

**Adopted  
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**House Bill No. 1066**

**BY: Committee**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

38        **SECTION 1.** As used in this act:

39               (a) "DRE" means direct recording electronic voting  
40 equipment.

41               (b) "Direct recording electronic voting equipment"  
42 means a computer driven unit for casting and counting votes on  
43 which an elector touches a video screen or a button adjacent to a  
44 video screen to cast his or her vote.

45        **SECTION 2.** Each DRE unit shall:

46               (a) Permit the voter to verify, in a private and  
47 independent manner, the votes selected by the voter on the ballot  
48 before the ballot is cast and counted;

49               (b) Provide the voter with the opportunity, in a  
50 private and independent manner, to change the ballot or correct  
51 any error before the ballot is cast and counted, including, but  
52 not limited to, the opportunity to correct the error through the  
53 issuance of a replacement ballot if the voter is otherwise unable  
54 to change the ballot or correct any error;

55               (c) If the voter selects votes for more candidates for  
56 a single office than are eligible for election:

57 (i) Notify the voter that he has selected more  
58 candidates for that office than are eligible for election;

59 (ii) Notify the voter before his vote is cast and  
60 counted of the effect of casting multiple votes for such an  
61 office; and

62 (iii) Provide the voter with the opportunity to  
63 correct the ballot before the ballot is cast and counted.

64 (d) Produce a permanent paper record with a manual  
65 audit capacity which shall be available for any recount conducted  
66 with respect to the election in which the DRE unit is used;

67 (e) Have the capability to print the ballots cast by  
68 electors to be utilized in the event of a recount conducted with  
69 respect to the election in which the DRE is used;

70 (f) Be accessible for individuals with disabilities,  
71 including, but not limited to, nonvisual accessibility for the  
72 blind and visually impaired, in a manner that provides the same  
73 opportunity for access and participation, including privacy and  
74 independence, as for other voters. This requirement may be  
75 satisfied through the use of at least one (1) DRE unit or other  
76 voting unit equipped for individuals with disabilities at each  
77 polling place;

78 (g) Provide alternative language accessibility pursuant  
79 to the requirements of the Voting Rights Act of 1965; and

80 (h) Have a residual vote rate in counting ballots  
81 attributable to the voting system and not to voter error that  
82 complies with error rate standards established under the voting  
83 system standards issued by the Federal Election Commission which  
84 were in effect as of October 29, 2002.

85 **SECTION 3.** DRE's shall be arranged in the polling place in  
86 such a manner as to:

87 (a) Ensure the privacy of the elector while voting on  
88 such units;

89           (b) Allow monitoring of the units by the poll managers  
90 while the polls are open; and

91           (c) Permit the public and lawful poll watchers to  
92 observe the voting without affecting the privacy of the electors  
93 as they vote.

94           **SECTION 4.** (1) The ballots for DRE's shall be of such size  
95 and arrangement as will suit the construction of the DRE screen  
96 and shall be in plain, clear type that is easily readable by  
97 persons with normal vision.

98           (2) (a) If the equipment has the capacity for color  
99 display, the names of all candidates in a particular race shall be  
100 displayed in the same color, font and size, and the political  
101 party or affiliation of candidates may be displayed in a color  
102 different from that used to display the names of the candidates,  
103 but all political party or affiliations shall be displayed in the  
104 same color. All political party names shall be displayed in the  
105 same size and font.

106           (b) All ballot questions and constitutional amendments  
107 shall be displayed in the same color.

108           **SECTION 5.** (1) The officials in charge of the election of  
109 each county or municipality shall:

110           (a) Cause the proper ballot design and style to be  
111 programmed for each DRE unit which is to be used in any precinct  
112 within the county or municipality;

113           (b) Cause each DRE unit to be placed in proper order  
114 for voting;

115           (c) Examine each unit before it is sent to a polling  
116 place;

117           (d) Verify that each registering mechanism is set at  
118 zero; and

119           (e) Properly secure each unit so that the counting  
120 machinery cannot be operated until later authorized.

121 (2) The circuit clerk shall be the custodian of the DRE units  
122 acquired by the county.

123 (3) The officials in charge of the election shall be  
124 responsible for the preparation of the units to be used in the  
125 county or municipality at the primaries and other elections in the  
126 county or municipality.

