HB419

By Representatives Guin, Hinshaw, Moore, Davis, Faust and Bandy

RFD: Constitution and Elections

First Read: 18-MAR-03
ENROLLED, An Act,

Relating to elections; to provide that the Secretary of State shall be the chief elections official in the state; to amend Sections 17-4-127, 17-4-129, 17-4-130, 17-4-136, 17-4-138, 17-4-150, 17-4-151, 17-4-187, 17-4-210 to 17-4-214, inclusive, 17-4-230, 17-4-231, 17-4-250, 17-4-252 to 17-4-255, inclusive, 17-5A-4 to 17-5A-6, inclusive, 17-7-13, 17-8-43, 17-9-23, 17-10-4, 17-10-5, as last amended by Act 2001-1097 of the 2001 Fourth Special Session, 17-10-9, 17-10-10, 17-10-23, 17-14-1, 17-14-20, 17-16-31, 17-16-35, 17-16-36, and 17-20-4, Code of Alabama 1975, to provide further for statewide voter registration; to provide further for the qualifications and duties of registrars and for the list of qualified voters in the precincts; to authorize the Secretary of State to prescribe forms and promulgate and implement administrative rules for compliance with the "Help America Vote Act of 2002" and this act; to place the Office of Voter Registration under the Secretary of State; to provide further for reidentification of voters; to provide further for the State Voter Registration Advisory Board; to provide further for coordination of the state driver's license database with the state voter registration list and the federal Social Security Administration; to provide further for canvassing returns and declaring the results of certain elections; to provide for
provisional voting; to provide further for absentee balloting and voting by military and overseas voters; to provide for certain voter identification; to establish a Help America Vote Fund in the State Treasury and make an appropriation from the fund to the Secretary of State for the fiscal year ending September 30, 2003; to provide for a committee to assist the Secretary of State in implementing the "Help America Vote Act of 2002"; to provide criminal penalties for certain violations; to provide that each voting system used in an election shall satisfy certain federal requirements on or before January 1, 2005; and to repeal Sections 17-11-1 to 17-11-4, inclusive, 17-12-1 to 17-12-8, inclusive, 17-16-23, and 17-16-24, Code of Alabama 1975.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) The Secretary of State is the chief elections official in the state and shall provide uniform guidance for election activities. The Secretary of State is granted rule making authority for the implementation of this act under the Alabama Administrative Procedure Act.

(b) The judge of probate is the chief elections official of the county and shall serve as chair of the canvassing board.

Section 2. Sections 17-4-127, 17-4-129, 17-4-130, 17-4-136, 17-4-138, 17-4-150, 17-4-151, 17-4-187, 17-4-210 to 17-4-214, inclusive, 17-4-230, 17-4-231, 17-4-250, 17-4-252 to
17-4-255, inclusive, 17-5A-4 to 17-5A-6, inclusive, 17-7-13, 17-8-43, 17-9-23, 17-10-4, 17-10-5, as last amended by Act 2001-1097 of the 2001 Fourth Special Session, 17-10-9, 17-10-10, 17-10-23, 17-14-1, 17-14-20, 17-16-31, 17-16-35, 17-16-36, and 17-20-4, Code of Alabama 1975, are amended to read as follows:

"§17-4-127."

"It shall be unlawful for any elector to cast his or her ballot during any general election, primary election, municipal election or special election in any precinct, any district, any ward or any other subdivision where his or her name does not duly appear upon the official list of such the precinct, district, ward or subdivision. All ballots cast in any election contrary to the provisions of this section are hereby declared illegal and, upon a contest duly instituted, such the ballots shall be excluded in determining the final result of any election; provided, that nothing in this section shall prevent any qualified elector residing in said the precinct, ward or voting district from voting after presenting a proper certificate from the board of registrars, or from voting a challenge a provisional ballot with the proper officials of said box or voting place when his or her name does not duly appear upon the official list of the precinct, district, ward, or subdivision.

"§17-4-129."
"The judge of probate shall publish from the state voter registration list a correct alphabetical list of qualified electors by precinct, district, or subdivision wherein each elector is registered to vote, in some newspaper with general circulation in the county, on or before the twentieth day preceding the regularly scheduled primary election. Such list shall be accompanied by a certificate verifying that said lists contain the names of all qualified electors registered as of the date shown on the state voter registration list certified by the board of registrars. Such list shall further state that any elector whose name was inadvertently omitted from the list shall have 10 days in which to have his or her name entered upon the list of qualified voters. If within 10 days any voter shall reasonably satisfy the board of registrars by proper proof that any name should be added to the list, the board shall add such name to the list. The supplemental list of registered voters inadvertently omitted from the original list shall be published once in a newspaper of general circulation in the county on or before the seventh day preceding the date of the primary election. Only in 1978, in any county which has duly published a list of qualified voters prior to August 4, 1978, the probate judge shall prepare and publish in some newspaper with a general circulation in said county, an alphabetical listing, as hereinabove required, only on or
before the seventh day preceding the date of the primary
election. In 1978, in any such county, this list, together
with the list published prior to August 4, 1978, shall be the
official list of voters qualified in each of the precincts,
districts, wards or other subdivisions within such county.

