

By: Representatives Reynolds, Scott (80th)

To: Apportionment and  
ElectionsCOMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 832

1 AN ACT TO REQUIRE ELECTION COMMISSIONS AND EXECUTIVE  
2 COMMITTEES RESPONSIBLE FOR THE CONDUCT OF ELECTIONS IN WHICH  
3 BALLOTS ARE GENERATED AND ARE COUNTED BY HAND OR BY AN ELECTRONIC  
4 TABULATING DEVICE TO REPORT TO THE SECRETARY OF STATE CERTAIN  
5 INFORMATION ON RESIDUAL VOTES; TO SPECIFY THE CONTENTS OF SUCH  
6 REPORTS; TO REQUIRE ELECTION COMMISSIONS AND EXECUTIVE COMMITTEES  
7 RESPONSIBLE FOR THE CONDUCT OF ELECTIONS IN WHICH ELECTRONIC  
8 DEVICES THAT DO NOT GENERATE BALLOTS THAT ARE COUNTED BY HAND OR  
9 BY ELECTRONIC TABULATING DEVICES TO REPORT CERTAIN INFORMATION TO  
10 THE SECRETARY OF STATE; TO AMEND SECTIONS 23-15-599, 23-15-601,  
11 23-15-603, 23-15-605, 23-15-607 AND 23-15-611, MISSISSIPPI CODE OF  
12 1972, TO REQUIRE COUNTY EXECUTIVE COMMITTEES TO TRANSMIT TO THE  
13 SECRETARY OF STATE CERTIFIED STATEMENTS OF THE VOTE IN THEIR  
14 COUNTY FOR ELECTIONS FOR COUNTY AND COUNTY DISTRICT OFFICES AND  
15 FOR ELECTIONS FOR LEGISLATIVE OFFICES FOR DISTRICTS CONTAINING ONE  
16 COUNTY OR LESS; TO PROVIDE THAT STATEMENTS OF THE VOTE CAST AT  
17 PRIMARY AND GENERAL ELECTIONS THAT ARE REQUIRED TO BE TRANSMITTED  
18 TO THE SECRETARY OF STATE INCLUDE THE VOTE BY PRECINCTS; TO  
19 REQUIRE THAT SUCH STATEMENT BE TRANSMITTED TO THE SECRETARY OF  
20 STATE ON SUCH FORMS AND BY SUCH METHODS AS MAY BE REQUIRED BY  
21 RULES AND REGULATIONS PROMULGATED BY THE SECRETARY OF STATE; TO  
22 REQUIRE SUCH STATEMENTS TO HAVE A CERTIFICATION SIGNED BY THE  
23 APPROPRIATE ELECTION OFFICIALS; TO REQUIRE THE GENERAL ELECTION  
24 RETURNS FOR VOTES FOR STATEWIDE OFFICE TO CONTAIN A STATEMENT OF  
25 THE WHOLE NUMBER OF VOTES GIVEN IN EACH HOUSE OF REPRESENTATIVE  
26 DISTRICT FOR EACH CANDIDATE; TO PROVIDE FOR THE AVAILABILITY OF  
27 FORMS; AND FOR RELATED PURPOSES.

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

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

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

37 (3) For every election, election commissions and county and  
38 municipal executive committees responsible for the conduct of  
39 elections in which ballots are generated that are counted by hand



40 or by an electronic or automatic tabulating device shall report to  
41 the Secretary of State all residual votes for all candidates and  
42 ballot measures in the elections for which they are responsible  
43 for conducting. Such residual vote reports shall:

44 (a) Be received by the Secretary of State no later than  
45 December 15 of the year in which the election is held;

46 (b) Include any suggested explanation or suspected  
47 cause of the residual votes;

48 (c) Include a copy of a voided official ballot for the  
49 election as such ballot appeared to voters at the election and  
50 copies of voided affidavit and absentee ballots if they are  
51 different from the official ballot;

52 (d) Include the total voter turnout for each election  
53 to be determined by totaling the number of persons signing the  
54 receipt book at each precinct, absentee voters and persons who  
55 voted by affidavit ballot and persons whose ballots were  
56 challenged and rejected; and

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

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

67 (a) Be received by the Secretary of State no later than  
68 December 15 of the year in which the election is held;