127 (4) (a) On or before the third day preceding any election,  
128 except runoff elections, the officials in charge of the election  
129 shall have each DRE unit tested to ascertain that it will  
130 correctly count the votes cast for all offices and on all  
131 questions in a manner that the Secretary of State may prescribe by  
132 rule or regulation.

133 (b) On or before the third day preceding any runoff  
134 election, the officials in charge of the election shall test a  
135 number of DRE units at random to ascertain that the units will  
136 correctly count the votes cast for all offices. If the total  
137 number of DRE units in the county is thirty (30) units or less,  
138 all of the units shall be tested. If the total number of DRE  
139 units in the county is more than thirty (30) but not more than one  
140 hundred (100), then at least one-half (1/2) of the units shall be  
141 tested at random. If there are more than one hundred (100) DRE  
142 units in the county, the officials in charge of the election shall  
143 test at least fifteen percent (15%) of the units at random. In no  
144 event shall the officials in charge of the election test less than  
145 one (1) DRE unit per precinct. All memory cards to be used in the  
146 runoff shall be tested. Public notice of the time and place of  
147 the test shall be made at least five (5) days prior thereto.  
148 Representatives of candidates, political parties, news media and  
149 the public shall be permitted to observe such tests.

150 (5) In every primary or general election, the officials in  
151 charge of the election shall furnish, at the expense of the county  
152 or municipality, all ballots, forms of certificates and other

153 papers and supplies required under this act which are not  
154 furnished by the Secretary of State, all of which shall be in the  
155 form and according to any specifications prescribed from time to  
156 time by the Secretary of State.

157       **SECTION 6.** (1) The arrangement of offices, names of  
158 candidates and questions upon the DRE ballots shall conform as  
159 nearly as practicable to the arrangement of offices, names of  
160 candidates and questions on paper ballots.

161       (2) A separate write-in ballot, which may be in the form of  
162 a paper ballot, card or envelope in which the voter places his  
163 ballot card after voting, shall be provided if required to permit  
164 voters to write in the title of the office and the name of the  
165 person not on the printed ballot for whom he wishes to vote. The  
166 design of the write-in ballot shall permit the officials in charge  
167 of the election and poll workers when obtaining the vote count  
168 from such systems to determine readily whether an elector has cast  
169 any write-in vote not authorized by law.

170       **SECTION 7.** (1) The officials in charge of the election  
171 shall ensure the delivery of the proper DRE units to the polling  
172 places of the respective precincts at least one (1) hour before  
173 the time for opening the polls at each election and shall cause  
174 each unit to be set up in the proper manner for use in voting.

175       (2) The officials in charge of the election shall require  
176 that each DRE unit be thoroughly tested, inspected and sealed  
177 prior to the delivery of each DRE unit to the polling place.  
178 Prior to opening the polls each day on which the units will be  
179 used in an election, the manager shall break the seal on each  
180 unit, turn on each unit, certify that each unit is operating  
181 properly and is set to zero, and print a zero tape certifying that  
182 each unit is set to zero and shall keep or record such  
183 certification on each unit.

184           (3) The officials in charge of the election and poll  
185 managers shall provide ample protection against molestation of and  
186 injury to the DRE units, and, for that purpose, the officials in  
187 charge of the election and poll managers may call upon any law  
188 enforcement officer to furnish any assistance that may be  
189 necessary. It shall be the duty of any law enforcement officer to  
190 furnish assistance when so requested by the officials in charge of  
191 the election or poll manager.

192           (4) The officials in charge of the election, in conjunction  
193 with the governing authorities, shall, at least one (1) hour prior  
194 to the opening of the polls:

195                 (a) Provide sufficient lighting to enable electors to  
196 read the ballot and which shall be suitable for the use of the  
197 poll managers in examining the booth and conducting their  
198 responsibilities;

199                 (b) Provide directions for voting on the DRE units  
200 which shall be prominently posted within each voting booth and at  
201 least two (2) sample ballots for the primary or general election  
202 which shall be prominently posted outside the enclosed space  
203 within the polling place;

204                 (c) Ensure that each DRE unit's tabulating mechanism is  
205 secure throughout the day during the primary or general election;  
206 and

207                 (d) Provide such other materials and supplies as may be  
208 necessary or required by law.