"§17-4-130.

"The board of registrars shall, when registration is
closed before a primary, general, or special election, certify
to the judge of probate any additions, deletions, corrections
or changes from the list previously prepared and submitted to
the judge. From these lists the state voter registration list,
the judge shall prepare and print a report of the correct
alphabetical lists of the qualified electors registered by
precincts, by districts, or by subdivisions thereof of a
precinct where the precinct has been divided or subdivided, if
not within a city or incorporated town, and by wards and other
subdivisions, if within a city or incorporated town, and no
others, which lists shall be certified by the board thereof
officially to be full and correct copies of the lists of
registered electors for each of said political subdivisions,
as the same appears from the records of the board, and shall
deliver the same to the judge of probate for distribution to
the officers of election. An electronic archive in the
database for the state voter registration list shall be
recorded simultaneously with the printing of each county's
lists of qualified voters. The board of registrars shall deliver these lists of qualified electors for each precinct to the judge of probate and certify that the same was produced from the state voter registration list. Each printed list of qualified voters shall contain a printed certification generated by the state voter registration system establishing that the contents of the list are true and correct as of the specified time and date when it was printed. The judge of probate shall deliver or cause to be delivered to the inspectors in each precinct, each district, each ward or each other subdivision one copy of the list prepared of qualified electors printed for such box or voting place immediately preceding every general, primary or special election, and the delivered list shall contain only the names of persons qualified to vote at such box or voting place; except, that for purposes of information only, there may be delivered to such the inspectors lists prepared for other boxes or voting places. The list published in the newspaper before each primary election shall not be used as the poll list.

"Notwithstanding the foregoing, electronic access to the state voter registration list may be utilized in lieu of a printed list in accordance with administrative rules promulgated and implemented by the Secretary of State. The Secretary of State shall send any proposed new rule or amendment to an existing rule by certified mail to each county
canvassing board at least 30 days prior to certification of
the proposed rule or amendment pursuant to the Administrative
Procedure Act.

"The judge of probate shall certify a copy of each
such poll list to the Secretary of State and shall provide a
copy to the board of registrars. Both the board of registrars
and the judge of probate shall keep a current copy of such
lists the qualified elector list for the county open and
subject to public inspection.

"§17-4-136.

"The board of registrars Secretary of State may make
such promulgate rules and regulations as it deems proper for
the receipt of applications for registration and the
accomplishing in as expedient a manner as possible the
registration administration of those entitled to register
applications, but no person shall be registered until a
majority of the board of registrars has passed favorably upon
such the person's qualifications.

"§17-4-138.

"The judge of probate may employ such assistants and
clerical help as may be necessary to complete and properly
prepare reports from the state voter registration list of the
list of qualified electors which the judge of probate is
required to furnish to certify and furnish to the election
inspectors. The judge of probate shall receive or such
assistants shall be paid out of the county treasury by warrants, drawn by the county commission on certificate of the probate judge, accompanied by the certificates of the person being paid, showing the amount is due under the provisions of this chapter, but the entire amount spent for the preparation of such lists shall not exceed a sum equal to the amount obtained by multiplying the number of names on said list by $.05 for the preparation of such list. The judge of probate in all counties having a population of not less than 100,000 nor more than 350,000, according to the last or any subsequent federal census, is hereby authorized and directed to having a population of not less than 100,000 nor more than 350,000, according to the last or any subsequent federal census, is hereby authorized and directed to having a population of not less than 100,000 nor more than 350,000, hereby authorized and directed to have a clerk to assist the board of registrars of the county. The duties of said the clerk shall be to submit to the board of registrars revised election lists of said the county by placing all persons in their proper ward or precincts and eliminating therefrom all deceased, nonresident, and fictitious persons named upon said the voting roll and those convicted of crime, and. The clerk shall further attend to all clerical work of the board of registrars. Such the clerk shall be paid a compensation out of the county treasury, of not more than $250.00 per month, to be fixed by the judge of probate.
of not more than $250.00 per month, to be fixed by the judge of probate.

"The board of registrars shall be furnished with not less than 450 square feet of office space by the county governing body. The chairman of the board of registrars is hereby authorized to purchase all necessary office equipment and hire all necessary part time or full time clerical help to perform its prescribed duties.

"At the discretion of the board of registrars, voting machines may be placed in their office.

"§17-4-150.

"(a) Registration shall be conducted in each county by a board of three reputable and suitable persons to be appointed, unless otherwise provided by law, by the Governor, Auditor, and Commissioner of Agriculture and Industries, or by a majority of them acting as a board of appointment, and who must. The registrars shall be also qualified electors, and residents of the county, shall have a high school diploma or equivalent, and possess the minimum computer and map reading skills necessary to function in the office. The Secretary of State shall prescribe guidelines to assist the Board of Appointment in determining the qualifications of registrars. The registrars and who shall not hold an elective office during their term. One of the members shall be designated by
the Board of Appointment as chair of the board of registrars for each county.

