By: Representative Denny

To: Apportionment and Elections

HOUSE BILL NO. 921 (As Sent to Governor)

1 AN ACT TO REQUIRE A QUALIFIED ELECTOR WHO APPEARS TO VOTE AT 2 THE REGISTRAR'S OFFICE OR A POLLING PLACE TO PRESENT 3 IDENTIFICATION BEFORE VOTING; TO REQUIRE THE SECRETARY OF STATE TO NEGOTIATE A MEMORANDUM OF UNDERSTANDING BETWEEN THE MISSISSIPPI 4 5 DEPARTMENT OF PUBLIC SAFETY AND THE REGISTRAR OF EACH COUNTY FOR 6 THE PURPOSE OF PROVIDING A MISSISSIPPI VOTER IDENTIFICATION CARD; TO AMEND SECTIONS 23-15-135, 23-15-11, 23-15-541, 23-15-631, 7 13-15-639, 23-15-719 AND 45-1-37, MISSISSIPPI CODE OF 1972, TO 8 CONFORM TO THE PRECEDING SECTIONS; AND FOR RELATED PURPOSES. 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI: SECTION 1. (1) Each person who shall appear to vote in 11 12 person at a polling place or the registrar's office shall be required to identify himself or herself to an election manager or 13 the registrar by presenting current and valid photo identification 14 15 before such person shall be allowed to vote. The identification required by subsection (1) of this 16 (2) 17 section shall include, but not be limited to, the following: A current and valid Mississippi driver's license; 18 (a) 19 A current and valid identification card issued by a (b) branch, department, agency or entity of the State of Mississippi; 20 A current and valid United States passport; 21 (C) A current and valid employee identification card 22 (d) 23 containing a photograph of the elector and issued by any branch, department, agency or entity of the United States government, the 24 25 State of Mississippi, or any county, municipality, board, authority or other entity of this state; 26 27 (e) A current and valid Mississippi license to carry a pistol or revolver; 28 (f) A valid tribal identification card containing a 29 30 photograph of the elector; H. B. No. 921 G1/2

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31 (g) A current and valid United States military 32 identification card;

33 (h) A current and valid student identification card, 34 containing a photograph of the elector, issued by any accredited 35 college, university or community or junior college in the State of 36 Mississippi; and

37 (i) An official Mississippi voter identification card38 containing a photograph of the elector.

(3) (a) A person who appears to vote in person at a polling place and does not have identification as required by this section may vote by affidavit ballot. The affidavit ballot shall then be counted if the person shall present acceptable photo identification to the registrar within five (5) days.

(b) An elector who has a religious objection to being photographed may vote by affidavit ballot, and the elector, within five (5) days after the election, shall execute an affidavit in the registrar's office affirming that the exemption applies.

(4) Any person who utilizes the provisions of this section to intimidate a voter, or to prevent from voting a person who is otherwise qualified to vote shall, upon conviction, be sentenced to pay a fine of not less than Five Thousand Dollars (\$5,000.00), or by imprisonment for not less than one (1) year nor more than five (5) years, or both.

54 (5) The intentional failure of an election official to 55 require a voter to present identification as required by this 56 section shall be considered corrupt conduct under Section 97-13-19 57 and shall be reported to the Secretary of State and the Attorney 58 General.

59 <u>SECTION 2.</u> (1) The Secretary of State shall negotiate a 60 Memorandum of Understanding which shall be entered into by the 61 Mississippi Department of Public Safety and the registrar of each 62 county for the purpose of providing a Mississippi Voter 63 Identification Card. Such card shall be valid for the purpose of H. B. No. 921 **IMMENDIAL**

12/HR40/R1660SG PAGE 2 (GT\BD) voter identification purposes under Section 1 of this act and available only to registered voters of this state. No fee shall be charged or collected for the application for or issuance of a Mississippi Voter Identification Card. Any costs associated with the application for or issuance of a Mississippi Voter Identification Card shall be made payable from the state's General Fund.

71 (2) The registrar of each county shall provide a location in 72 the registrar's office at which he or she shall accept applications for Mississippi Voter Identification Cards in 73 74 accordance with the Mississippi Constitution; however, in counties 75 having two (2) judicial districts the registrar shall provide a 76 location in the registrar's office in each judicial district at 77 which he or she shall accept applications for Mississippi Voter 78 Identification Cards in accordance with the Mississippi 79 Constitution.