69 (b) Include the total voter turnout for each election  
70 to be determined by totaling the number of persons signing the  
71 receipt book at each precinct, absentee voters and persons who



72 voted by affidavit ballot and persons whose ballots were  
73 challenged and rejected;

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

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

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

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

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

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

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

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

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

103 **SECTION 2.** Section 23-15-599, Mississippi Code of 1972, is  
104 amended as follows:



105           23-15-599.   (1) (a) Within ten (10) days after the first  
106 primary election and within ten (10) days after the second primary  
107 election, if any, the Chairman of the State Executive Committee  
108 shall transmit to the Secretary of State a tabulated statement of  
109 the party vote cast in each county and precinct in each county in  
110 each state and state district election, and each legislative  
111 election for districts consisting of more than one (1) county or  
112 parts of more than one (1) county. The statement shall be  
113 transmitted by the State Executive Committee on such forms and by  
114 such methods as may be required by rules and regulations  
115 promulgated by the Secretary of State. The statement shall be  
116 filed by the Secretary of State and preserved among the records of  
117 his office.

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

122           "I \_\_\_\_\_, Chairman of the \_\_\_\_\_ Party State  
123 Executive Committee, do hereby certify that, on a majority vote of  
124 the \_\_\_\_\_ Party State Executive Committee, these vote totals  
125 for each county and for each candidate are the official vote  
126 totals for the election reflected therein."

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



137 statement shall be filed by the Secretary of State and preserved  
138 among the records of his office.

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

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

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

149 23-15-601. (1) When the result of the election shall have  
150 been ascertained by the managers they, or one (1) of their number,  
151 or some fit person designated by them, shall, by noon of the  
152 second day after the election, deliver to the commissioners of  
153 election, at the courthouse, a statement of the whole number of  
154 votes given for each person and for what office; and the  
155 commissioners of election shall canvass the returns, ascertain and  
156 declare the result, and, within ten (10) days after the day of the  
157 election, shall deliver a certificate of his election to the  
158 person having the greatest number of votes for representative in  
159 the Legislature of districts composed of one (1) county or less,  
160 or other county office, board of supervisors, justice court judge  
161 and constable. If it appears that two (2) or more candidates for  
162 Representative of the county, or part of the county, or for any  
163 county office, board of supervisors, justice court judge or  
164 constable standing highest on the list, and not elected, have an  
165 equal number of votes, the election shall be decided by lot fairly  
166 and publicly drawn by the commissioners, with the aid of two (2)  
167 or more respectable electors of the county, and a certificate of  
168 election shall be given accordingly. The foregoing provisions  
169 shall apply to Senators, if the county be a senatorial district.



170       (2) The commissioners of election shall transmit to the  
171 Secretary of State, on such forms and by such methods as may be  
172 required by rules and regulations promulgated by the Secretary of  
173 State, a statement of the total number of votes cast in the county  
174 for each candidate for each office and the total number of votes  
175 cast for such candidates in each precinct in the district in which  
176 the candidate ran.

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

179       23-15-603. (1) The commissioners of election shall, within  
180 ten (10) days after the general election, transmit to the  
181 Secretary of State, to be filed in his office, a statement of the  
182 whole number of votes given in their county and the whole number  
183 of votes given in each precinct in their county, for each  
184 candidate for any office at the election; but the returns of every  
185 election for Governor, Lieutenant Governor, Secretary of State,  
186 Attorney General, Auditor of Public Accounts, State Treasurer,  
187 Commissioner of Insurance and other state officers, shall each be  
188 made out separately, sealed up together and transmitted to the  
189 seat of government, directed to the Secretary of State, and  
190 endorsed the "VOTE FOR STATE OFFICERS," to be delivered by the  
191 Secretary of State to the Speaker of the House of Representatives  
192 at the next ensuing session of the Legislature. In addition to  
193 the other information required pursuant to this subsection, the  
194 returns for state officers shall contain a statement of the whole  
195 number of votes given in each House of Representative district or  
196 portion thereof for each candidate for state office at the  
197 election.

198       (2) Constitutional amendments shall be voted for at the time  
199 fixed by the concurrent resolution. The election, whether held  
200 separately or with other elections, shall be conducted, in all  
201 respects, as required for elections generally. The commissioners  
202 of election shall, within ten (10) days after the election,



203 transmit to the Secretary of State a statement of the whole number  
204 of votes given in their county and the whole number of votes given  
205 in each precinct in their county for or against constitutional  
206 amendments.

