MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Scott

To: Apportionment and Elections

HOUSE BILL NO. 982

AN ACT TO REPEAL SECTIONS 23-15-531 THROUGH 23-15-531.12, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZE DIRECT RECORDING ELECTRONIC VOTING EQUIPMENT TO BE USED IN ELECTION; TO AMEND SECTIONS 23-15-391, 23-15-545, 23-15-613 AND 97-13-43, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

SECTION 1. Sections 23-15-531, 23-15-531.1, 23-15-531.2, 23-15-531.3, 23-15-531.4, 23-15-531.5, 23-15-531.6, 23-15-531.9, 23-15-531.10 and 23-15-531.12, Mississippi Code of 1972, which authorize the use of direct recording electronic voting equipment "DRE" in elections, are repealed.

SECTION 2. Section 23-15-391, Mississippi Code of 1972, is amended as follows:

23-15-391. The board of supervisors of each county and the governing authorities of each municipality shall use optical mark reading equipment *** * *** that complies with the specifications provided by law. The election commissioners may conduct special and municipal elections, as well as any necessary runoff elections, by paper ballot when the election commissioners

determine that administration of an election by paper ballot will be less expensive than administration of the same election by optical mark reading equipment *** * ***.

SECTION 3. Section 23-15-545, Mississippi Code of 1972, is amended as follows:

23-15-545. At each election, at least one (1) poll manager shall be charged with writing in the pollbook the word "VOTED," in the column having at its head the date of the election, opposite the name of each elector upon return of a marked paper ballot by the elector with the initials of the initialing poll manager or alternate initialing poll manager affixed thereon. *** * ***

SECTION 4. Section 23-15-613, Mississippi Code of 1972, is amended as follows:

23-15-613. (1) As used in this section "residual votes" means overvotes, undervotes and any other vote not counted for any reason.

(2) For every election, election commissions and county and municipal executive committees shall report to the Secretary of State residual vote information; however, if the voting devices *** * *** <u>used</u> in the election do not produce a ballot, other information shall be reported as required in this section.

(3) For every election, election commissions and county and municipal executive committees responsible for the conduct of elections in which ballots are generated that are counted by hand or by OMR equipment *** * *** shall report to the Secretary of State

all residual votes for all candidates and ballot measures in the elections for which they are responsible for conducting. The residual vote reports shall:

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

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

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

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

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

(4) For every election, election commissions and county and municipal executive committees responsible for the conduct of election in which voting devices are used that do not generate ballots that are counted by hand or by OMR equipment *** * ***, shall file a report with the Secretary of State which shall:

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

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

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

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

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

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

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

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

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

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

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

SECTION 5. Section 97-13-43, Mississippi Code of 1972, is amended as follows:

97-13-43. Any person who willfully tampers with or damages any *** * *** tabulating computer or device to be used or being used at or in connection with any election or who prevents or attempts to prevent the correct operation of any *** * *** tabulating computer or device shall be guilty of a felony and, upon conviction, be punished by imprisonment for not more than ten (10) years, or be fined Five Thousand Dollars ($5,000.00), or both.

SECTION 6. This act shall take effect and be in force from and after July 1, 2021.