80 (3) No person shall be eligible for a Mississippi Voter
81 Identification Card if the person has a valid unexpired
82 Mississippi driver's license or an identification card issued
83 under Section 45-35-1 et seq.

(4) (a) The Mississippi Voter Identification Card shall be
captioned "MISSISSIPPI VOTER IDENTIFICATION CARD" and shall
contain a prominent statement that under Mississippi law it is
valid only as identification for voting purposes. The
identification card shall include the following information
regarding the applicant:

90 (i) Full legal name; 91 (ii) Legal residence address; 92 (iii) Mailing address, if different; and 93 (iv) Voting information. 94 (b) The Mississippi Voter Identification Card shall 95 also contain the date the voter identification card was issued,

H. B. No. 921 12/HR40/R1660SG PAGE 3 (gT\bD) 96 the county in which the voter is registered and such other 97 information as required by the Secretary of State.

98 (5) The application shall be signed and sworn to by the 99 applicant and any falsification or fraud in the making of the 100 application shall constitute false swearing under Section 97-7-35.

101 (6) The registrar shall require presentation and 102 verification of any of the following information during the 103 application process before issuance of a Mississippi Voter 104 Identification Card:

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(a) A photo identity document; or

106 (b) Documentation showing the person's date and place107 of birth; or

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(c) A social security card; or

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(d) A Medicare card; or

110 (e) A Medicaid card; or

(f) Such other acceptable evidence of verification of residence in the county as determined by the Secretary of State.

113 (7) A Mississippi Voter Identification Card shall remain valid for as long as the cardholder resides at the same address 114 and remains qualified to vote. It shall be the duty of a person 115 116 who moves his or her residence within this state to surrender his 117 or her voter identification card to the registrar of the county of his or her new residence and such person may thereafter apply for 118 and receive a new card if such person is eligible under this 119 120 section. It shall be the duty of a person who moves his or her 121 residence outside this state or who ceases to be qualified to vote to surrender his or her card to the registrar who issued it. 122

(8) The Secretary of State, in conjunction with the
Mississippi Department of Public Safety, shall adopt rules and
regulations for the administration of this section.

SECTION 3. Section 23-15-135, Mississippi Code of 1972, is amended as follows: 128 23-15-135. (1) The registration books of the several voting 129 precincts of each county and the pollbooks heretofore in use shall 130 be delivered to the registrar of the county, and they, together 131 with the registration books and pollbooks hereafter made, shall be 132 records of his office, and he shall carefully preserve the same as 133 such; and after each election the pollbooks shall be speedily 134 returned to the office of the registrar.

135 (2) The registrar of each county shall provide a location in
136 the registrar's office at which he or she shall accept
137 applications for Mississippi Voter Identification Cards in
138 accordance with the Mississippi Constitution.

139 (3) The registrar of each county shall enter into a
 140 Memorandum of Understanding, which is negotiated by the Secretary
 141 of State, with the Mississippi Department of Public Safety for the
 142 purpose of providing a Mississippi Voter Identification Card.

143 SECTION 4. Section 23-15-11, Mississippi Code of 1972, is 144 amended as follows:

145 23-15-11. Every inhabitant of this state, except persons adjudicated to be non compos mentis, who is a citizen of the 146 147 United States of America, eighteen (18) years old and upwards, who 148 has resided in this state for thirty (30) days and for thirty (30) 149 days in the county in which he seeks to vote, and for thirty (30) 150 days in the incorporated municipality in which he seeks to vote, and who has been duly registered as an elector under Section 151 152 23-15-33, and who has never been convicted of any crime listed in 153 Section 241, Mississippi Constitution of 1890, shall be a 154 qualified elector in and for the county, municipality and voting 155 precinct of his residence, and shall be entitled to vote at any 156 election upon compliance with Section 1 of House Bill No. 921, 157 2012 Regular Session. Any person who will be eighteen (18) years of age or older on or before the date of the general election and 158 159 who is duly registered to vote not less than thirty (30) days 160 before the primary election associated with the general election,

H. B. No. 921 12/HR40/R1660SG PAGE 5 (GT\BD) 161 may vote in the primary election even though the person has not 162 reached his or her eighteenth birthday at the time that the person 163 seeks to vote at the primary election. No others than those 164 specified in this section shall be entitled, or shall be allowed, 165 to vote at any election.