"(b) Notwithstanding the provisions of subsection (a), the Legislature may provide by local law for the appointment of additional members to the board of registrars for a county that has two courthouses.

"(c) The provisions of this section shall not apply in any county having a population of not less than 600,000 inhabitants according to the 1970 or any succeeding federal decennial census, and any currently effective local law or general law of local application providing for the appointment of any member of the board of registrars in the county shall remain in full force and effect and shall not be repealed by operation of this chapter.

"§17-4-151.

"The registrars so appointed under this article may be removed at the will of the appointing board, or a majority of the members thereof, for cause by the Secretary of State at any time before the end of their term of office, with or without cause, and without giving their upon submitting written reasons therefor; and if not so removed, the registrars may hold office for four years from the time of their appointment and until their successors are appointed to the registrar removed and to the members of the appointing board. If not so removed, the registrar may hold office for
four years from the date of appointment and until a successor
is appointed.

"§17-4-187.

"The board of registrars Secretary of State shall
maintain a permanent list of all qualified electors by which
shall include the electors' county, precinct, voting history,
and by race, and other information required in Sections
17-4-210 and 17-4-214.

"§17-4-210.

"(a) Every county that has not conducted and
completed a purge of its voter registration list pursuant to
the provisions of Article 7 of this chapter since January 1,
1984, shall conduct and complete such purge no later than
December 15, 1992. Only when every county has completed a
voter registration list purge in compliance with the
aforementioned mandate, the State of Alabama shall
provide, through the Voter Registration Advisory Board and
Director of Voter Registration as established herein, for the
establishment, operation and maintenance of a centralized
statewide voter registration file, effective no later than
January 1, 1993, as a service to the board of registrars. the
Secretary of State, a nondiscriminatory, single, uniform,
official, centralized, interactive computerized statewide
voter registration list defined, maintained, and administered
by the Secretary of State, with advice from the Voter
Registration Advisory Board and the President of the Alabama Probate Judges Association, which contains the name and registration information of every legally registered voter in the state. The computerized list shall comply with such file shall include the following information requirements:

"(1) The names, addresses, and voting locations of all registered voters of this state.

"(2) The minutes of the meetings of the Voter Registration Advisory Board, as established under this article.

"(3) Information such as may be deemed necessary by the Voter Registration Advisory Board or the Director of Voter Registration, as established herein, in order to ensure honesty, fairness, and integrity in the lists of qualified voters maintained by the various county boards of registrars.

"(1) It shall serve as the single system for storing and managing the official list of registered voters throughout the state.

"(2) It shall contain the name, address, and voting location, as well as other information deemed necessary by the Voter Registration Advisory Board or the Secretary of State, of every legally registered voter in the state.

"(3) A unique identifier shall be assigned to each legally registered voter in the state.
"(4) It shall contain the voting history of each registered voter.

"(5) It shall be coordinated with the driver's license database of the Department of Public Safety and the appropriate state agency to assist in the removal of deceased voters.

"(6) Any election official in the state, including any local election official, may obtain immediate electronic access to the information contained in the computerized list.

"(7) All voter registration information obtained by any registrar in the state shall be electronically entered into the computerized list on an expedited basis at the time information is provided to the registrar.

"(8) The Secretary of State shall provide such support as may be required so that registrars are able to enter voter registration information.

"(9) It shall serve as the official voter registration list for the conduct of all elections.

"(10) The Secretary of State shall furnish one copy of the computerized list free of charge to each political party that has satisfied the ballot access requirements for a statewide election within two weeks of the date of a written request for the list by the chair of the political party.

"(11) The list shall be maintained so that it is technologically secure.
"(b) As an oversight board for the system, there is hereby created and established a State Voter Registration Advisory Board composed of nine members, to be appointed as follows:

"Three members by the Governor for terms of four years one of which one must be Black reflect the racial, ethnic, gender, and age diversity of the state.

"Three members by the Commissioner of Agriculture and Industries for terms of four years one of which one must be Black reflect the racial, ethnic, gender, and age diversity of the state.

"Three members by the State Auditor for terms of four years one of which one must be Black reflect the racial, ethnic, gender, and age diversity of the state.

"Such appointments shall be made no later than September 30, 1989. Persons appointed to the Voter Registration Advisory Board shall serve at the pleasure of the appointing authority and shall have knowledge of the workings of voter registration and election laws and shall receive no compensation for their services other than reimbursement for traveling and other expenses actually incurred in the performance of their official duties. Such expenses shall be paid in the manner and amount as is provided for other state officers and employees and persons traveling on official business for state departments and agencies. Such
appointees shall meet within 30 days after their appointments to select one of their number as chairperson who shall serve for two years. Thereafter, the Voter Registration Advisory Board shall elect a new chairperson every four years. The Voter Registration Advisory Board shall meet regularly at least once during each quarter and at such special meetings as may be called, from time to time, by the chairperson. Such appointees, if reappointed after the conclusion of their original terms, shall then serve for new terms of four years after the conclusion of their original terms and shall be eligible for reappointment. Whenever any vacancy occurs on the Voter Registration Advisory Board, for any reason, a successor shall be appointed by the original appointing state official, whether the Governor, Commissioner of Agriculture and Industries, or State Auditor, to serve on the Voter Registration Advisory Board for the remaining period of the unexpired term.