209           **SECTION 8.** The officials in charge of the election shall  
210 place on public exhibition and demonstrate the use of the DRE  
211 units throughout the county or municipality during the month  
212 preceding each primary and general election. At least during the  
213 initial year in which DRE equipment is used in a county or  
214 municipality, all officials in charge of the election shall offer  
215 a series of demonstrations and organized voter education

216 initiatives to educate electors in the use of such equipment in  
217 voting.

218 **SECTION 9.** (1) All DRE units and related equipment shall be  
219 properly stored and secured when not in use.

220 (2) The circuit clerk shall store the DRE units and related  
221 equipment under his or her supervision when it is not in use at an  
222 election. The circuit clerk shall provide compensation for the  
223 safe storage and care of such units and related equipment if the  
224 units and related equipment are stored by a person or entity other  
225 than the circuit clerk.

226 **SECTION 10.** (1) A duly qualified elector shall cast his  
227 vote on a DRE unit by touching the screen or pressing the  
228 appropriate button on the unit for the candidate or issue of the  
229 elector's choice. After pressing the appropriate button on the  
230 unit or location on the screen to cast the ballot, the elector's  
231 vote shall be final and shall not be subsequently altered.

232 (2) If an elector leaves the voting booth without having  
233 pressed the appropriate button on the unit or location on the  
234 screen to finally cast his or her ballot and cannot be located to  
235 return to the booth to complete the voting process, then a poll  
236 manager shall take the steps necessary to void the ballot that was  
237 not completed by the elector and an appropriate record shall be  
238 made of the event.

239 **SECTION 11.** (1) In elections in which DRE voting equipment  
240 is used, the ballots shall be counted at the precinct under the  
241 direction of the officials in charge of the election. All persons  
242 who perform any duties at the precinct shall be deputized by the  
243 officials in charge of the election and only persons so deputized  
244 shall touch any ballot, container, paper or machine utilized in  
245 the conduct of the count or be permitted to be in the immediate  
246 area designed for officers deputized to conduct the count.

247 (2) All proceedings at the precincts shall be open to the  
248 view of the public, but no person except one employed and  
249 designated for the purpose by the officials in charge of the  
250 election shall touch any ballot, any DRE unit or the tabulating  
251 equipment.

252 (3) After the polls have closed and all voting in the  
253 precinct has ceased, the poll manager shall shut down the DRE  
254 units and extract the election results from each unit as follows:

255 (a) The manager shall obtain the results tape from each  
256 DRE unit and verify that the number of ballots cast as recorded on  
257 the tape matches the public count number as displayed on the DRE  
258 unit;

259 (b) If a system is established by the Secretary of  
260 State, the poll manager shall first transmit the election results  
261 extracted from each DRE unit in each precinct via modem to the  
262 central tabulating center of the county; and

263 (c) The manager shall then extract the memory card, if  
264 applicable, from each DRE unit.

265 (4) (a) Upon completion of shutting down each DRE unit and  
266 extracting the election results, the manager shall cause to be  
267 completed and signed a ballot recap form, in sufficient  
268 counterparts, showing:

269 (i) The number of valid ballots;

270 (ii) The number of spoiled and invalid ballots;

271 (iii) The number of affidavit ballots; and

272 (iv) The number of unused affidavit ballots and  
273 any other unused ballots.

274 (b) The manager shall cause to be placed in the ballot  
275 supply container one (1) copy of the recap form and any unused,  
276 defective, spoiled and invalid ballots, each enclosed in an  
277 envelope or communication pack.



278 (5) The manager shall collect and retain the zero tape and  
279 the results tape for each DRE unit and place the tapes with the  
280 memory card, if any, for each unit and enclose all such items for  
281 all of the DRE units used in the precinct in one (1) envelope or  
282 communication pack which shall be sealed and initialed by the  
283 manager so that it cannot be opened without breaking the seal.

284 (6) The returning manager shall then deliver the envelope or  
285 communication pack to the tabulating center for the county or  
286 municipality or to such other place designated by the officials in  
287 charge of the election and shall receive a receipt therefor. The  
288 copies of the recap forms, unused ballots, records and other  
289 materials shall be returned to the designated location and  
290 retained as provided by law.