166 SECTION 5. Section 23-15-541, Mississippi Code of 1972, is 167 amended as follows:

23-15-541. (1) At all elections, the polls shall be opened 168 169 at seven o'clock in the morning and be kept open until seven o'clock in the evening and no longer. Upon the opening of the 170 171 polls, and not before, the managers of the election shall designate two (2) of their number, other than the manager 172 173 theretofore designated to receive the blank ballots, who shall 174 thereupon be known respectively as the initialing manager and the 175 alternate initialing manager. The alternate initialing manager, 176 in the absence of the initialing manager, shall perform all of the duties and undertake all of the responsibilities of the initialing 177 178 manager. When any person entitled to vote shall appear to vote, 179 the managers shall identify the voter by requiring the voter to 180 submit identification as required by Section 1 of House Bill No. 921, 2012 Regular Session, and then the voter shall * * * sign his 181 182 name in a receipt book or booklet provided for that purpose and to 183 be used at that election only and said receipt book or booklet shall be used in lieu of the list of voters who have voted 184 185 formerly made by the managers or clerks; whereupon and not before, the initialing manager or, in his absence, the alternate 186 187 initialing manager shall endorse his initials on the back of an 188 official blank ballot, prepared in accordance with law, and at 189 such place on the back of the ballot that the initials may be seen 190 after the ballot has been marked and folded, and when so endorsed he shall deliver it to the voter, which ballot the voter shall 191 192 mark in the manner provided by law, which when done the voter shall deliver the ballot to the initialing manager or, in his 193

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absence, to the alternate initialing manager, in the presence of 194 195 the others, and the manager shall see that the ballot so delivered bears on the back thereof the genuine initials of the initialing 196 197 manager, or alternate initialing manager, and if so, but not 198 otherwise, the ballot shall be put into the ballot box; and when 199 so done one (1) of the managers or a duly appointed clerk shall 200 make the proper entry on the pollbook. If the voter is unable to 201 write his name on the receipt book, a manager or clerk shall note 202 on the back of the ballot that it was receipted for by his 203 assistance.

(2) (a) A poll manager shall be authorized to allow a
 physically disabled person to vote curbside during the hours in
 which the polls are open as described in this section.

207 Where the managers of an election, exercising their sound 208 discretion, determine that a physically disabled person has 209 arrived at the polls in a motor vehicle to vote, two (2) or more managers shall carry the pollbook, the receipt book, and a ballot 210 211 or voting device to the motor vehicle, and after determining 212 whether the disabled person is a qualified elector as provided by 213 law, shall allow the disabled elector to cast his or her ballot in 214 secret. After the disabled elector casts his or her ballot, the managers shall mark the pollbook "voted" by the elector's name in 215 216 the pollbook.

If the ballot that is provided to the disabled 217 (b) 218 elector is a paper ballot, the initialing manager shall initial 219 the ballot as provided by law, and the disabled elector, after marking his or her ballot shall fold the ballot or place it in the 220 221 ballot sleeve. The initialing manager or alternate initialing 222 manager shall determine whether the initials on the ballot are 223 genuine, and upon a determination that the initials are genuine, 224 mark "voted" by the elector's name. The initialing manager or 225 alternate initialing manager shall without delay place the ballot

226 in the ballot box.