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

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

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

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

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

225 23-15-605. The Secretary of State, immediately after  
226 receiving the returns of an election, not longer than thirty (30)  
227 days after the election, shall sum up the whole number of votes  
228 given for each candidate other than candidates for state offices,  
229 legislative offices composed of one (1) county or less, county  
230 offices and county district offices, according to the statements  
231 of the votes certified to him and ascertain the person or persons  
232 having the largest number of votes for each office, and declare  
233 such person or persons to be duly elected; and thereupon all  
234 persons chosen to any office at the election shall be commissioned  
235 by the Governor; but if it appears that two (2) or more candidates



236 for any district office where the district is composed of two (2)  
237 or more counties, standing highest on the list, and not elected,  
238 have an equal number of votes, the election shall be forthwith  
239 decided between the candidates having an equal number of votes by  
240 lot, fairly and publicly drawn, under the direction of the  
241 Governor and Secretary of State.

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

244       23-15-607. (1) The commissioners of election shall, within  
245 ten (10) days after an election for judges of the Supreme Court or  
246 Court of Appeals, transmit to the Secretary of State, to be filed  
247 in his office, a statement of the whole number of votes given in  
248 their county, and the whole number of votes given in each precinct  
249 in their county, for each candidate for the office of judge of the  
250 Supreme Court or Court of Appeals, and the Secretary of State  
251 shall immediately notify each member of the State Board of  
252 Election Commissioners in writing to assemble at his office on a  
253 day to be fixed by him, to be within ten (10) days after the  
254 receipt by him of such statement, and when assembled pursuant to  
255 such notice the State Board of Election Commissioners shall sum up  
256 the whole number of votes given for each candidate for judge of  
257 the Supreme Court or Court of Appeals according to the total  
258 number of votes in each county for each candidate as certified to  
259 the Secretary of State, ascertain the person or persons to be  
260 elected; and thereupon all persons chosen to such office at the  
261 election shall be commissioned by the Governor; but if it appears  
262 that two (2) or more candidates for judge of the Supreme Court or  
263 Court of Appeals standing highest on the list, and not elected,  
264 have an equal number of votes, the election shall be forthwith  
265 decided between the candidates having an equal number of votes by  
266 lots, fairly and publicly drawn under the direction of the State  
267 Board of Election Commissioners.





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

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

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

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

280       23-15-611. (1) In municipal elections, managers of  
281 elections shall, immediately upon the closing of the polls, count  
282 the ballots and ascertain the number of votes cast in each voting  
283 precinct for each of the candidates or ballot measures and make a  
284 return thereof to the municipal election commissioners. On the  
285 day following the election, the election commissioners shall  
286 canvass the returns so received from all voting precincts and  
287 shall, within five (5) days after such election, deliver to each  
288 person receiving the highest number of votes a certificate of  
289 election. If it shall appear that any two (2) or more of the  
290 candidates receiving the highest number of votes shall have  
291 received an equal number of votes, the election shall be decided  
292 by lot, fairly and publicly drawn by the election commissioners  
293 with the aid of two (2) or more qualified electors of the  
294 municipality.

295       (2) Within five (5) days after any election, the municipal  
296 election commissioners shall transmit a statement to the Secretary  
297 of State certifying the name or names of the person or persons  
298 elected thereat, and such person or persons shall be issued  
299 commissions by the Governor. The statement shall also include  
300 vote totals for each candidate for each office and vote totals for



301 and against ballot measures, if any, including the vote totals for  
302 each candidate a ballot measure in each precinct in the  
303 municipality.

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

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

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

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

320 **SECTION 9.** The Attorney General of the State of Mississippi  
321 shall submit this act, immediately upon approval by the Governor,  
322 or upon approval by the Legislature subsequent to a veto, to the  
323 Attorney General of the United States or to the United States  
324 District Court for the District of Columbia in accordance with the  
325 provisions of the Voting Rights Act of 1965, as amended and  
326 extended.

327 **SECTION 10.** This act shall take effect and be in force from  
328 and after the date it is effectuated under Section 5 of the Voting  
329 Rights Act of 1965, as amended and extended.