291 (7) Upon receipt of the sealed envelope or communication  
292 pack containing the zero tapes, results tapes and memory cards,  
293 the officials in charge of the election shall verify the  
294 signatures on the envelope or communication pack. Once verified,  
295 the officials in charge of the election shall break the seal of  
296 the envelope or communication pack and remove its contents. The  
297 officials in charge of the election shall then download the  
298 results stored on the memory card from each DRE unit into the  
299 election management system located at the central tabulation point  
300 of the county in order to obtain election results for  
301 certification.

302 **SECTION 12.** In the case of challenged ballots cast on direct  
303 recording electronic voting equipment, the ballots shall be coded  
304 in such a way that the ballot of a challenged voter can be  
305 separated from other valid ballots at the time of tabulation and  
306 the challenged ballots shall be counted, challenged or rejected in  
307 accordance with the challenged ballot law.

308 **SECTION 13.** If for any reason any direct recording  
309 electronic voting equipment shall become inoperable, the poll

310 managers, or the officials in charge of the election, shall direct  
311 voters to go to an operating terminal or to cast irregular  
312 ballots, if necessary, which shall be paper ballots. Such paper  
313 ballots shall be administered, as far as is practicable, in  
314 accordance with the laws concerning paper ballots.

315 **SECTION 14.** Any person who willfully tampers with or damages  
316 any DRE unit or tabulating computer or device to be used or being  
317 used at or in connection with any primary or election or who  
318 prevents or attempts to prevent the correct operation of any DRE  
319 unit or tabulating computer or device shall be guilty of a felony  
320 and, upon conviction, be punished by imprisonment for not less  
321 than three (3) years nor more than ten (10) years.

322 **SECTION 15.** Section 23-15-391, Mississippi Code of 1972, is  
323 amended as follows:

324 23-15-391. The board of supervisors of each county in the  
325 State of Mississippi shall \* \* \* utilize voting machines,  
326 electronic voting systems, \* \* \* optical mark reading equipment or  
327 direct recording electronic voting equipment which shall comply  
328 with the specifications provided by law. \* \* \* The election  
329 commissioners may designate \* \* \* elections to be administered by  
330 paper ballot where the election commissioners \* \* \* determine that  
331 administration of an election by paper ballot will be less  
332 expensive than administration of the same election by voting  
333 machines, electronic voting systems, \* \* \* optical mark reading  
334 equipment or direct recording electronic voting equipment.

335 **SECTION 16.** Section 23-15-169.3, Mississippi Code of 1972,  
336 is amended as follows:

337 23-15-169.3. (1) The Secretary of State shall have the  
338 authority to accept federal funds authorized under the Help  
339 America Vote Act of 2002 and to meet all the requirements of the  
340 Help America Vote Act of 2002 in order to expend the funds.

341 (2) Counties that purchase voting systems that comply with  
342 the requirements of the Help America Vote Act of 2002 including,  
343 but not limited to, counties that purchase such systems prior to  
344 July 12, 2004, shall be eligible for federal funds accepted by the  
345 Secretary of State for Help America Vote Act of 2002 compliance  
346 efforts. The only restriction that the Secretary of State may  
347 place on the expenditure of federal funds for the purchase of  
348 voting systems is that the systems comply with the criteria  
349 established in the Help America Vote Act of 2002 for voting  
350 systems.

351 **SECTION 17.** Section 5-8-7, Mississippi Code of 1972, is  
352 amended as follows:

353 5-8-7. Notwithstanding any other provisions of this chapter,  
354 the following person shall not be included within the definition  
355 of "lobbyist" or "lobbyist's client" under this chapter, and  
356 accordingly the registration and reporting provisions, including  
357 the payment of related fees, of this chapter do not apply to:

358 (a) A legislative or public official acting in an  
359 official capacity.

360 (b) An individual who:

361 (i) Represents or purports to represent only the  
362 individual;

363 (ii) Receives no compensation or anything of value  
364 for lobbying; and

365 (iii) Has no pecuniary interest in the legislative  
366 or executive action.

367 (c) An individual lobbying in his or her own interest,  
368 his or her own business interest, who pays, or promises to pay,  
369 offers to pay or causes to be paid to public officials,  
370 legislative officials or public employees any thing or things of  
371 value aggregating in value to less than Two Hundred Dollars  
372 (\$200.00) in any calendar year.

