

REPORT OF THE ELECTION REFORM REVIEW PANEL

Including

Findings and Recommendations

DECEMBER 1, 2008



Delbert Hosemann
Secretary of State

I. MISSION OF THE PANEL

The Mississippi Legislature created the Election Reform Review Panel in Section One of Senate Bill 2910 (2008 Regular Session.) The name thus chosen for the panel summarizes its mission: to review current Mississippi statutes with an eye toward reforms needed to improve application of election laws. The bill listed seven topics for the panel to examine. However, the panel's scope of inquiry was not restricted to that list and was deemed to encompass "any other election law reforms deemed important by the panel." Senate Bill 2910 directed the panel to file a report of its findings and recommendations to the Clerk of the House, the Secretary of the Senate, and the Governor no later than December 1, 2008. Those findings and recommendations are presented in this document along with the accompanying exhibits.

II. MEMBERSHIP OF THE PANEL

The membership of the panel, delineated in the bill, consisted of the chair and vice chair of the House Apportionment and Elections Committee as well as the chair and vice chair of Senate Elections. In addition, one member was appointed by the Speaker of the House and one by the Lieutenant Governor. Other panel members included appointees (one each) by the Mississippi Association of Circuit Clerks, the Election Commissioners Association of Mississippi, and the Attorney General. The final member was the Secretary of State, who was designated in the bill as chairman of the panel. At the first meeting in Gulfport, the members of the panel elected **Larry Gardner** to serve as vice-chairman as provided for in the bill.

The panelists, in alphabetical order, were the following: **Senator Terry Burton**, chairman of Senate Elections Committee; **Senator Tommy Dickerson**, vice-chairman of Senate Elections; **Senator Merle Flowers**, appointee of the Lieutenant Governor; **Larry Gardner**, Adams County Election Commissioner appointed by the Election Commissioners Association of Mississippi; **Delbert Hosemann**, Secretary of State; **Representative Brandon Jones**, appointee of the Speaker of the House; **Reese Partridge**, appointee of the Attorney General; **Representative Tommy Reynolds**, chairman of House Apportionment and Elections Committee; **Haley Salazar**, Lowndes

County Circuit Clerk appointed by the Mississippi Association of Circuit Clerks; and **Representative Adrienne Wooten**, vice-chair of House Apportionment and Elections Committee.

III. METHODOLOGY

The panel held a series of public meetings at five locations across the state in order to afford Mississippi citizens an opportunity to present comments and recommendations directly to the panel. The dates, times, and locations of these meetings, as well as their stated purpose, were announced by written notice posted in the office of the Clerk of the House, the Senate Docket Room, the courthouse of each county in which a hearing was held, and in conspicuous places at each of the meeting sites. Notice was also mailed to the Capitol Press Corps, the membership of the Mississippi Press Association, and the membership of the Mississippi Press Association. At each of the five meetings, a court reporter was present to record the proceedings of the panel as well as any statements made by citizens in attendance. Forms were provided for those persons who did not wish to address the panel to send in written comments to be included in the final report.

The public meetings were held at the following dates and locations: (1) Tuesday, October 7, on the campus of Jeff Davis Community College, Gulfport; (2) Thursday, October 9, in the City Council Chamber in Natchez; (3) Monday, October 13, in the auditorium of Hinds Hall on the Northeast Mississippi Community College campus in Booneville; (4) Wednesday, October 15, at Chastaine Flynt Library in Flowood; and (5) Thursday, October 16 at Solomon Junior High School in Greenville. The topics covered, as listed in Senate Bill 2910, were as follows: (1) voter identification requirements, (2) early voting, (3) voter registration, (4) absentee voting, (5) voting patterns, (6) education, (7) training of election officials, and (8) “any other election law reforms deemed important by the panel.” Each meeting followed the same format: an introduction of each of the panelists, at which time each was afforded an opportunity to speak, followed by a topic-by-topic review, with comments from the public, of the eight categories in the order listed in SB 2910.

IV. FINDINGS OF THE PANEL

The findings of the Mississippi Election Reform Review Panel are summarized in the following sections of this report. Each section will cover one of the topics listed in Senate Bill 2910 in the order they appear in that bill. There will be some overlapping of

topics, as there was when the statements were given. The transcripts of the five hearings are attached to this report along with any documents submitted as exhibits.

A. VOTER IDENTIFICATION REQUIREMENTS

A requirement that voters present some form of identification to poll workers prior to voting on election day has been debated in Mississippi for over a decade and during that time has been the most contentious issue in the field of election law. Senate Bill 2910 lists “voter identification requirements” first among the topics to be considered by the Election Reform Review Panel, and in each of the regional meetings it was the first topic called up for discussion. Representative **Tommy Reynolds**, one of the ten panelists, observed: “The issue of voter identification sparked sharp debate at each public forum.”

Generally, those who favored an ID requirement cited the state’s inflated voter rolls and contended that the showing of an ID on election day would serve as a bulwark against voter fraud. Proponents felt that voter ID would give the general public more confidence in the integrity of the election process. Those who opposed the mandatory showing of identification held that such a requirement could be used to intimidate minority voters, especially older voters, and questioned the need for such a requirement.

ID and Possible Voter Intimidation

One citizen who testified at the Booneville hearing expressed some frequently heard arguments against the use of voter ID at the polls. “I think voter ID is a way that the State is trying to target minorities,” he said, “as well as immigrants... to keep them from voting. Back in the ‘30s, ‘40s, ‘50s, ‘60s and ‘70s, we had poll tax and things to keep folks from voting. What we need to be doing today is looking at ways to get more people coming to the poll. As you know, almost every election in the state, county and city, less than 25 or 35 percent of the people come out to vote. We don’t need to try to keep folks from coming to the polls because if you target voter ID, you’re going to be targeting the older citizens who still have memory of the poll tax days.” He saw a request for identification as a form of intimidation: “Well, I feel that you’re intimidating... if you’re asking for my ID and I’ve been in the electoral process since I was 18 years old. I feel that it is intimidation for me to show you my ID where my name is on the book.

Proponents contend that, rather than finding ID intimidating, the overwhelming majority of Mississippi’s citizens routinely show forms of identification that could be used for voting. **Secretary Hosemann**, in the hearing at Booneville, said, “97 percent of individuals over age 65, according to the records with the motor vehicle controller, have already existing drivers licenses. So (in our study) we didn’t anticipate a large cost for voter ID in Mississippi because of the fact that most... 97 percent of the people have

them already. But we did offer to pay at no cost to the taxpayer the issuance of voter ID if they didn't have a utility bill or voter registration card issued by the clerks."

One African American Election Commissioner at the Natchez hearing said that even though she had no strong reservations about ID, a strong majority of her constituents opposed the idea.

"As I have traveled across the state I have been given the opinion of many of my black constituents as to their position on voter ID. Let me preface this by saying I realize in order to take a flight I must show ID; in order to write a check I must show ID; in order for me to be able to visit my grandchild's classroom I must show ID, yet as I attend many churches, civic and social and fraternal organizations I hear from the people of my race, they do not want voter ID. They are of the opinion that too many of our forerunners fought and died that everyone would have the constitutional right to vote. They see voter ID as a form of harassment, intimidation and a way of bringing back the poll tax. Many of the older blacks do not have voter ID and they're feeling that just to walk into the polling place and you ask them to show voter ID, that will turn them around, they will leave the polls and will not come back to vote. They are, also, saying that they would not mind voter ID if it's a Federal law but they do not want to see just the State of Mississippi with voter ID."