"(c) The Voter Registration Advisory Board shall have the following duties:

"(1) To oversee the statewide voter registration file list created in this article chapter.

"(2) To advise and consult with the Director of Voter Registration, as established in this article, Secretary of State concerning the statewide voter registration file maintenance system created in this article chapter.
"(3) To recommend to the Legislature and the Governor any needed improvements or legislation in regard to the statewide voter registration file.

"(4) To make studies of conditions and problems pertaining to voter identification and registration in the state.

"(5) To keep abreast of the latest developments in the field of voter identification and registration.

"(6) To promote honesty, fairness, and integrity in lists of qualified voters, the voter registration process, and the election process in the State of Alabama.

§17-4-211.

"The Board of Appointment provided for in Section 17-4-150 shall unanimously select a Director of Voter Registration who shall serve at the pleasure of such board. Said director, who shall serve as a member of the unclassified service of the state, shall be a confidential assistant to said Board of Appointment. Said director, The Director of Voter Registration employed immediately preceding the enactment creating this sentence shall serve as the initial Supervisor of Voter Registration and shall be employed, along with his or her successors, by the Secretary of State under the terms and conditions of the state Merit System and whose salary and benefits shall be set by the said Board of Appointment Secretary of State out of funds appropriated for
such purpose, may be removed from such position at any time, with or without cause, by a unanimous vote if the said Board of Appointment, for any reason, revokes their appointment of the individual to such position. Said Director of Voter Registration shall work at the direction of the said Board of Appointment Secretary of State. Said director In addition to those duties assigned by the Secretary of State, the Supervisor of Voter Registration shall have the following duties:

"(1) To keep the minutes of the meetings of the Voter Registration Advisory Board, conduct the day-to-day business activities of the Voter Registration Advisory Board and give progress reports on such activities at its meetings.

"(2) To serve as a liaison between the state, the Board of Appointment set forth in Section 17-4-150, Secretary of State and the county boards of registrars on implementation of existing and future laws pertaining to voter registration.

"(3) To provide to the county boards of registrars such information as would allow them to determine which names should be stricken by them from voter lists in accordance with state law.

"(4) To provide assistance to the county boards of registrars in determining the names of any person or persons who are deceased, who are no longer qualified to vote in the election district where registered due to removal of his or
her residence from the county in which he or she is registered, or from the State of Alabama, who has been convicted of a disqualifying crime, or who is otherwise no longer qualified to vote as may be provided by law.

"(5) To establish and maintain a statewide voter registration file including all registered voters of the state as such information is reported to the Director Supervisor of Voter Registration by the boards of registrars or judges of probate of the various counties.

"(6) To maintain all information furnished to the Director Supervisor of Voter Registration relating to the inclusion or deletion of names from the lists of registered voters.

"(7) To acquire by purchase, lease, or contract, the use of such equipment as is required to establish a fully centralized statewide voter registration file which will allow the computerization of all of the offices of the boards of registrars throughout the state upon legislative approval of funds for such computerization, the communication of necessary information between the boards of registrars and the Director Supervisor of Voter Registration; storage and instant comparison of names and other identifying information contained in voter lists, automatically identifying duplicate entries, produce in printed forms selected names or lists of names with identifying information, and do such other tasks as
may be designated for it by the Director [Supervisor] of Voter Registration.

"(8) To promulgate [recommend] procedures and administrative rules to the Secretary of State and prepare forms necessary to properly carry out such duties set forth herein.

"(9) To secure from each county voter registration information and from any state department, agency, board, bureau, or commission, or from any other sources, information regarding the death, conviction of disqualifying crime, or removal of residence from the county or state of any registered voter.

"(10) To furnish, at a reasonable charge [reproduction cost] and within 14 days of receipt of the request, voter registration lists limited to the names, addresses, and political subdivisions or voting places to candidates for election or political party nomination to further their candidacy, political party committees or officials thereof for political purposes only, incumbent officeholders to report to their constituents; nonprofit organizations which promote voter participation and registration for that purpose only; and for no other purpose and to no one else; failure to furnish the requested voter registration list within 14 days of receipt of request shall result in no charge to the requesting entity and said [the] cost...
shall be absorbed by the Director of Voter Registration; Secretary of State.

"(11) To perform such duties pertaining to voter registration as may be assigned by the members of the Board of Appointment set forth in Section 17-4-150; and Secretary of State.