373           (d) An individual lobbying on behalf of his or her  
374 employer's business interest where such lobbying is not a primary  
375 or regular function of his employment position if such individual  
376 pays, promises to pay, offers to pay, or causes to be paid  
377 individually or on the employer's behalf to public officials,  
378 legislative officials, or public employees any thing or things of  
379 value aggregating in value to less than Two Hundred Dollars  
380 (\$200.00) in any calendar year.

381           (e) An individual lobbying on behalf of an association  
382 of which he or she is a member, where such lobbying is not a  
383 primary or regular function of his or her position in the  
384 association, if such individual pays, promises to pay, offers to  
385 pay, or causes to be paid individually or on the association's  
386 behalf to public officials, legislative officials or public  
387 employees any thing or things of value aggregating in value to  
388 less than Two Hundred Dollars (\$200.00) in any calendar year.

389           (f) An individual who is a shareholder, owner or part  
390 owner of a business who lobbies on behalf of such business, where  
391 such individual is not an employee of the business, if such  
392 individual pays, promises to pay, offers to pay, or causes to be  
393 paid individually or on behalf of the business to public  
394 officials, legislative officials or public employees any thing or  
395 things of value aggregating in value to less than Two Hundred  
396 Dollars (\$200.00) in any calendar year.

397           (g) An individual who:

398               (i) Limits lobbying solely to formal testimony  
399 before a public meeting of a legislative body or an executive  
400 agency, or a committee, division or department thereof; and

401               (ii) Registers the appearance in the records of  
402 the public body, if such records are kept.

403           (h) An individual who is a licensed attorney  
404 representing a client by:

405                   (i) Drafting bills, preparing arguments thereon,  
406 and advising the client or rendering opinions as to the  
407 construction and effect of proposed or pending legislation, where  
408 such services are usual and customary professional legal services  
409 which are not otherwise connected with legislative action; or

410                   (ii) Providing information, on behalf of the  
411 client, to an executive or public official, a public employee, or  
412 an agency, board, commission, governing authority or other body of  
413 state or local government where such services are usual and  
414 customary professional legal services including or related to a  
415 particular nonlegislative matter, case or controversy.

416                   (i) News media and employees of the news media whose  
417 activity is limited solely to the publication or broadcast of  
418 news, editorial comments, or paid advertisements that attempt to  
419 influence legislative or executive action. For the purposes of  
420 this section, "news media" shall be construed to be bona fide  
421 radio and television stations, newspapers, journals or magazines,  
422 or bona fide news bureaus or associations which in turn furnish  
423 information solely to bona fide radio or television stations,  
424 newspapers, journals or magazines.

425                   (j) An individual who engages in lobbying activities  
426 exclusively on behalf of a religious organization which qualifies  
427 as a tax-exempt organization under the Internal Revenue Code.

428                   (k) An individual who is a nonattorney professional and  
429 who receives professional fees and expenses to represent clients  
430 on executive agency matters, except that if anything of value  
431 shall be paid or promised to be paid directly or indirectly on  
432 behalf of a client for the personal use or benefit of an executive  
433 or public official or public employee, then expenditures and  
434 actions of the individual are reportable under this chapter, and  
435 the individual must register as a lobbyist.

436           (1) A person who is engaged in the sale of products or  
437 services.

438           **SECTION 18.** Section 18, Chapter 305, Laws of 2004, which  
439 provides for a task force to study voting systems that comply with  
440 the Help America Vote Act of 2002 and their suitability for use in  
441 elections in Mississippi, is repealed.

442           **SECTION 19.** The Attorney General of the State of Mississippi  
443 shall submit this act, immediately upon approval by the Governor,  
444 or upon approval by the Legislature subsequent to a veto, to the  
445 Attorney General of the United States or to the United States  
446 District Court for the District of Columbia in accordance with the  
447 provisions of the Voting Rights Act of 1965, as amended and  
448 extended.