Secretary Hosemann asked this elections commissioner if she believed her "constituents would be opposed to a voter ID if it were applied uniformly by federal and state standards." She replied that "if all 50 states were required to have voter ID" she did not feel her constituents would be opposed.

Another citizen who spoke at the Natchez meeting, a lady from Wilkinson County whose husband "has for the past several years encountered severe difficulties in getting elected," was much stronger in her support of voter ID:

"I have always felt that voter ID was imperative to our area and I firmly believe that it would benefit the entire state and if as the (Election Commissioner) stated, if it became a Federal law it would certainly maybe make Mississippi do what it should have done many, many years ago. Our neighbor, Louisiana, currently has a voter ID program that appears to be working in a very satisfactory manner and if we could take some notes from them it probably would pave the way towards perhaps benefiting our state or benefitting separate counties that have encountered voter problems in the past. As the previous speaker (the elections commissioner) stated that anywhere you go today, you cannot cash a

check; you cannot board a plane; you cannot do almost anything nowadays without a proper ID card.”

At the Flowood hearing, a number of groups went on record in opposition to the concept of ID. The Magnolia Bar Association, Common Cause, the League of Women Voters, and the Mississippi NAACP each sent a representative who conveyed a general opposition to the use of voter identification at the polls on election day.

One proponent of the use of voter ID at the polls was long time Circuit Clerk **Gayle Parker** of Harrison County. **Ms. Parker** offered the following statement in favor of ID:

“As far as voter ID, I support it 100 percent. It’s something that we need in Mississippi. If you vote, you have to show an ID. And people that register and mail in their applications, they have to show first-time voters at the poll. So that is out there. And people that are coming in the office, just automatically now, they’re throwing up their driver’s license. There’s some misconception out there about voter ID, but I wanted to tell this panel that I support it 100 percent.

“I have seen some things with voter ID in past elections where... especially one municipal election several years ago, where people came in and registered, and there were about 10 people in one house. And it was a close race, and it was found out that there was fraud in those voter registrations. And those were turned over to the district attorney’s office.”

Various Forms of Voter Identification

Aside from the question of whether there should be an ID requirement, there was much discussion about the types of identification that would be acceptable should such a requirement be imposed. The proponents of photo ID (i.e. a card that displays the voter’s photograph) held that without an actual photograph, the use of fraudulent identification would be made easier. Opponents of “photo only” identification contended that poor and elderly voters would be less likely to possess a photo ID such as a driver’s license and it would impose an undue burden on these voters to obtain a photo ID. Some panel members wanted to allow the use of a broad spectrum of possible ID documents in order to avoid disenfranchisement.

Voter Identification and Human Error

One of the panel members suggested that the use of voter ID may prevent poll workers from making mistakes when voters sign in on election day. **Reese Partridge**, the representative from the Attorney General's Office said:

“There is experience that a lot of people go to vote and they realize that someone has voted in their name, that someone has signed the sheet book, more importantly is that on the poll book it says “voted” out by, next to the name. I don't have any doubt that there are some cases where that is something that is criminal there but there is something that I was taught fairly early on in my working with the elections and by the Circuit Clerks and the Election Commissioners and the Executive Committees is it's not always what, the first thing that pops into you mind is, ‘Somebody assumed my name and has voted in my name.’ In many cases I've been assured that it's nothing more involved than a poll worker who, once you announce their name and they try to find your name on the poll book and instead of signing next to that, writing the word ‘voted’ next to that name they drop down one notch or they go one notch up and they write ‘voted’ next to the wrong name. ... In a strange way this is a way of speaking on behalf of voter ID because you could turn over an ID card to the poll worker and then they could put it down next to the name and that would take care of that but I think we need to acknowledge that there are plenty of times where that's going to be the case and sometimes is a pretty darn innocent error to make by our poll workers.”

B. EARLY VOTING

The concept of early voting has drawn a lot of attention in Mississippi over the past few years. Bills have been introduced that would have allowed early voting in all elections. Other bills called for limited pilot projects for early voting in targeted counties. None of these bills have been approved by the entire legislature, but they have generated considerable interest. Across the nation, more than thirty states have some form of no-excuse early voting, and there was extensive media coverage of early voting during the period leading to the federal elections on November 4th.

The topic of early voting drew a lot of interest from citizens who attended the regional meetings of the Election Reform Review Panel, and most of the comments favored the practice. “While opinions and recommendations regarding many of the panel's suggested topics varied greatly,” said **Representative Tommy Reynolds**,

“presenters demonstrated uniform support for early voting in Mississippi.” However, though support may have been uniform, it was not unanimous. Even among supporters of early voting, a number of questions and concerns about implementation were raised.

Early Voting in Other States

Presenters at the meetings cited “convenience, increasing voter participation, assisting the elderly, and decreasing voter fraud by reducing absentee voting” as reasons for implementing early voting. One of the proponents, **Representative Tommy Reynolds**, cited personal experience in the form of visits to neighboring states (i.e. Dyer County, Tennessee, and Lawrence County, Arkansas) to study their early voting practices. “These counties in Arkansas and Tennessee show strong support of early voting in areas that are comparable and demographically similar in Mississippi. These two states have enjoyed early voting for more than ten years.” **Representative Reynolds** went on to say, “I intend to offer legislation to allow early voting that is currently allowed in Arkansas and Tennessee.”

Early Voting’s Effect on Absentee Voting

Proponents of early voting presented it as a preferred alternative to absentee voting. **Commissioner Larry Gardner** said that he and **Circuit Clerk Salazar** had been on a task force that considered early voting. He summarizes some findings of that task force in the following passage:

“We looked at trying to use some of the new technology. We have the new TSX machines, so we were looking at using the new technology. ...Alabama does it; Tennessee does it. ... One of the things they did is they opened up the voting machines at their courthouses and the people would come in and they would actually vote....And what that did is save the clerks a ton of time and energy having to run around with the paper. And the paperwork is where most people get disenfranchised in absentee voting. So if you can get rid of that paperwork, these people (would) have already cast their vote. And the other thing is that the voter’s confidence is there too because now it’s in the computer. When they put it on the slip of paper, they don’t know if it’s going to get counted or if it’s not.”

One member of the audience in Gulfport, an elections worker, cited an instance where “we had to reject a soldier’s absentee ballot because of some Mickey Mouse (requirement) that he didn’t sign the flap or something.”

Questions Remain about Early Voting

Senator Merle Flowers expressed reservations about early voting in the following passage:

“This particular measure for early voting failed this year in the 2008 session, but I want to give a couple of reasons why some of us were opposed to early voting until we were able to get these issues resolved. And we were trying to work diligently to that end. But until they’re all resolved, a lot of us will continue our opposition to this particular issue.

“Several things were mentioned, but the cost is an unfunded mandate to the counties. If you put in the language that says, the supervisors may pick out, whatever, 20 precincts per county or 10 precincts and they have to be staffed with three personnel and a manager for 15 days, that’s a huge cost to some of these counties. Some of these counties are so small they... maybe if you had it at the circuit clerk’s office, that’s still an additional burden on them that they’re going to have to bear.

