than one (1)
301 county or parts of more than one (1) county, if any, voted on in
302 such second primary and certify the result to the State Executive
303 Committee. An exact and full duplicate of all tabulations by
304 precincts as certified under this section shall be filed with the



305 circuit clerk of the county who shall safely preserve the same in
306 his office.

307 (2) (a) If it is eligible under Section 23-15-266, the
308 county executive committee may enter into a written agreement with
309 the circuit clerk or the county election commission authorizing
310 the circuit clerk or the county election commission to perform any
311 of the duties required of the county executive committee pursuant
312 to this section. Any agreement entered into pursuant to this
313 subsection shall be signed by the chairman of the county executive
314 committee and the circuit clerk or the chairman of the county
315 election commission, as appropriate. The county executive
316 committee shall notify the State Executive Committee and the
317 Secretary of State of the existence of such agreement.

318 (b) If it is eligible under Section 23-15-266, the
319 municipal executive committee may enter into a written agreement
320 with the municipal clerk or the municipal election commission
321 authorizing the municipal clerk or the municipal election
322 commission to perform any of the duties required of the municipal
323 executive committee pursuant to this section. Any agreement
324 entered into pursuant to this subsection shall be signed by the
325 chairman of the municipal executive committee and the municipal
326 clerk or the chairman of the municipal election commission, as
327 appropriate. The municipal executive committee shall notify the
328 State Executive Committee and the Secretary of State of the
329 existence of such agreement.

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

332 23-15-129. The commissioners of election and the registrars
333 of the respective counties are hereby directed to make an
334 administrative division of the pollbook for each county
335 immediately following any reapportionment of the Mississippi
336 Legislature or any realignment of supervisors districts, if
337 necessary. Such an administrative division shall form



338 subprecincts whenever necessary within each voting precinct so
339 that all persons within a subprecinct shall vote on the same
340 candidates for each public office. Separate pollbooks for each
341 subprecinct shall be made. The polling place for all subprecincts
342 within any given voting precinct shall be the same as the polling
343 place for the voting precinct. Additional managers may be
344 appointed for subprecincts in the discretion of the commissioners
345 of election * * *.

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

348 23-15-171. (1) Municipal primary elections shall be held on
349 the first Tuesday in May preceding the general municipal election
350 and, in the event a second primary shall be necessary, such second
351 primary shall be held on the third Tuesday in May preceding such
352 general municipal election.

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

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

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



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

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

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

386 23-15-263. (1) The county commissioners of election shall
387 perform all the duties specified by law to be performed by the
388 county commissioners of election with regard to state and county
389 primary elections.

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

402 (3) A member of a county executive committee shall be
403 automatically disqualified to serve on the county executive



404 committee, and shall be considered to have resigned therefrom,
405 upon his qualification as a candidate for any elective office.
406 The provisions of this subsection shall not apply to a member of a
407 county executive committee who qualifies as a candidate for a
408 municipal elective office.

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

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

421 23-15-295. When any person has qualified in the manner
422 provided by law as a candidate for party nomination in any primary
423 election, such person shall have the right to withdraw his name as
424 a candidate by giving notice of his withdrawal in writing to the
425 secretary of the proper executive committee at any time prior to
426 the printing of the official ballots, and in the event of such
427 withdrawal the name of such candidate shall not be printed on the
428 ballot. When a candidate for party nomination for a state or
429 district office who has qualified with the State Executive
430 Committee withdraws as a candidate as provided for in this section
431 after the sample of the official ballot has been approved and
432 certified by the State Executive Committee, the Secretary or
433 Chairman of the State Executive Committee shall forthwith notify
434 the commissioners of election of each county affected or involved
435 of the fact of such withdrawal and such notification shall
436 authorize the commissioners of election to omit the name of the



437 withdrawn candidate from the ballot if such notification is
438 received prior to the printing of the ballot. In the case of the
439 withdrawal of any candidate, the fee paid by such candidate shall
440 be retained by the state or county executive committee, as the
441 case may be.

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

444 23-15-331. It shall be the duty of the State Executive
445 Committee of each political party to furnish to the commissioners
446 of election of each county, not less than fifty (50) days prior to
447 the primary election, the names of all state and state district
448 candidates and all candidates for legislative districts composed
449 of more than one county or parts of more than one county who have
450 qualified as provided by law, and in accordance with the
451 requirements of Section 23-15-333 a sample of the official ballot
452 to be used in the primary, the general form of which shall be
453 followed as nearly as practicable.

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

456 23-15-403. The board of supervisors of any county in the
457 State of Mississippi and the governing authorities of any
458 municipality in the State of Mississippi are hereby authorized and
459 empowered, in their discretion, to purchase or rent any voting
460 machine or machines which shall be so constructed as to fulfill
461 the following requirements:

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

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



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

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

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

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

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

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

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

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

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

499 **SECTION 14.** Section 23-15-465, Mississippi Code of 1972, is
500 amended as follows:



501 23-15-465. No electronic voting system, consisting of a
502 marking or voting device in combination with automatic tabulating
503 equipment, shall be acquired or used in accordance with Sections
504 23-15-461 through 23-15-485 unless it shall:

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

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

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

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

522 (e) Permit each voter to vote for candidates only in
523 the primary in which he is qualified to vote;

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

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

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

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



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

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

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

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

543 23-15-507. No optical mark reading system shall be acquired
544 or used in accordance with this chapter unless it shall:

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

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

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

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

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

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

565 (g) Be suitably designed for the purpose used, of
566 durable construction, and may be used safely, efficiently and



567 accurately in the conduct of elections and the counting of
568 ballots;

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

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

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

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

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