H. B. No. 921 12/HR40/R1660SG PAGE 7 (GT\BD) 227 If, while a voter is voting by curbside, there are (C) 228 less than three (3) managers immediately present within the polling place conducting an election or a political party primary, 229 230 all voting at the polls shall stop until the managers conducting 231 the curbside voting procedure return so that there are at least three (3) poll managers immediately present within the polling 232 233 place to conduct the election or party primary at all times, and 234 until a minimum of three (3) managers are present, the remaining 235 poll manager or managers shall ensure the security of the ballot box, the voting devices, and any ballots and election materials. 236 237 SECTION 6. Section 23-15-631, Mississippi Code of 1972, is

238 amended as follows:

239 23-15-631. (1) The registrar shall enclose with each ballot
240 provided to an absent elector separate printed instructions
241 furnished by him containing the following:

All absentee voters, excepting those with temporary 242 (a) or permanent physical disabilities or those who are sixty-five 243 244 (65) years of age or older, who mark their ballots in the county 245 of the residence shall use the registrar of that county as the 246 witness. The absentee voter shall come to the office of the 247 registrar and neither the registrar nor his deputy shall be 248 required to go out of the registrar's office to serve as an 249 attesting witness.

(b) Upon receipt of the enclosed ballot, you will not mark the ballot except in view or sight of the attesting witness. In the sight or view of the attesting witness, mark the ballot according to instructions.

(c) After marking the ballot, fill out and sign the "ELECTOR'S CERTIFICATE" on back of the envelope so that the signature shall be across the flap of the envelope so as to insure the integrity of the ballot. All absent electors shall have the attesting witness sign the "ATTESTING WITNESS CERTIFICATE" across the flap on back of the envelope. Place necessary postage on the

H. B. No. 921 12/HR40/R1660SG PAGE 8 (GT\BD) 260 envelope and deposit it in the post office or some government 261 receptacle provided for deposit of mail so that the absent 262 elector's ballot, excepting presidential absentee ballots, will 263 reach the registrar in which your precinct is located not later 264 than 5:00 p.m. on the day preceding the date of the election.

265 Any notary public, United States postmaster, assistant United 266 States postmaster, United States postal supervisor, clerk in 267 charge of a contract postal station, or any officer having 268 authority to administer an oath or take an acknowledgment may be an attesting witness; provided, however, that in the case of an 269 270 absent elector who is temporarily or permanently physically 271 disabled, the attesting witness may be any person eighteen (18) 272 years of age or older and such person is not required to have the 273 authority to administer an oath. If a postmaster, assistant 274 postmaster, postal supervisor, or clerk in charge of a contract 275 postal station acts as an attesting witness, his signature on the elector's certificate must be authenticated by the cancellation 276 277 stamp of their respective post offices. If one or the other 278 officers herein named acts as attesting witness, his signature on 279 the elector's certificate, together with his title and address, 280 but no seal, shall be required. Any affidavits made by an absent 281 elector who is in the Armed Forces may be executed before a commissioned officer, warrant officer, or noncommissioned officer 282 not lower in grade than sergeant rating or any person authorized 283 284 to administer oaths.

(d) When the application accompanies the ballot it
shall not be returned in the same envelope as the ballot but shall
be returned in a separate preaddressed envelope provided by the
registrar.

(e) A person who is a candidate for public office may
not be an attesting witness for any absentee ballot upon which the
person's name appears.

H. B. No. 921 12/HR40/R1660SG PAGE 9 (GT\BD) 292 Any voter casting an absentee ballot who declares (f) 293 that he requires assistance to vote by reason of blindness, temporary or permanent physical disability or inability to read or 294 295 write, shall be entitled to receive assistance in the marking of 296 his absentee ballot and in completing the affidavit on the 297 absentee ballot envelope. The voter may be given assistance by 298 anyone of the voter's choice other than a candidate whose name 299 appears on the absentee ballot being marked, or the voter's 300 employer, or agent of that employer. In order to ensure the 301 integrity of the ballot, any person who provides assistance to an 302 absentee voter shall be required to sign and complete the 303 "Certificate of Person Providing Voter Assistance" on the absentee 304 ballot envelope.

305 (2) The foregoing instructions required to be provided by 306 the registrar to the elector shall also constitute the substantive 307 law pertaining to the handling of absentee ballots by the elector 308 and registrar.

309 (3) The Secretary of State shall prepare instructions on how
 310 absent voters may comply with the identification requirements of
 311 Section 1 of House Bill No. 921, 2012 Regular Session.