“Second was the securitization, major, major issue. If you have a lot of precincts across Mississippi are in small churches. They’re in community centers. Well, the polls will close at 7:00. At 8:00, they may have the men’s basketball game going on that night. What do you do, you know? What do you do with that over the weekend, you know, all kinds of people coming and going in that room? What do you do with the ballot box? What happens during that period of time?

“But even if you moved it and said, we’re only having it at the Circuit Clerk’s office, our concern were that as a candidate, you have an opportunity for 12 hours on one day, right now under the law, to issue challenge to people that are coming in to vote and challenge those votes. And so having a poll watcher at each precinct... it’s difficult enough to get volunteers to go out.

“I had 20 precincts, and I had them there for 12 hours at 20 locations, which was hard. It takes a lot of your family and some of your friends and begging and pleading to go out there and watch and make sure nobody’s cheating on you. Well, if you have it at 15 days at multiple sites it is going to be so hard. It’s hard enough to get them for one day. So as.. from a candidate’s perspective, anybody that’s put their name on the ballot, I mean, it’s very difficult.

So that being said, we didn't just cast this out and say, this idea is horrible. We just said, there's a lot of unanswered questions."

Some other members, and some citizen participants, wanted answers to certain questions before they would support early voting. **Joyce Loftin, Circuit Clerk of Lee County**, expressed concern about the increased costs to Circuit Clerks if early voting is implemented. Specifically, she said that some counties may need to hire an additional deputy clerk to staff remote polling places or to handle the walk-in traffic at her office. There was also concern that in some small counties there may not be enough deputy clerks available at all times to meet the statutory requirement that three persons witness the casting of a ballot. "We've got some small counties," she said. "I'm blessed with 14 employees, but some of my fellow clerks have one full time and one part time. So, cost and funding for early voting is certainly going to be a factor for every county." **Ms. Loftin** contended that not only small counties would be affected. "I just say that to say that we have some unanswered questions. We need to think about if it's mandated or are the Circuit Clerks and their staff going to be totally responsible? Will we get some part-time help? Will we get some money?"

The representative from the Circuit Clerk's Association, **Haley Salazar** of Lowndes County, offered the following statement on behalf of the association:

"After hearing testimony of the public and election officials during the public hearing process as well as conducting the recent general election with record numbers of absentee ballots and election day voter participation, it seems apparent that many people want early voting in this state. Having said that I believe that it is critical that it be implemented in a manner that safeguards the voting process by being housed in a very controlled environment such as the registrar's office so that the SEMS system could be used to post to the poll book as voted by the electors name when the vote takes place eliminating the error factor there as well as ensuring the security of the machines. If a satellite location is needed, the municipal clerk's office would be a good choice as SEMS could be utilized, but the memory cards or scanners should be checked out and in each day by the registrar for security purposes. Opening the polls for that period of time is not feasible or secure enough to protect the integrity of the process. Early voting would have to be closed in time to allow for the printing of the poll books and L & A Testing of the machines used in the early voting process. Absentee voting statutes would need to be amended to make them available only by mail to prevent a dual system that would not be viable to implement. Another concern with early voting is the need to update the voter assistance statute to require a person rendering assistance to sign a certificate as is currently done with someone providing assistance on an absentee ballot. We have heard from many Circuit Clerks across the state that emphasized funding for additional personnel to

adequately staff the early voting period is critical and will have to be addressed. Again, I would like to emphasize the need for us to work together on this project.”

Secretary of State Hosemann agreed with the position of the Mississippi Association of Circuit Clerks, saying there is a need to ensure that early voting be “housed in a very controlled environment such as the registrar’s office so that the SEMS system could be used to post to the poll book as voted by the electors name when the vote takes place.” He emphasized that unless the rolls were “cleaned up and purged where needed” the problems with inflated voter rolls would only be exacerbated if voters from every precinct in the county were to go to a centralized polling place. “For any number of reasons, it is essential that we clean the deadwood off the rolls,” he said.

The Circuit Clerks were not the only group to express concern about additional cost associated with early voting. The Mississippi Association of Supervisors, while expressing no position on the desirability of early voting or the lack thereof, cautioned that there could be a significant cost in implementation. They pointed out that the hiring of additional personnel, whether on a permanent or temporary basis would be an expense borne by the counties. Further, the use of remote or satellite polling places for the early voting period would pose an additional expense to the counties.

Not everyone viewed early voting simply as an alternative to absentee voting. In a letter dated November 17, 2008, the American Civil Liberties Union stated their position as follows: “The ACLU of MS supports the adoption of an early voting law, as long as the law for absentee voting remains the same and citizens who are away during election time, as well as elderly citizens and citizens with disabilities are able to access absentee ballots as well.”

Early Voting Seen as Boost to Voter Confidence in the Process

Election Commissioner **Larry Gardner of Adams County**, who serves as President of the Election Commissioner Association of Mississippi, said in the following exchange that one benefit of early voting would be increased confidence on the part of voters that their vote would indeed be counted:

Mr. Larry Gardner: “For those of us that don’t have paper ballots, we find we get an awful lot of voters... absentee ballots are thrown out because of the technicalities whereas if they were able to early vote, your vote is already cast.”

Ms. Joyce Loftin: “That’s right. They don’t get the second chance voting.”

Mr. **Larry Gardner**: “Then we gain the confidence of the voter that when they go into that machine and they push that button and they cast that ballot, they know it actually counted.”

C. VOTER REGISTRATION

Bloated Rolls a Problem for Counties

The problem of bloated voter rolls was brought up during the course of the hearings. **Mike Kelly**, a first term Circuit Clerk from Prentiss County, cited the problems he is having with his county’s rolls: “I would like to see us be able to have a more efficient way of maintaining our voter rolls to update our addresses. We still have a lot of the old addresses that have not been updated through the years. (We have) the old route numbers and box numbers rather than the new 911 addresses. It’s been a difficult thing as far as our jury selection and so forth.”

Reese Partridge cited a problem in obtaining 911 data for the purpose of updating voter rolls, saying that “the 911 commission can no longer share that information.” **Angie McGinnis, Circuit Clerk of Oktibbeha County**, agreed and said that an attempt was made to get legislation to allow the use of 911 information, but it was blocked by the Federal Communications Commission. **Tommy Reynolds** said that there have been attempts to use 911 information “for this particular purpose,” but “it would have to be confidential, strictly confidential.” He went on to say that the limited use of 911 data “would not seem to violate anyone’s fundamental privacy right if it’s done in a proper manner. And that would be something that could help you and (something) the postal service and others have used to help. There are a lot of things out there, but you do need some help and I’m interested in trying to help you.”

Secretary Hosemann also expressed concerns about inflated voter rolls throughout the state. “We have about 22 to 24 counties with more people on the voter rolls than there are on the census. That’s a massive problem with purging. We asked the clerk and found that across the state on average 47 percent of the mail (they send) comes back unanswered. That is a huge cost to the counties, to the state, and to everyone else. It’s not just the stamp, but it’s also the time, the labor, and everything else that goes into it.” He continued: “Our voter rolls are not acceptable, but the purging process takes so long (that) we want to revisit it this year. We need to get the voter rolls right and (to get) our jury pools right. I think that’s part of what this committee ought to be addressing.”