"(12) To employ supervise persons employed by the Secretary of State, subject to the State Merit System laws and entitled to the rights of benefits thereunder, as may be necessary to carry out the provisions of this article.

"(13) To train, counsel, advise, and evaluate registrars in the performance of their lawful functions.

"(14) To provide military and overseas voters with voter registration applications and absentee ballot applications and shall otherwise assist such voters with information helpful in becoming registered, changing registration, and obtaining absentee ballots.

"(15) To provide information relating to procedures for registering and voting an absentee ballot.

"§17-4-212.

"To continuously and automatically identify the names of persons to be purged from the voters' list, the appropriate state departments or agencies shall provide to the Director of Voter Registration Secretary of State, as such information is recorded by said departments, the names and
identifying information set out below of any person age 18 or older who:

"(1) Have died, with date of birth and social security number (if such number is known), last known address with county of residence, and date of death, as provided by the Bureau of Vital Statistics of the State Health Department; and

"(2) Have been convicted of a felony with date of birth and social security number (if such number is known), last known address with county of residence, and date of conviction, as provided by the Alabama criminal justice information systems.

"§17-4-213.

"Any voter who fails to vote for four years in his or her county shall have his or her name automatically struck from the voter registration list and placed on an inactive voter list by the local board of registrars. Once on such the inactive list, said the voter must shall reidentify with the local board of registrars in order to again have his or her name placed on the active voter registration list. provided, however, that Notwithstanding the foregoing, if a voter on the inactive list goes to his or her polling place to vote on an election day and identifies himself or herself to the polls election official responsible for the voter registration list,
such voter shall be permitted to vote provided the voter completes a voter reidentification form.

"§17-4-214.

"(a) In order to establish the statewide voter file and to ensure its continued accuracy, it shall be the duty of the boards of registrars, on forms or in a manner rule prescribed by the Director of Voter Registration Secretary of State:

"(1) To provide said director the Secretary of State the name, driver's license number or non-driver's identification number (if such number is known), the last four digits of the social security number (if such number is known), date of birth, address, race, sex, and political subdivision or voting place of each registered voter in their respective counties within one month after a written request from said director the Secretary of State;

"(2) To provide said director the Secretary of State the name, driver's license number or non-driver's identification number (if such number is known), the last four digits of the social security number (if such number is known), date of birth, address, race, sex, political subdivision or voting place, place of previous registration, if applicable, and date of registration of each newly registered voter as such voter is registered;
"(3) To provide to said director the Secretary of State the name, driver's license number or non-driver's identification number (if such number is known), the last four digits of the social security number (if such number is known), date of birth, address, race, sex, political subdivision or voting place, and date of reidentification of every voter who reidentifies, pursuant to Article 7 of this chapter.

"(b) Where an applicant for voter registration is unable to produce either a driver's license number, a non-driver's identification number, or the last four digits of the Social Security number, the state voter registration list shall assign a unique number which shall serve as the registrant's voter registration identification number.

"(b) Members of local boards of registrars and members of county commissions who fail to comply with the provisions of this article in their representative capacities as such registrars and commissioners shall be guilty of a Class A misdemeanor and punished as prescribed by law.

"§17-4-230.

"For purposes of this article, unless the context plainly indicates otherwise, the following terms shall have the meanings respectively ascribed to them by this section:
"(1) CLERK'S POLL LIST. The list of voters that is written by a clerk at the polling place pursuant to Section 11-46-39 or 17-8-34.

"(2) LIST OF REGISTERED VOTERS. The list of registered voters, sometimes called the list of qualified voters, that is provided for each polling place by the city clerk in municipal elections and by the judge of probate in all other elections.

"(3) STATEMENT OF CANVAS or CERTIFICATE OF RESULT. The vote totals recorded at the polling places on forms provided for that purpose in accordance with Sections 17-13-6, 17-9-33, 17-16-32, 11-46-116 and 11-46-123.

"(4) VOTERS' POLL LIST. The numbered list that is signed by the voter at the polling place.

"(5) VOTER REIDENTIFICATION FORM. A form that is approved or prescribed by rule by the Alabama Director of Voter Registration Secretary of State for use at the polling place pursuant to Section 17-4-186.

"§17-4-231.

"After the close of the polls in all primary, special, general and municipal elections held in the state, the records and forms produced at the polling places shall be returned as follows:

"(1) The list of registered voters, the affirmations of provisional voters, the statements of election officials
challenging provisional voters, and the voter reidentification forms shall be sealed in an envelope addressed to the board of registrars and the inspectors and any poll watchers present shall sign across the seal. The board of registrars shall hold the list of registered voters as a public record while using it to update their voter histories in accordance with Article 8 of this chapter. The list shall then be returned to the city clerk in municipal elections and the judge of probate in all other elections.

"(2) One copy of the affidavits of challenged voters and witnesses shall be placed in an envelope addressed to the district attorney as required by Section 17-12-4.