312 SECTION 7. Section 23-15-639, Mississippi Code of 1972, is 313 amended as follows:

314 23-15-639. (1) In elections in which direct recording 315 electronic voting systems are not utilized, the examination and 316 counting of absentee ballots shall be conducted as follows:

(a) At the close of the regular balloting and at the close of the polls, the election managers of each voting precinct shall first take the envelopes containing the absentee ballots of such electors from the box, and the name, address and precinct inscribed on each envelope shall be announced by the election managers.

323 (b) The signature on the application shall then be
324 compared with the signature on the back of the envelope. If it
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H. B. No. 921 12/HR40/R1660SG PAGE 10 (GT\BD) 325 corresponds and the affidavit, if one is required, is sufficient 326 and the election managers find that the applicant is a registered 327 and qualified voter or otherwise qualified to vote, and that he 328 has not appeared in person and voted at the election, the envelope 329 shall then be opened and the ballot removed from the envelope, 330 without its being unfolded, or permitted to be unfolded or 331 examined.

332 (C) Having observed and found the ballot to be regular as far as can be observed from its official endorsement, the 333 election managers shall deposit it in the ballot box with the 334 335 other ballots before counting any ballots and enter the voter's 336 name in the receipt book provided for that purpose and mark 337 "VOTED" in the pollbook or poll list as if he had been present and 338 voted in person. If voting machines are used, all absentee 339 ballots shall be placed in the ballot box before any ballots are 340 counted, and the election managers in each precinct shall immediately count such absentee ballots and add them to the votes 341 342 cast in the voting machine or device.

343 (2) In elections in which direct recording electronic voting 344 systems are utilized, the examination and counting of absentee 345 ballots shall be conducted as follows:

(a) At the close of the regular balloting and at the
close of the polls, the election managers of each voting precinct
shall first take the envelopes containing the absentee ballots of
such electors from the box, and the name, address and precinct
inscribed on each envelope shall be announced by the election
managers.

(b) The signature on the application shall then be compared with the signature on the back of the envelope. If it corresponds and the affidavit, if one is required, is sufficient and the election managers find that the applicant is a registered and qualified voter or otherwise qualified to vote, and that he has not appeared in person and voted at the election, the unopened H. B. No. 921

H. B. No. 921 12/HR40/R1660SG PAGE 11 (GT\BD) 358 envelope shall be marked "ACCEPTED" and the election managers 359 shall enter the voter's name in the receipt book provided for that 360 purpose and mark "VOTED" in the pollbook or poll list as if he had 361 been present and voted in person.

362 (c) All absentee ballot envelopes shall then be placed 363 in the secure ballot transfer case and delivered to the officials 364 in charge of conducting the election at the central tabulation 365 point of the county. The official in charge of the election shall 366 open the envelopes marked "ACCEPTED" and remove the ballot from 367 the envelope.

(d) Having observed the ballot to be regular as far as can be observed from its official endorsement, the absentee ballot shall be processed through the central optical scanner. The scanned totals shall then be combined with the direct recording electronic voting system totals for the unofficial vote count.

When there is a conflict between an electronic voting system and a paper record, then there is a rebuttable presumption that the paper record is correct.

376 (3) The election managers shall also take such action as may
 377 be prescribed by the Secretary of State to ensure compliance with
 378 the identification requirements of Section 1 of House Bill No.
 379 921, 2012 Regular Session.

380 SECTION 8. Section 23-15-719, Mississippi Code of 1972, is 381 amended as follows:

382 23-15-719. (1) Immediately upon completion of an 383 application filed pursuant to the provisions of paragraph (a) of 384 Section 23-15-715, the registrar shall deliver the necessary 385 ballots to the applicant. The registrar shall identify the 386 applicant by requiring him to present identification as required by Section 1 of House Bill No. 921, 2012 Regular Session, and 387 388 shall then deliver the ballots to the applicant by mail or to the 389 applicant in the registrar's office. The registrar shall not personally hand deliver ballots to voters, unless he delivers the 390 H. B. No. 921

12/HR40/R1660SG PAGE 12 (GT\BD) 391 ballots in the office of the registrar. The elector shall fill in 392 his ballot in secret. After the applicant has properly marked the 393 ballot and properly folded it, he shall deposit it in the envelope 394 furnished him by the registrar.