Inflated Rolls Skew Public's Perception

Commissioner **Larry Gardner** felt that one of the benefits of cleaning up the state's voter rolls was the ability to more accurately gauge voter participation. He offered the following summation:

“One of the things that really bothers us is when the statistics are kicked out, you know, people can do anything with numbers but one of the things that really bothers our Association is when they say that Mississippi has a poor voter turnout. Well, in reality that may not be true. If our polls were maintained and the proper people were on the rolls our voter percentage may be substantially better than anybody believes they are and I know in Adams County when I was first elected we had actually more registered people on the books than we have people in the county and well, we did and so at one point we had, we have around, what is it, 22 counties out of the 82 that have the same similar circumstances, and what happens is they need to be maintained and it doesn't do any good to go out there and say, 'Okay, we're going to have a voter re-registration,' because if they're not maintained in a matter of time they're right back where you were so the key issue is it may take a little longer to do it this way but in the long run I think we're going to have much cleaner, honest rolls in the future with the help of the Secretary of State's Office and his staff and our training staff and our education staff that we have but we are addressing that issue.”

Felons and Voting Registration

Another aspect of the subject of voter registration that drew attention was voting by felons and the re-gaining of suffrage by those persons disqualified by conviction of one of the disenfranchising crimes listed in Section 241 of the Mississippi Constitution. The list itself was the subject of some comment. Special Assistant Attorney General **Reese Partridge** said of the list “...many election crimes themselves would not fall under those categories, which would thereby allow those persons convicted of ...vote fraud to still run for office. That seems like that's something we should try to address.”

It was noted that the list of disenfranchising crimes did not include federal crimes. As **Reese Partridge** said of federal felons, “It's as if they had not be convicted of a felony at all.” **Senator Terry Burton**, in response to a question from the audience in Natchez concerning federal felons, said, “Basically it would take a Constitutional Amendment to include Federal crimes in the disenfranchisement of those that have committed state crimes, and I would be more than happy to introduce that Constitutional Amendment.”

At the Gulfport meeting, a representative of the ACLU asked what kind of training poll workers have concerning the voting eligibility of “convicted felons or members of the formerly incarcerated community.” Election Commissioner **Larry Gardner** said the poll workers would not need to know about disenfranchising crimes. He explained that at least thirty days before the election, the circuit clerk sends the election commissioners a list of persons who have been convicted of disqualifying crimes. The election commission then verifies that the crime is disqualifying and notifies the person that his name is being removed. **Mr. Gardner** said, “Three or four percent of the felony convictions are disqualifying. All the rest...are not covered under the Constitution.”

The ACLU representative said his concern centered on reports that in some “small towns everybody knows who’s convicted of a crime,” and some voters convicted of non-disqualifying crimes are still denied the vote because poll workers may think that all felonies are disqualifying. In a letter dated November 17, 2008, the ACLU said, “We also support full restoration of voting rights to individuals convicted of twenty one crimes as identified in the state Constitution and through an Attorney General’s opinion. We are against a complete disfranchisement of individuals with felony convictions, even if these rights will be restored.”

Secretary of State Hosemann said the correct procedure for determining which felons can vote “is in our election handbook.” **Mr. Hosemann** further said, “the only process we’ve got right now is the one **Larry (Gardner)** has outlined to you, which is that we go through the ones who are disenfranchised, and we post those to the voter rolls.” **Circuit Clerk Haley Salazar** said, “In my county (Lowndes) when we train poll workers, if (the voter’s) name is on the poll book, it’s not their job to question whether or not they think a person has been convicted of a crime.” She added “It’s so complicated, those disenfranchising crimes. ... Every time we get a new crime, we have to go to the Attorney General to interpret” whether the new crime disqualifies a voter.

Some on the panel questioned whether there should be a distinction between disenfranchising and non-disenfranchising crimes. The representative of the ACLU pointed out that “there are people inside the system serving time who still have the right to vote.” These inmates are eligible to vote by absentee ballot. (It should be noted that in the ACLU’s letter of November 17, 2008, cited elsewhere in this summary, the organization opposes “complete disenfranchisement of individuals with felony convictions, even if these rights will be restored.”)

Secretary Hosemann confirmed that there are felons currently incarcerated who can still vote: “I’m sure that we have absentee ballot requests for people who are incarcerated who have not committed one of the 21 major crimes that are disenfranchising (and) are entitled to vote no matter where they’re located.” **Reese**

Partridge agreed, saying “we’ve got a federal court case that essentially says they are entitled to vote by absentee ballot ... so long as they have not been convicted of a disenfranchising crime.” **Mr. Hosemann** said, “During the last legislative session (we) discussed the possibility of making all of the (felony) crimes disenfranchising and allowing an earn-out for people to get their right to vote back when they came out of prison.” **Senator Burton** added “I just want to go on the record: I’m for changing the constitution to say that any person convicted of any felony... would lose their suffrage rights. And then upon completion of their sentence and their debt to society, paying their fines, and living a good life for two, three, five, whatever the number of years is, then that would automatically put them back on the books. That’s what I would like to see done.”

Voter Registration by Political Party

Another aspect of voter registration that prompted some comment was registration by political party. One citizen at the Gulfport meeting voiced strong opposition to party registration. “The current system preserves my privacy,” he said. “Once my identity as a Democrat or a Republican or an independent is revealed, my privacy will be compromised.” This view was shared by the panel members who spoke at the Gulfport meeting. “There is a court case out there that said we needed to change our system, but we managed to get that stayed,” said **Senator Terry Burton**, chair of Senate elections, who further stated: “We’re not going to be required to do that unless the legislature decides to do it. And I would be opposed to registering by party, absolutely.” **Chairman Reynolds** echoed **Senator Burton’s** sentiments. “I share your strong opposition to the requirement that Mississippians...register by party. (We) have so many divisions in this state that I don’t think we need any more.” **Representative Reynolds** pointed out that neither Arkansas, Alabama, nor Tennessee have registration by party.

D. ABSENTEE VOTING

Absentee voting was often discussed in conjunction with early voting. Generally, early voting was viewed as an alternative to absentee voting. There was a consensus that absentee voting will always be needed to accommodate the military, those who are overseas, and those who are physically unable to go to the polls.

Absentee Voting and Early Voting Compared

In Natchez, **Senator Terry Burton**, speaking on Early Voting versus Absentee Voting described the situation thus: “Those two are naturally tied. If you’re going to talk about early voting then you have to talk about reforming the absentee ballots as well.” **Chairman Reynolds** suggested that “Circuit Clerks have the same opinion... to do away with the absentee voting except those that have to be mailed out. I think it defeats the

purpose of early voting if you are going to have two modes of voting. It needs to be early voting and absentee, as the clerks see it, and mail out ballots to those disabled and those people who are not able to come to the clerk's office." **Reese Partridge** opined, "There is a very high percentage of absentee ballots that end up being rejected. Anything we can do to use early voting (rather than absentee) I think would be a big advantage. Some counties have told me that as many as half of the absentee ballots have to be rejected due to the signature not across the flap or some technical deviation like that." **Tommy Reynolds** assessed the situation as follows: "In our area we've got a constant battle about this flap and sometimes it benefits some and sometimes it benefits others but it is the best prescription for landing an election in court that I have yet found."

Early Votes More Likely to Count

There seemed to be general agreement that early (final) votes are more likely to be counted than absentee ballots. **Tommy Esposito**, a long time Harrison County Election Commissioner, favored eliminating absentee voting, saying, "If you don't sign across the flap or if you don't have a signature from this one or that one there will be people who are eligible to vote whose ballots are rejected because of one particular reason."