"(3) (2) The voters' poll list, the clerk's poll list and all records required by law to be sealed in a voting machine or sealed in a ballot box shall be sealed in an envelope labeled "RECORDS OF ELECTION" and the inspectors and any poll watchers present shall sign across the seal. The "records of election" envelope shall be sealed in the ballot box or voting machine and remain there during the period of time for the initiation of election contest or recount as provided by law. The "records of election" envelope shall be removed and returned to the city clerk in municipal elections and the sheriff in all other elections to be retained in accordance with state and federal law.

"§17-4-250."
“(a) The Secretary of State shall be the primary state official for federal contact for the implementation of the National Voter Registration Act of 1993 and the Help America Vote Act of 2002. The Secretary of State is the chief state elections official.

“(b) The State Department of Public Safety shall integrate voter registration into driver's license application and renewal or updating procedures and shall coordinate its driver's license database with the state voter registration list and the Social Security Administration's database in accordance with the Help America Vote Act of 2002.

“(c) The state through the Secretary of State's Office shall allow citizens to register to vote by mail. The voter registration application may be designed by the Secretary of State provided it meets the requirements of the National Voter Registration Act of 1993. The Secretary of State may, however, choose to use federally prescribed forms.

“(d) State agencies which provide food stamps, Medicaid, services related to Women and Infant Children program (WIC), services related to Aid to Families with Dependent Children (AFDC), and agencies providing services to the disabled shall provide voter registration opportunities to their clientele in accordance with the National Voter Registration Act of 1993.
(e) Recruitment offices of the armed forces of the United States shall provide voter registration opportunities to their clientele in accordance with the National Voter Registration Act of 1993.

(f) Other public offices and agencies which may provide the voter registration services provided by the National Voter Registration Act of 1993 include public libraries, public schools, offices of municipal clerks, probate offices, state and local revenue offices, unemployment compensation offices, offices providing services to the disabled other than those required in (d) to provide voter registration services, and federal and nongovernmental offices which agree to provide the voter registration services.

(g) Voter registration, confirmation documents, and any other documents necessary to be prescribed by the Secretary of State to meet the requirements of the National Voter Registration Act of 1993 shall be prepared and furnished as provided for in Sections 17-4-126 and 17-4-137.

(h) The Secretary of State, by rule, may prescribe forms in furtherance of state election laws deemed helpful to disabled voters and voters speaking an alternative language to English who, according to the most recent decennial census, comprise more than five percent of the voting age population for any county in Alabama.

§17-4-252.
"The Director of Voter Registration Secretary of State shall ensure that all applicants obtain requested voter lists in a timely manner. Methods shall be established for the transmission of tapes, discs, or lists to any applicant. Hindrances shall not be created or devised to delay transmission of tapes, discs, or lists to any applicant. Except as provided in this section, there shall be a uniform charge for the production of voter lists. The reproduction costs of the basic electronic copy of the statewide file shall be reasonable as determined by the Office of Voter Registration Secretary of State and a fee schedule shall be conspicuously posted in the office of the director Secretary of State. Costs of printed copies of lists are as otherwise provided by law. Access to the lists and voter history information contained on the central computer in the Office of Voter Registration the Secretary of State is accessible to anyone making application, except social security numbers which are not to be released. Proceeds from the sale of tapes, discs, lists, labels, or other materials from the Office of Voter Registration Secretary of State shall be retained by the Director of the Office of Voter Registration Secretary of State for use in the Office of Voter Registration voter registration. Upon application and without charge, legislators shall be furnished up to two free printed copies of the voter
lists for their districts during a legislative quadrennium and resale of the lists shall be strictly prohibited.

"§17-4-253.

"It shall be the responsibility of the board of registrars to enter in a timely manner the names of the electors who vote in each election into the state voter file computer as maintained by the Office of Voter Registration registration list.

"§17-4-254.

"There is established a separate trust fund in the State Treasury to be known as the Voter Registration Fund. All receipts collected under this act article by the Office of Voter Registration Secretary of State are to be deposited in this fund. The receipts shall be disbursed only by warrant of the State Comptroller drawn upon the State Treasury supported by itemized vouchers approved by the Director of Voter Registration Secretary of State. No funds shall be withdrawn or expended except as budgeted and allotted according to Sections 41-4-80 to 41-4-96, inclusive, and 41-19-1 to 41-19-12, inclusive, and only in amounts as stipulated in the general appropriations act, this amendatory act, or other appropriations acts.

"§17-4-255.

"The Secretary of State shall promulgate rules and regulations and prescribe forms and instructions as shall be
necessary to implement the National Voter Registration Act of
1993, or the Help America Vote Act of 2002, including any rules, regulations, and forms
necessary for the administration of the act by state
departments and agencies. The Director of the Office of Voter
Registration shall work in close cooperation and coordination
with the Secretary of State and under his or her direct
supervision for the implementation of the National Voter
Registration Act of 1993. The Secretary of State is further
authorized to enter into inter-agency agreements with other
government agencies for the implementation of the National Voter
Registration Act of 1993 and the Help America Vote Act
of 2002.

