

By: Senator(s) Bryan

To: Elections

SENATE BILL NO. 2380

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; AND FOR RELATED PURPOSES.

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

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

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

36 (3) For every election, election commissions and county and  
37 municipal executive committees responsible for the conduct of  
38 elections in which ballots are generated that are counted by hand  
39 or by an electronic or automatic tabulating device shall report to



40 the Secretary of State all residual votes for all candidates and  
41 ballot measures in the elections for which they are responsible  
42 for conducting. Such residual vote reports shall:

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

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

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

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

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

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

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

68 (b) Include the total voter turnout for each election  
69 to be determined by totaling the number of persons signing the  
70 receipt book at each precinct, absentee voters and persons who  
71 voted by affidavit ballot and persons whose ballots were  
72 challenged and rejected;



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

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

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

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

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

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

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

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

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

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

104 23-15-599. (1) (a) Within ten (10) days after the first  
105 primary election and within ten (10) days after the second primary



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

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

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

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



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

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

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

148           23-15-601. (1) When the result of the election shall have  
149 been ascertained by the managers they, or one (1) of their number,  
150 or some fit person designated by them, shall, by noon of the  
151 second day after the election, deliver to the commissioners of  
152 election, at the courthouse, a statement of the whole number of  
153 votes given for each person and for what office; and the  
154 commissioners of election shall canvass the returns, ascertain and  
155 declare the result, and, within ten (10) days after the day of the  
156 election, shall deliver a certificate of his election to the  
157 person having the greatest number of votes for representative in  
158 the Legislature of districts composed of one (1) county or less,  
159 or other county office, board of supervisors, justice court judge  
160 and constable. If it appears that two (2) or more candidates for  
161 Representative of the county, or part of the county, or for any  
162 county office, board of supervisors, justice court judge or  
163 constable standing highest on the list, and not elected, have an  
164 equal number of votes, the election shall be decided by lot fairly  
165 and publicly drawn by the commissioners, with the aid of two (2)  
166 or more respectable electors of the county, and a certificate of  
167 election shall be given accordingly. The foregoing provisions  
168 shall apply to Senators, if the county be a senatorial district.

169           (2) The commissioners of election shall transmit to the  
170 Secretary of State, on such forms and by such methods as may be



171 required by rules and regulations promulgated by the Secretary of  
172 State, a statement of the total number of votes cast in the county  
173 for each candidate for each office and the total number of votes  
174 cast for such candidates in each precinct in the district in which  
175 the candidate ran.

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

178       23-15-603. (1) The commissioners of election shall, within  
179 ten (10) days after the general election, transmit to the  
180 Secretary of State, to be filed in his office, a statement of the  
181 whole number of votes given in their county and the whole number  
182 of votes given in each precinct in their county, for each  
183 candidate for any office at the election; but the returns of every  
184 election for Governor, Lieutenant Governor, Secretary of State,  
185 Attorney General, Auditor of Public Accounts, State Treasurer,  
186 Commissioner of Insurance and other state officers, shall each be  
187 made out separately, sealed up together and transmitted to the  
188 seat of government, directed to the Secretary of State, and  
189 endorsed the "VOTE FOR STATE OFFICERS," to be delivered by the  
190 Secretary of State to the Speaker of the House of Representatives  
191 at the next ensuing session of the Legislature. In addition to  
192 the other information required pursuant to this subsection, the  
193 returns for state officers shall contain a statement of the whole  
194 number of votes given in each House of Representative district or  
195 portion thereof for each candidate for state office at the  
196 election.

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



204 in each precinct in their county for or against constitutional  
205 amendments.

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

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

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

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

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

224 23-15-605. The Secretary of State, immediately after  
225 receiving the returns of an election, not longer than thirty (30)  
226 days after the election, shall sum up the whole number of votes  
227 given for each candidate other than candidates for state offices,  
228 legislative offices composed of one (1) county or less, county  
229 offices and county district offices, according to the statements  
230 of the votes certified to him and ascertain the person or persons  
231 having the largest number of votes for each office, and declare  
232 such person or persons to be duly elected; and thereupon all  
233 persons chosen to any office at the election shall be commissioned  
234 by the Governor; but if it appears that two (2) or more candidates  
235 for any district office where the district is composed of two (2)  
236 or more counties, standing highest on the list, and not elected,



237 have an equal number of votes, the election shall be forthwith  
238 decided between the candidates having an equal number of votes by  
239 lot, fairly and publicly drawn, under the direction of the  
240 Governor and Secretary of State.

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

243 23-15-607. (1) The commissioners of election shall, within  
244 ten (10) days after an election for judges of the Supreme Court or  
245 Court of Appeals, transmit to the Secretary of State, to be filed  
246 in his office, a statement of the whole number of votes given in  
247 their county, and the whole number of votes given in each precinct  
248 in their county, for each candidate for the office of judge of the  
249 Supreme Court or Court of Appeals, and the Secretary of State  
250 shall immediately notify each member of the State Board of  
251 Election Commissioners in writing to assemble at his office on a  
252 day to be fixed by him, to be within ten (10) days after the  
253 receipt by him of such statement, and when assembled pursuant to  
254 such notice the State Board of Election Commissioners shall sum up  
255 the whole number of votes given for each candidate for judge of  
256 the Supreme Court or Court of Appeals according to the total  
257 number of votes in each county for each candidate as certified to  
258 the Secretary of State, ascertain the person or persons to be  
259 elected; and thereupon all persons chosen to such office at the  
260 election shall be commissioned by the Governor; but if it appears  
261 that two (2) or more candidates for judge of the Supreme Court or  
262 Court of Appeals standing highest on the list, and not elected,  
263 have an equal number of votes, the election shall be forthwith  
264 decided between the candidates having an equal number of votes by  
265 lots, fairly and publicly drawn under the direction of the State  
266 Board of Election Commissioners.

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





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

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

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

279 23-15-611. (1) In municipal elections, managers of  
280 elections shall, immediately upon the closing of the polls, count  
281 the ballots and ascertain the number of votes cast in each voting  
282 precinct for each of the candidates or ballot measures and make a  
283 return thereof to the municipal election commissioners. On the  
284 day following the election, the election commissioners shall  
285 canvass the returns so received from all voting precincts and  
286 shall, within five (5) days after such election, deliver to each  
287 person receiving the highest number of votes a certificate of  
288 election. If it shall appear that any two (2) or more of the  
289 candidates receiving the highest number of votes shall have  
290 received an equal number of votes, the election shall be decided  
291 by lot, fairly and publicly drawn by the election commissioners  
292 with the aid of two (2) or more qualified electors of the  
293 municipality.

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



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

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

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

313       **SECTION 8.** The Attorney General of the State of Mississippi  
314 shall submit this act, immediately upon approval by the Governor,  
315 or upon approval by the Legislature subsequent to a veto, to the  
316 Attorney General of the United States or to the United States  
317 District Court for the District of Columbia in accordance with the  
318 provisions of the Voting Rights Act of 1965, as amended and  
319 extended.

320       **SECTION 9.** This act shall take effect and be in force from  
321 and after the date it is effectuated under Section 5 of the Voting  
322 Rights Act of 1965, as amended and extended.