Tommy Reynolds also expressed concern about the security of absentee ballots. "When you cast one," he said, "you can go into that polling place and vote, and then they yank the absentee ballot you had voted. In Arkansas, there is none of that. You go into the circuit clerk's office and they have a machine set up and you vote. And that's it, you voted. There is less likelihood of fraud by voting in the circuit clerk's office, looks like to me, than there would be anywhere else." He cited another possibility for mistakes with absentee ballots. "We've got a situation where somebody can vote an absentee ballot and then come in on election day and revote and change what they've already done. I don't like that."

The Use of Agents in Absentee Voting

Circuit Clerk Haley Salazar suggested that there is a need to tighten the procedures that apply to persons acting as agents in securing absentee ballots for a third party. She said that Senate Bill 2910 created a loophole in this area that the Mississippi Circuit Clerks Association would like to close:

"In the Senate Bill just passed," she said, "there was a portion of the law amended (under which) we had basically been (following) an Attorney General's opinion ... that gave some clarification to when an agent is requesting an absentee ballot for an elector." She said the appointment of an agent "now (must) be (by means of) a written statement ... signed and witnessed by a resident of the state,

which is very good. But it also went on to say that statement (will) be valid for one year. That is going to create a logistical nightmare for the clerks to keep up with. It would require changes in the statewide management system to track these forms.” She continued: “The voters who are permanently disabled have the ability to know that they’re going to have a ballot every time. But these who are using a third party agent, well, what (good) is a year? Right now, they sign a form (that is) good for a year, (but) unless we have a special election next year, there won’t be any (use for the authorization.) ... I think a lot of the clerks are ... wondering why that language was put in there to make this form valid for a year.”

Senator Burton also had reservations about the designation of an agent lasting a year. “Some of us wanted to do away with the issue altogether,” he said. He said the year long designation had some problems in addition to the potential for fraud. “The fact that they (may not be) filled out right is part of the problem. (It is) the responsibility of the agent. And that agent is costing that person (his or her) vote in many cases. So I would like to do away with them (the agents) altogether.... I just don’t know what the fix would be other than doing away with the agent altogether and not offer it.” He then declared, “We’ll fix it.” **Secretary Hosemann** also expressed opposition to the use of agents to secure absentee ballots for third parties. “I do think, after meeting with many of the clerks and election commissioners,” he said, “that these agents for obtaining ballots (present) a significant risk of mischief in the voting and we should not have any agents. I, too, support the removal of agents.”

Absentee Voting and Voter Fraud

The concerns about fraud in the use of absentee ballots was highlighted in the Booneville hearing where **Senator Burton** submitted for the panel’s inspection a 2007 case from the circuit court in Tunica County styled *Lindsey v Darby*. The case was heard by Judge Jim Pounds of the First Circuit Court District who had served as a special judge in this election contest for the post of Justice Court Judge in Tunica County. The contest centered on absentee ballots alleged to be irregular and therefore inadmissible.

Senator Burton said “I would like to enter into the record the case of *Lindsey vs. Darby* that was adjudicated on the 8th day of November, 2007, that does show where voter fraud exists in absentee ballots in Tunica County.... (There were) fifty three to sixty one absentee ballots. ... I would like to enter that into the record so we can have it for the committee to take a look at and understand.”

In *Lindsey*, the court stated “at least nine envelopes were found with no ballots ... At least one dead voter attempted to vote ... At least nine ... absentee voters said they didn’t actually vote those absentees.” In submitting this case, **Senator Burton** said, “I have heard several times ‘Show us proof,’ and if we’ve got a judgment that was issued...that’s proof. I think it ought to be a part of the record.”

One attorney with a long history in elections litigation said in Natchez, “There needs to be more stringent law with regard to the security and authenticity of the absentee ballots within the clerk’s office.” He cited one instance where “the procedure the clerk used in making the list of people who applied for and voted absentee was so poor that there were 48 absentee ballots in the box to be counted, and they were, in fact, cast and counted, that had not been placed on the list of people who applied for them. This attorney also cited a problem with “so called curbside absentee ballots.” He described this practice as when a candidate for office brings a voter to the courthouse “out on the street without any remote suggestion that the person was unable to climb stairs and go up to the clerk’s office, and (the voter would) sit by that candidate and vote an absentee ballot under his view.”

This same attorney suggested that the elections code be rewritten. “You need to codify all of these criminal statutes in a way that is consistently and harmoniously applied to all elections, and you need to do it in a comprehensive way rather than scattering them throughout the code in ways that would befuddle King Solomon to figure out exactly how they apply.” He also urged stronger penalties for voter fraud. “You need to codify in the law that it is mandatory in the sense that failure to follow (election) law would destroy the validity (of the election.) You need to make it a very serious state crime.” In order to enforce election laws this attorney suggested giving to the State Elections Commission, “a power similar to what (has been) given to school districts (in that) if they wont follow the law... you can appoint a monitor or supervisor to bring them into alignment. You need to do that with these counties that are far out of balance. He suggested having “a single election contest procedure... there should be one kind of election contest and it should be by a judge with the election commissioner’s input as an advisory jury.”

Absentee Voting for Overseas Voters

One citizen in Natchez suggested that the absentee ballot procedure should be updated. She cited her daughter and her family who live overseas. She said that traditional mail is too slow. “There is not enough time between when the ballot is available and when you have to get it in. You have got to move, I think, to an electronic system. Now you could say ‘Well what about the fax?’ As far as I’m concerned, whatever problems there are with electronic voting for overseas, you have the same with the fax. Personally I could tamper with the fax a heck of a lot easier than a secure email and the other thing is, with faxes is they are going out of style.”

There was sentiment for improving absentee voting procedures for military personnel stationed overseas. **Secretary Hosemann** cited a recent visit he made to Iraq, Kuwait, and Afghanistan at the request of the Department of Defense to observe voting procedures by military personnel stationed in those countries. **Secretary Hosemann’s** assessment of the situation is as follows:

“We are at the forefront in our state on electronic voting and I’m real proud of where we are. What we do we allow electronic voting to come to the Secretary of State’s Office. We then obtain from the county the necessary vote and ballot. We send it back by electronic mail. They take it off, scan it in and send it back. One person at the Secretary of State’s office sees this ballot. That has been proven fatal in California, Pennsylvania and other states. They will not do it because they’re concerned as to the security of the ballot. There are no faxes in Afghanistan. Also, they have no Notary Publics. One of our goals, I was appointed by the National Association of Secretary of States President, Cory Wilson and myself, to develop the model form for other states to follow Mississippi’s lead. We are, in fact, in the lead in electronic voting and there are some things I want to do a little bit different from going over there. In each one of the bases that I went to I asked them, ‘Does it concern you as a soldier,’ and I was speaking from Privates to Generals literally, ‘Does it concern you as a soldier that one member of the Secretary of State’s office in Mississippi will know how you voted?’ and to a man and a woman, they said, ‘It doesn’t matter as long as it counts.’ The most important thing is my ballot that counts. It’s ten days by mail to get the mail request, two days for it to turn around in my office and ten days to get it back to them. Then they have to vote it and ten days to come back. In Mississippi we didn’t even have the ballot until September 26th because the Election Commissioners have until September the 5th to begin the process of being nominated. It is our goal to have at least half the states allow electronic voting by the next presidential election based on the Mississippi plan. Second of all, we have to revisit and I would like to compliment both **Chairman Reynolds** and **Senator Burton**. They tried to move back the filing deadlines this year, a Bill that was passed by the House and Senate and vetoed by the Governor. This Task Force will be bringing this matter up again and **Representative Reynolds** will be on the forefront of allowing sufficient time for us to prepare the ballot for overseas balloting. We’ve been asked to present our findings to the National Secretary of State Association in Washington in January and we intend to do that and push towards having electronic voting for not only soldiers and sailors and service men and women but all of the people who live overseas.”