"§17-5A-4.

"(a) Except as may be provided further by local
election laws or by the electronic vote counting statutes, the
counties in this state, as divided pursuant to this chapter
into election precincts and the boundaries of such precincts
shall so remain until changed by order of the county governing
body, but the county governing body, at its first regular
meeting in March in each even-numbered year beginning in 1990,
shall subdivide any election precinct in which there are more
than 300 qualified voters and paper ballots are used or in
which there are more than 600 qualified voters and voting
machines are used into voting districts or shall divide
alphabetically the list of qualified voters in such precincts into groups and assign each qualified voter a designated voting place and a designated box or voting machine in such precinct so as to provide a box for every person legally entitled to vote at which not more than 300 paper ballots will be cast or a machine at which not more than 600 votes by voting machines will be cast.

"(b) Except as may be provided further by local election laws or by the electronic vote counting statutes, the county governing body, at its first regular meeting in March in each even-numbered year beginning in 1990, shall in their respective counties examine the registration and official list of voters as the same is on file in the office of the judge of probate of said county state voter registration list, and if it shall appear from such examination and from other available sources of information that there is in any election precinct as constituted pursuant to this chapter in which paper ballots are used more than 300 legal voters, or that there is in any election precinct as constituted pursuant to this chapter in which voting machines are used more than 600 legal voters, they shall immediately either divide said the precinct into voting districts so that no one district shall contain over 300 legal voters where paper ballots are used or 600 legal voters where voting machines are used or establish two or more places or provide additional boxes or voting machines at
established polling places in such precinct and shall separate
the list of qualified registered voters in said the precinct, as shown by the list on file in the office of the probate
judge in said state voter registration list as reported for the county, into groups in alphabetical order so that no group
in a precinct in which paper ballots are used shall contain more than 300 qualified registered voters or in a precinct where voting machines are used more than 600 qualified registered voters and shall designate the place and box or machine in such the precinct at which each qualified voter shall cast his or her ballot.

"(c) Whenever any election precinct has been subdivided into voting districts, pursuant to subsection (a) or (b) hereof, the county governing body making such the subdivision shall immediately cause a description of the boundaries of said the voting districts to be filed in the office of the judge of probate and with the board of registrars and shall post a copy thereof at the county courthouse.

"(d) Such The precincts shall be named and designated by the county governing body numerically or alphabetically or by a combination thereof in a manner that will shall be uniform statewide as determined by the association of county commissions and approved by the reapportionment task force.
§17-5A-5.

"(a) Except as may be provided further by local election laws or by the electronic vote counting statutes, the county governing bodies shall designate the places of holding elections in the precincts established hereunder, and, whenever the county has alphabetically divided the list of registered qualified voters of a precinct into groups, it shall designate not only the voting place but also the number of boxes or voting machines at each voting place in the precinct, being sure that it designates a box or machine for each group of qualified voters. The county governing body is hereby specifically authorized to provide for installing as many boxes or machines as are needed in each precinct, and such the boxes or machines may be installed at one designated voting place or there may be more than one voting place designated and such number of boxes or machines installed at each place as needed to provide for the voters authorized to vote at each such place. The county governing body shall file with the judge of probate of the county and with the board of registrars along with a copy of its order fixing the boundaries of a precinct, the names of places designated for voting, indicating in those precincts in which the voters have been alphabetically divided into groups the voting places and boxes or voting machine at which each alphabetical group shall
vote and shall also post such the list of voting places at the county courthouse.

"(b) The judge of probate, within five days after the county governing body of any county files with him or her the boundaries of such the election precincts and the names of the voting places therein, shall give notice of the same by publishing the same in some newspaper of general circulation published in said the county and shall have the same posted by the sheriff at the courthouse and at two public places in said the election district of such the precinct. Such The notice must shall describe such the election precincts by its number their numbers and must shall specify the place therein where elections are to be held.

"(c) Where election precincts have been subdivided into voting districts hereunder, no voter in any election held thereafter shall vote at any place other than the voting district in which said the voter is at such the time is registered as a qualified elector; provided further, however, that. Notwithstanding the foregoing, any county may, by local law, may establish voting centers by combining voters from two or more precincts in order to create a voting center in order to facilitate, or reduce costs, for elections.

"(d) Except as may be provided further by local election laws or by the electronic vote counting statutes, whenever places of voting are once designated and established
as required by this chapter, the voting places for precincts shall not be changed within three months before an election is to be held; and, whenever, When the boundaries of election precincts are changed, the county governing body shall forthwith designate and establish at least one voting place for every 300, or 600 where voting machines are used, voters in each election precinct so created. Places of voting shall be the same for all elections, whether primary, general, or special, or federal, state, district, or county.

"(e) The courthouse is the place of holding elections in the precinct in which it is situated unless another place for that purpose is designated by the county governing body. Elections must be held at such places in the other precincts as may be designated hereafter by the county governing body.

"§17-5A-6.