449           **SECTION 20.** This act shall take effect and be in force from  
450 and after the date it is effectuated under Section 5 of the Voting  
451 Rights Act of 1965, as amended and extended.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1           AN ACT TO AUTHORIZE THE USE OF DIRECT RECORDING ELECTRONIC  
2 VOTING EQUIPMENT (DRE) TO CAST BALLOTS AND RECORD VOTES AT  
3 ELECTIONS IN THIS STATE; TO SPECIFY THE MINIMUM REQUIREMENTS THAT  
4 SUCH SYSTEMS MUST MEET TO BE USED IN ELECTIONS IN THIS STATE; TO  
5 PROVIDE THE MANNER IN WHICH DRE'S MUST BE ARRANGED AT THE POLLING  
6 PLACE; TO PROVIDE FOR THE FORM OF THE DRE BALLOT; TO PROVIDE THE  
7 DUTIES OF THE OFFICIALS IN CHARGE OF THE ELECTION IN REGARD TO THE  
8 USE OF DRE'S; TO PROVIDE THAT THE CIRCUIT CLERK SHALL BE THE  
9 CUSTODIAN OF DRE UNITS; TO PROVIDE FOR THE TESTING OF DRE UNITS  
10 PRIOR TO THE ELECTION; TO PROVIDE FOR THE ARRANGEMENT OF OFFICES,  
11 NAMES OF CANDIDATES AND QUESTIONS ON DRE BALLOTS; TO PROVIDE FOR A  
12 WRITE-IN BALLOT FOR USE IN ELECTIONS CONDUCTED WITH DRE'S; TO  
13 REQUIRE DEMONSTRATIONS OF THE USE OF DRE'S; TO PROVIDE FOR THE  
14 STORAGE OF DRE UNITS WHEN THEY ARE NOT IN USE; TO PROVIDE THE  
15 MANNER IN WHICH AN ELECTOR VOTES ON A DRE UNIT; TO PROVIDE FOR THE  
16 VOIDING OF BALLOTS IN CERTAIN INSTANCES WHEN THE ELECTOR DOES NOT  
17 COMPLETE THE VOTING PROCESS; TO PROVIDE THE MANNER IN WHICH VOTES  
18 ARE COUNTED AND THE RESULTS DETERMINED IN ELECTIONS CONDUCTED WITH  
19 DRE'S; TO PROVIDE FOR THE MANNER IN WHICH CHALLENGED BALLOTS ARE  
20 HANDLED IN ELECTIONS CONDUCTED WITH DRE'S; TO MAKE IT A FELONY TO  
21 TAMPER WITH OR DAMAGE A DRE UNIT OR TABULATING COMPUTED OR DEVICE  
22 BEING USED IN CONNECTION WITH ANY ELECTION OR TO PREVENT THE  
23 CORRECT OPERATION OF ANY DRE; TO PROVIDE FOR THE USE OF IRREGULAR  
24 PAPER BALLOTS IF DRE UNITS BECOME INOPERABLE AT AN ELECTION; TO  
25 AMEND SECTION 23-15-391, MISSISSIPPI CODE OF 1972, IN CONFORMITY  
26 THERETO; TO AMEND SECTION 23-15-169.3, MISSISSIPPI CODE OF 1972,  
27 TO CLARIFY THE ELIGIBILITY FOR FEDERAL FUNDS ACCEPTED BY THE

28 SECRETARY OF STATE FOR HELP AMERICA VOTE ACT OF 2002 COMPLIANCE  
29 EFFORTS OF COUNTIES THAT PURCHASE CERTAIN VOTING SYSTEMS; TO AMEND  
30 SECTION 5-8-7, MISSISSIPPI CODER OF 1972, TO PROVIDE THAT PERSONS  
31 ENGAGED IN THE SALE OF PRODUCTS OR SERVICES SHALL NOT BE INCLUDED  
32 WITHIN THE DEFINITION OF "LOBBYIST" OR "LOBBYIST'S CLIENT"; TO  
33 REPEAL SECTION 18, CHAPTER 305, LAWS OF 2004, WHICH PROVIDES FOR A  
34 TASK FORCE TO STUDY VOTING SYSTEMS THAT COMPLY WITH THE HELP  
35 AMERICA VOTE ACT OF 2002 AND THEIR SUITABILITY FOR USE IN  
36 ELECTIONS IN MISSISSIPPI; AND FOR RELATED PURPOSES.