E. VOTING PATTERNS

There were no recommendations for legislation in the area of voting patterns.

F. EDUCATION

There were no recommendations for legislation in the area of voter education. At the Natchez hearing, **Secretary Hosemann** gave a brief summary of his efforts to provide voter education through the Secretary of State website. That summary is as follows:

“One of the things we’ve been looking at in the Secretary of State’s Office would be to have the ballot on our website with links as given by whatever individual, if an individual had a link and wanted to give us one we would link you to, if a candidate was running for Circuit Clerk we’d link to his comment and be able, so you could click on and go to whatever he stood for. We’ve never done anything like that in the state and we’re just in the embryonic stages of looking at how to do this. It’s expensive to mail things and so we’re trying to do as much as we can electronically and we’ll be discussing something like that with the Legislature. Do you think that would be a problem or do you see any concern you may have if there was a link and anybody who wanted to put it up there, Democrat or Republican or Independent or otherwise, would be able to link to their website to see what they stood for or against.”

G. TRAINING OF ELECTION OFFICIALS

Discussion about the training of poll workers mainly centered on the number of hours needed and the cost of training.

Most Agree Training Needed

At the Booneville meeting, **Representative Adrienne Wooten** said, “I can say that it’s important for the workers at these precincts to have training because every issue that could come up in an election, I faced it.” **Ms. Wooten** said, “I was present during the counting of the absentee for my election and what I realized is that you have a lot of elderly people who vote by absentee ballot. And if there aren’t people there to tell them the proper procedure, they don’t know it.”

Poll Worker Training Evaluated

In Natchez, **Commissioner Gardner**, in response to a question from the audience, said that “poll workers are hired as a commission, so no one commissioner has the authority to hire a poll worker.” **Mr. Gardner** talked about the training of poll workers in the following exchange:

Mr. Gardner: They all have to put in the names and the Commission has to vote to hire the poll workers. Second of all the poll workers obviously need to have adequate training. Thanks to **Mr. Burton** and **Mr. Reynolds** we were able to get a bill passed last year that has increased the amount of training time that’s allocated for poll workers and, also, gives them compensation if the Board of Supervisors allows its and had they been properly trained you would not have had to question the card. All you had to do was put the voter card into the encoder and it’ll tell you whether it’s been cast or not. That’s all you got to do is put it in the encoder.

Citizen: You are exactly right.

Mr. Gardner: Yes, sir, and you say yet there should be no question involved if they’re trained properly all they have to do is put that in there and if it says that is has to be programmed...

Citizen: I’m not talking about that.

Mr. Gardner: ... it’s been cast.

Citizen: I’m not talking about that.

Mr. Gardner: The poll workers, the training is part of your...

Citizen: They didn’t have good training so it’s the fraud part that comes along.

Mr. Gardner: Well, but, see, with good training that will help prevent some problems.

The Natchez meeting also brought out a number of comments on the evaluation of training programs for poll workers. One citizen from Wilkinson County said, “There should be some competency requirements for Election Commissioners as well as people that work the voter polls.” She went on to describe the following situation in Wilkinson County:

“Some of the things that I’ve personally observed were not people doing things intentionally wrong. They just did not really understand. You can feed them all the dang training you want to; if they don’t comprehend and you don’t have a way to judge that then we’re going to be dealing with this every year in every election. I would strongly suggest you come up with a form of competency that, and as much as I hate the State and Federal Government, that grade, if you

will, is something that everybody in the state has to meet. No difference in getting a driver's license.”

“At one point we had to wait 30 minutes for the machines to work because the people didn't know how to do them and then the expert came and he couldn't get them to work so I mean, and it multiplies. I was taught a long time ago, perceptions are truths until proven different. The perception is the system flawed and it's flawed... They have to believe in the system and right now we don't have that. It doesn't matter what side of the issue they were on, if you do not have confidence in those five people working that poll booth it doesn't matter and that's where I am. I'm a firm believer in training.”

In response to this citizen's remarks, Commissioner **Larry Gardner** cited a few problems that would need to be addressed in formulating a testing program:

“We do agree that in our training we are going to try to develop some type of test that we can utilize as a measure as to how our individual Commissioners are absorbing that data. There is going to be some point in time where we're going to have to say they just can't do it and that, of course, that's what **Secretary Hosemann** wants us to do someday.”

“We do a fairly good job of training but we still have the same issues so we're going to have to come up with some way to measure that competency, too, but again it's a human thing. Some people can train well and you think they know what they're going to do and when they get out there in the polls and how the lines are starting to stack up they get nervous, they get disruptive and everything just goes to heck in a hand basket and a lot of times we just have to go out there and calm them back down again and get things back on track.”

Reese Partridge offered the following observations on the training of poll workers:

“In the elections world in this state there are no trainers. There's no professional trainer. There is no one who just does training. Everybody is wearing several hats and that's just the, 'Oh, yeah, now its time to go train.' And its just kind of put together so maybe it's something we need to consider. I know there are some states that actually employ trainers for elections. You know, it obviously takes a certain amount of technical knowledge to be able to pull it off but it's something that we ought to consider.”

Use of Student Poll Workers

Commissioner **Larry Gardner** said that one long term solution to the problem of inadequately trained election workers could be increased use of student poll workers. He outlined the experience election officials have had in Adams County in the following passage:

“One of the best things you can do ... is using student poll workers. A number of years ago that was given up as an opportunity to get younger people involved in elections and we took advantage of it and it was really nice to have them there and get them involved because, listen, we’re all getting up there in age and somebody is going to have to take it over eventually and what’s really frustrating to us is right now we have all of these voter drives going and just like **Mr. Hosemann** said we’ve got 160,000 registered voters that are going to be at the polls this year and I would almost hazard to guess that the majority of those are young voters. Now the trick is how do you get them involved in elections? How do you get them interested in elections? How do you get them out to the polls? How do you motivate that couch potato to go and vote and that’s going to be one of the key things that you can do. Get the young people involved as poll workers. They’re young, they’re bright; get them interested and they can help you tremendously in the polls and get them involved.”

The American Civil Liberties Union made the following recommendation: “The ACLU of MS supports additional mandatory training for election officials as well as an increase in pay for these workers. We’d also like to recommend a special recruitment program for high school and college students that enables them to earn course credit and a stipend for serving as poll workers during elections.”

At the initial meeting in Gulfport, **Senator Burton** urged the use of more student poll workers:

“One of the things that I hope at some of these meetings can be touched on is your ideas and other ideas on how we might encourage younger people to become involved in working the polls. I think it’s extremely important that we encourage poll workers to start getting involved in the process because, as you know... those of you who work the polls know, some of you are getting ready to retire; some of you have already retired. And it’s hard as the dickens to find

somebody to work with. We need to do something to encourage participation not only at the voting booth, but poll workers from college level, junior college level, whatever it takes to do that. So I hope that at some point, we can listen in and then... listen to what you have to say.”