After he has sealed the envelope, he shall subscribe and swear to an affidavit in the following form, which shall be printed on the back of the envelope containing the applicant's ballot:

399 "STATE OF MISSISSIPPI

400 COUNTY OF _____

, do solemnly swear that this envelope contains 401 I, 402 the ballot marked by me indicating my choice of the candidates or propositions to be submitted at the election to be held on the 403 404 day of , 2 , and I hereby authorize the registrar to 405 place this envelope in the ballot box on my behalf, and I further authorize the election managers to open this envelope and place my 406 407 ballot among the other ballots cast before such ballots are 408 counted, and record my name on the poll list as if I were present 409 in person and voted.

410 I further swear that I marked the enclosed ballot in secret. 411 _____

413 SWORN TO AND SUBSCRIBED before me, _____, this the ____ 414 day of _____, 2___.

(Registrar)

416

415

412

(Registrar)"

(Signature of voter)

417 After the completion of the requirements of this section, the 418 elector shall deliver the envelope containing the ballot to the 419 registrar.

420 (2) If the voter has received assistance in marking his 421 ballot, the person providing the assistance shall complete the 422 following form which shall be printed on the back of the envelope 423 containing the applicant's ballot:

H. B. No. 921 12/HR40/R1660SG PAGE 13 (GT\BD) 424 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE (To be completed only if the voter has received assistance in 425 marking the enclosed ballot.) I hereby certify that the 426 427 above-named voter declared to me that he or she is blind, 428 temporarily or permanently physically disabled, or cannot read or write, and that the voter requested that I assist the voter in 429 430 marking the enclosed absentee ballot. I hereby certify that the 431 ballot preferences on the enclosed ballot are those communicated 432 by the voter to me, and that I have marked the enclosed ballot in accordance with the voter's instructions. 433

435	Signature of person providing assistance
436	
437	Printed name of person providing assistance
438	
439	Address of person providing assistance
440	
441	Date and time assistance provided
442	

443 Family relationship to voter (if any)" 444 The envelope used pursuant to this section shall not (3) 445 contain the form prescribed by Section 23-15-635 and shall have printed on the flap on the back of the envelope in bold print and 446 in a distinguishing color, the following: "YOUR VOTE WILL BE 447 448 REJECTED AND NOT COUNTED IF THIS ENVELOPE IS NOT SIGNED ACROSS THE FLAP OF THIS ENVELOPE BY YOU AND AN ATTESTING WITNESS." 449 450 SECTION 9. Section 45-1-37, Mississippi Code of 1972, is

450 SECTION 9. Section 45-1-57, Mississippi code of 1972, is 451 amended as follows:

452 45-1-37. (1) The Commissioner of Public Safety is hereby 453 authorized and directed to seek reciprocal agreements with 454 bordering states to allow law enforcement officers of the State of 455 Mississippi to enter into such bordering states while in pursuit 456 of persons who have committed crimes for the purpose of

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457 apprehending and arresting such persons. Any state who enters 458 into such reciprocal agreement shall be authorized to enter into 459 the State of Mississippi for the same purpose.

460 (2) The Commissioner of Public Safety shall require the
461 Department of Public Safety to enter into a Memorandum of
462 Understanding, which is negotiated by the Secretary of State, with
463 the registrar of each county for the purpose of providing a
464 Mississippi Voter Identification Card.

465 SECTION 10. Immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, the 466 467 Attorney General of the State of Mississippi, or other 468 appropriates official of the State of Mississippi or any other authorized person on behalf of the State of Mississippi, shall 469 470 submit this act to the Attorney General of the United States or to the United States District Court for the district of Columbia in 471 472 accordance with the provisions of the Voting Rights Act of 1965, as amended and extended. For the purposes of this act, the 473 474 Legislature authorizes the Governor of the State of Mississippi, 475 the Secretary of State of the State of Mississippi, or the 476 chairpersons of the elections and Apportionment Committee of the 477 Mississippi House of Representatives and the Elections Committee 478 of the Mississippi Senate, said chairpersons acting jointly, to 479 make the requisite submissions in accordance with the Voting Rights Act of 1965, as amended and extended. 480

481 SECTION 11. This act shall take effect and be in force from 482 and after the date it is effectuated under Section 5 of the Voting 483 Rights Act of 1965, as amended and extended.