Costs of Training is an Issue

The following exchange among **Carol Gates, Circuit Clerk of Itawamba County, Senator Terry Burton, and Secretary of State Delbert Hosemann**, took place at the Booneville meeting and raised many of the concerns held by county officials:

Ms. Carol Gates: I just have a comment, I guess, and a question. Who would be responsible for conducting the training? And my comment is: I have a concern about the financial burden that it would put on our counties. My county is a fairly small county and we have just recently, since we went to the TSX machines, started paying our poll workers for training and we pay them \$10 for two hours. Just figuring costs, if I have four... I have 26 precincts. If I train... or if there are four poll workers are trained, that cost was...

Secretary Hosemann: It is 104 times \$10 to start with.

Ms. Carol Gates: Two hours which we train them for two hours so that was...

Secretary Hosemann: \$2,000

Ms. Carol Gates: \$2,000 and if that's upped to eight hours of training, we're talking about \$16,000 over \$2,000. And my county is... if I have a capital murder case set during an election year, which costs \$60,000 or more, that's just on the small side for court, then, that's going to wipe my county out.

Secretary Hosemann: So you're concerned for the cost of training for poll workers.

Ms. Carol Gates: Its not... if we don't get some help from somewhere.

Secretary Hosemann: Particularly, I'm guessing, in the instance if early voting is instituted by the legislature, then you'd be concerned as to the cost of your country for early voting?

Ms. Carol Gates: As well, uh-huh (yes).

Secretary Hosemann: Yes, Ma'am. And we've had several of these discussions. Senator Burton, do you have a comment?

Senator Burton: Well, just thinking out loud here because this is the first time this has been brought up in such a way. Why wouldn't it make sense to require the parties to certify to you that those poll workers are trained in those primaries and turn to them. For those that have been certified as trained by the parties to conduct the general election? Why couldn't we require the parties to do their job in that regard, to make sure those poll workers are trained and certified according to Secretary of State's Office.

Ms. Carol Gates: Well, would they do their job? The Elections Commissioners are paid for their...

Senator Burton: What I'm talking about is the poll workers working the polls. The parties ought to be responsible for their training. They ought to be. Then... that's what I'm saying. Why couldn't we require the parties to train their poll workers at their primaries or let the counties conduct the elections? One or the other. And that way, they would be paid to be trained by those people who should be paying the tab. And then you could reach into that pool for your general election poll workers.

Ms. Carol Gates: Well, that may be a possibility in my county. The executive committees are not real active. Just this year when we had all the special... I mean, the primaries, all of my executive committee had resigned. They contracted with the Elections Commissioners to do their election.

Senator Burton: We do pay for them to be trained.

Ms. Carol Gates: Yeah, we do pay for them to be trained.

Circuit Clerk Haley Salazar said that although Senate Bill 2910 required poll workers to attend an eight hour training course every four years, it may be difficult to get experienced poll workers to agree to that. "I don't know how many of us could get a poll worker to sit through eight hours of training to tell you the truth." However, **Larry Gardner**, Adams County Election Commissioner, stressed the need for additional training. "I'm very much in support for more education and more training and we worked very hard with the Secretary of State's Office and both the Senate and the House to try to get more training... Even though training is expensive to (the counties) every election is a potential contest. And if you think training is expensive how much is it going to cost to run that election? We just came from a place in the southern part of the state where we've now going through three elections and it's not over yet. It can be expensive. Training is very important."

The Mississippi Association of Supervisors, while recognizing the value of training in general, cautioned that the added cost of additional training could impose a burden on smaller counties and urged election officials to consider less costly alternatives such as online classes.

Representative Tommy Reynolds recognized the problems faced by county supervisors in the following passage: "I would say that now as far as the Board of Supervisors their budget is like everybody else's but they don't have a printing press like the Federal government so if the state mandates things on it the state ought to help pay for it. Now the state is in, we don't know today what kind of shape we'll be in next year but I do say that we do not need to do unfunded mandates."

Secretary Hosemann suggested that online training may help "One of the things we've done was to go to Mississippi State University to assist us in an online training arrangement. We're hopeful that would give people the ability to do it at home or after work or on the weekend, that kind of thing. Still get paid for it, but be able to go through

the training. And we're working on that part now. So hopefully that will help some on the cost of travel, since gas has gotten so expensive and all the rest of it. But we will have online training as far as hours. They could take it and do it in her office or they can do it at home." In response to a question from **Haley Salazar, Secretary Hosemann** said that the office of the Secretary of State has consulted training officials at Mississippi State University to make sure that poll workers taking online courses actually take the course. **Carol Gates** said that, "My election commissioners would have to come to my office to do the online training because they do not own a computer." She also expressed concern that some of the poll workers may not be proficient in the use of computers. "I'm not much better," she said, "but I would have to be in there with the training for them."

Senator Terry Burton suggested that expenses could be spread out over time. In Booneville he offered the following suggestion, "I don't have the exact numbers in front of me, but I don't think it's any requirement that there be an eight hour day. Two hours for four days or one hour for eight days, just eight hours every four years. So you could break it down like that and your expenses could be strung out over a period of months."

H. OTHER TOPICS

Use of Assistants for Voters at the Polls

One topic not listed in Senate Bill 2910 is Voter Assistant at Polls. **Oktibbeha County Clerk Angie McGinnis** cited illegal voter assistance as a major source of voter fraud. She outlined her concerns in the following passage:

"I would like to go on public record here with what I have to say. Under the Help America Vote Act, we've got machines that actually read a ballot to a person, but still, those machines are not being taken advantage of. The whole idea for that was for a person to be able to vote independently for the first time in their life and say that they voted independently. All you've got to do is put the earphones on and listen to it. It reads it to you. It tells you which button to push. It's a long process but it's a very simple process. But yet, we have individuals that will go into our community and get some of our older citizens and they will tell them you going there and you tell that poll worker that you need assistance and you tell them you want me to help you. My poll workers have called me because they're so timid because they feel threatened at the polling place that something is going to happen to them if they stand up to that. And they call me and they say, they're standing there and they're pushing every button. They're

voting the people's ballots for them. Ya'll, that's not right. I don't care who you are, that's not right. If people are going in and they're giving assistance, but they're actually voting people's ballot, we need to know who they are. I want to see our legislature strengthen the law that when you sign when you bring a person to the polls and you assist them to vote, that you sign there that you've offered assistance, the same way you voted for voter assistance on the envelope of that absentee ballot."

Secretary Hosemann echoed **Ms. McGinnis'** concerns about abuse with voter assistance in the following passage:

"In Wilkinson County, our report that's on the website cites numerous issues with the assistance voting. And, in fact, in on county, in one precinct we found almost 50 percent of the individuals received assistance. Upon exiting the polls, they were asked whether or not they needed assistance and they referred that they did not. Any time you see four legs behind the curtain, we've got a problem. We have significant assistance problems in Mississippi, they're documented in our Wilkinson County report. And in talking to other clerks, they're not foreign just to Wilkinson County.

"Assistance voting is being misused in Mississippi. And when it's misused, it takes away your vote, whether you be in Itawamba County or Tishomingo or Wilkinson County, it doesn't really matter. Assistance voting is one of the biggest issues that we have. I'm so glad that you raised it tonight. It's one that the legislature needs to address. Typically, a signature is being required for someone giving assistance. And that signature should be under penalties of perjury.

"The individuals that we questioned on exiting the polls at other locations... and we covered about 16 different counties... assistance voting was not utilized properly in many of them. In the legislature last year, we proposed a temporary disability be only for one year, similar to what **Haley Salazar** was discussing on the one year voter. That failed during the legislative process and probably will be risen again this year because you're right, we've continued comments out and about the Secretary of State's Office concerning individuals who may have been temporarily disabled at one time who are no longer so. Both of those points are excellent."

Secretary Hosemann later submitted for the record proposed legislation that would spell out procedures for the use of assistants at the polls on election day. A copy of the proposed legislation is to be found at the end of this report as an attachment. The

proposed legislation would amend Section 23-15-549, Mississippi Code of 1972 to permit assistance to any voter “by reason of blindness, disability, inability to read or write” from two election officials.” Such a voter could also be assisted by his or her parent, sibling, or child. The proposed law would prohibit any person from assisting more than ten voters in any election. Any person giving assistance would have to sign a “declaration of assistance” that states the reason the voter seeks assistance and specifically naming the person they wish to help them. The person offering assistance would likewise sign a declaration stating that they are qualified under the statute to offer such assistance. A violation of the proposed statute would be considered voter fraud. The current penalty for violations is more than five years in jail and a fine of not more than \$5,000 for each occurrence.

Filling Vacancies in U.S. Congressional Races

Another topic was problems that arose recently from having vacancies in the offices of U.S. Representative and U.S. Senator. **Circuit Clerk Haley Salazar** urged the Legislature to address this problem.

“There is one thing that I would like to go on the record for this panel to address. We should explore changes in 23-15-853 to allow for an appointment if a vacancy occurs in the U.S. Congress such as we (currently) do in 23-15-855 for the U.S. Senate to prevent us from ever again having four elections as we did in the spring of this year. It may be that it’s a constitutional prohibition, I don’t know. But I know that in the Senate statute the governor can make an appointment. Under the House statute we were called on to have a special election, which created an extreme hardship for the state, the counties, and the candidates. And, quite frankly, the voters were confused. If the constitution would allow us to change, I think that’s certainly something we could look at.

Run-offs in Election Commission Races

From a Statement by **Haley Salazar** on behalf of the Mississippi Association of Circuit Clerks :

“There are several areas that various circuit clerks have addressed and the record will speak to those issues, however, I don’t recall if the run-off situation for election commissioners was raised. If not I would like to recommend that Section 23-15-213 be amended to have the run-off three weeks later as in other races. There were counties this year that had to hold two run-off elections after the general election. I know that the bill addressing this matter was vetoed after the last session of the legislature; however, I feel that it should be pursued again.”

Harsher Sentences for Election Fraud Urged

At different times during the course of the panel's hearings, the issue of tougher sentences for crimes involving election fraud was brought up. At the initial meeting in Gulfport Assistant Attorney General **Reese Partridge** stressed that office's concern about ineffective penalties for election fraud in the following passage:

“We are very interested in seeing some of the election crimes that are on the books, which have extremely minor penalties, to see that... if we can, try to address some of those penalties to get the attention of some of these folks who are committing election crimes out there.

“Along the same lines, we're interested in seeing the creation of an election crimes unit that would be devoted to pursuing election crimes in the state so that we have sufficient personnel to devote to that. We would like to see in Section 44 of the Constitution ... which provides that persons convicted of felonies are disqualified from running for office; however, many election crimes themselves would not fall under those categories, which would thereby allow those persons convicted of voting... vote fraud to still run for office. That seems like that's something that we should try to address.

“And finally, we would like to see an election court developed in the state so that judges who are seasoned and are knowledgeable about election law could be assigned to these many election contests that we see and which are increasing all the time, election contests out there, over and above the election crimes that we've seen.”

At the Natchez meeting, **Commissioner Gardner** echoed this call for tougher penalties for election fraud. “There needs to be some meat in the law so that when people do violate these laws its no longer a misdemeanor.”

In Booneville, in response to a question about the penalties for voter fraud, Circuit Clerk **Angie McGinnis**, “If you are stealing a fellow's vote, I think it should be one man to one vote. And if you're stealing somebody's vote, that's the same stealing of anything else. And it should be a much more serious crime than that.”

Curbside Voting Reform Urged

In Natchez, a citizen from Wilkinson County stated that in that county “curbside voting has occurred for persons who are not disabled for weeks prior to election day at the courthouse. It is no secret that this situation has been used to literally stuff the ballot box in order to corrupt the election process and this is my question: What can be done to stop this corruption?”

Secretary Hosemann replied that during the legislative session earlier this year, the practice of curbside voting was given sanction in the Mississippi Code. Prior to the passage of that bill, the practice had been occurring but it was based on nothing more than an attorney general’s opinion. “Curbside voting,” he said, “was finally codified effective July 1, 2008, and the actual process requiring two poll workers and the bailiff to go outside the polling place for someone who is unable to go in. ... That does not address other concerns that were in the Wilkinson County report which said that disabled individuals requested the poll book and there would be a candidate sitting in their car with them when they voted. (The process) is supposed to be the same as being inside the polling place (where) the individual’s vote is protected.” **Chairman Reynolds** added that the bill “was passed so there would be a standard and uniform regulation” (of the vote.)

Senator Terry Burton then said, “I will introduce it as part of a package – if this committee doesn’t want to endorse it I will do it – that would prohibit curbside voting except on election day. ... Otherwise you get an absentee ballot or, if we authorize early voting you vote early, but curbside voting would only be allowed under those circumstances that we put into the law. Two of the poll workers and the bailiff would go out there (only) on election day. But not just anybody who wants to (at any time), no. I’ve never heard of that before. ... It absolutely ought to be outlawed, and it will be if I get my way.”

V. ATTACHMENTS

Attachments to this report are incorporated into the body of the documents and are to be considered a part thereof. The attachments are listed as follows:

1. Additional Comments of Comprehensive Election Reform Review Panel submitted by **Lowndes County Circuit Clerk Haley Salazar**
2. Memorandum to **Secretary of State Delbert Hosemann** from **Nsombi Lambright, Executive Director of the American Civil Liberties Union (ACLU) of Mississippi**, dated November 17, 2008
3. Statement of Representative **Tommy Reynolds, Chairman of the House Apportionment and Elections Committee**, dated October 30, 2008
4. Partial Transcript and Final Judgment in the case styled Louis Linzy vs. Ellis Darby, Cause No. 2007-0232 in the Circuit Court of Tunica County, Mississippi
5. Statement from **Angie McGinnis, Circuit Clerk of Oktibbeha County** titled "Voter Assistance Abuse" and dated October 6, 2008
6. Draft of proposed legislation that amends Section 23-15-549, Mississippi Code of 1972, to set out requirements for assistance given to a voter on election day
7. Court Reporter's transcript of testimony at Gulfport meeting of the Comprehensive Election Reform Review Panel on October 7, 2009
8. Court Reporter's transcript of testimony at Natchez meeting of the Comprehensive Election Reform Review Panel on October 9, 2009
9. Court Reporter's transcript of testimony at Booneville meeting of the Comprehensive Election Reform Review Panel on October 13, 2009