"The judge of probate shall prepare a separate, correct alphabetical list of all the names of qualified electors or voters for each voting place from the state voter registration list compiled and filed in the probate office, pursuant to Sections 17-4-129 and 17-4-130, for all elections hereafter held in this state, whether primary, general, or special, or federal, state, district, county or municipal, and shall certify separately for each voting place, to the election officials appointed for holding election, each of
which election official shall be an elector qualified to vote only in the box at the place for which he or she is chosen to serve, a list containing only the names of the voters or qualified electors entitled to vote at such the voting place, provided, that as regards. However, with regard to municipal elections, the mayor of the city or town shall cause the list to be made and certified such list; provided further, that nothing. Nothing in this section shall prevent a series of lists of names of voters or electors of other voting places from being certified by the judge of probate on the same general list for information. A vote cast at a place other than the voting place at which the voter is entitled to vote shall be illegal.

"§17-7-13.

"At all elections by the people of held within this state, the elector must vote in the county and precinct of his or her residence and nowhere else and must have registered as provided in this title; and, if, If any elector attempts to vote in any precinct other than that of his or her residence, his or her vote must be rejected, except as provided in Section 17-3-2 when casting a provisional ballot, as provided by law.

"§17-8-43.

"(a) The judge of probate shall cause to be printed in large type cards posters of instructions for the guidance
of electors in preparing their ballots. The information shall include:

"(1) A sample version of the ballot that will be used for that election.

"(2) Information regarding the date of the election and the hours during which polling places will be open.

"(3) Instructions on how to vote, including how to cast a vote and how to cast a provisional ballot.

"(4) Instructions for mail-in registrants and first-time voters registering and voting for the first time after January 1, 2003.

"(5) General information on voting rights under applicable federal and state laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated.

"(6) General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation.

"(b) The judge of probate shall furnish to the sheriff three, or more if necessary, of such cards for sets of instructions for to be posted in the following manner at each precinct, and the sheriff shall post one of such cards in each booth or compartment for the preparation of ballots, and not less than three in prominent places elsewhere about the outside of the polling place on the day of the election. One
set of instructions shall be posted near the entrance of the voting place so as to be plainly visible to those entering. Another set of instructions shall be placed in a plainly visible location near the area where voters are identified from the list of qualified voters printed from the state voter registration list. Remaining sets of instructions may be placed in plainly visible locations to assist voters in accordance with the circumstances presented by the physical layout of the voting place. The instructions shall be printed in large clear type and shall contain full instructions to electors as to what should be done; first, to obtain ballots for voting; second, to prepare the ballot for deposit in the ballot box; third, to obtain a new ballot in place of one accidentally spoiled; fourth, to instruct as to the right and manner of obtaining a watcher for each political party having candidates to be voted for. be made available in alternative languages in counties where the most recent federal decennial census indicates that a specific alternative language group exceeds five percent of the voting age population for that county.

"§17-9-23.

"The election officers for each voting machine shall consist of an inspector, a chief clerk, an assistant clerk. The inspector shall be in general charge of the poll and shall see that the chief clerk properly marks off
from the poll list of registered voters, and that the first assistant clerk properly records the name of each voter before such the voter casts his or her ballot, and shall keep such other records as are required by law. It shall be the duty of the second assistant clerk to attend the voting machine at all times and to see that it is not tampered with. The second assistant clerk shall also inspect the ballot labels at frequent intervals to see that none have been tampered with and to see that the machine has not been injured. The inspector shall see that the counter compartments of the machine are never unlocked or opened so that the counters are exposed during voting. The election officers shall ascertain, as required by law, whether each applicant to vote is entitled to vote. If he or she is found to be entitled to vote, he or she shall be admitted within the voting machine booth, and shall be permitted to vote.

"No voter shall remain within the voting machine booth an unreasonable length of time, and in no event longer than three minutes, and, if he shall refuse the voter refuses to leave after a reasonable period, he the voter shall be removed by the election officers; provided, that they may grant him the voter a longer time if other voters are not waiting to vote.

"All laws now existing or as hereafter amended relating to the challenging of voters provisional voting
shall, insofar as practicable, shall relate to elections held with voting machines. Wherever in any election held under the provisions of this chapter, the right of any voter to cast his or her ballot shall have been challenged under the provisions of law referred to in this section, such challenged the provisional voter, after having first complied with provisions of the laws referred to in this section, shall be permitted to cast his or her ballot on the voting machine by means of the "irregular provisional ballot." or by means of the device or devices specifically provided for the casting of challenged votes.

"§17-10-4.

"The application required in Section 17-10-3(a) shall be filed with the person designated to serve as the absentee election manager. The application shall be in a form prescribed and designed by the Secretary of State and shall be used throughout the state. Notwithstanding the foregoing, handwritten applications can also be accepted at any time prior to the five day deadline to receive absentee ballot applications as provided in Section 17-10-3(a). The application shall contain sufficient information to identify the applicant and shall include the applicant's name, residence address, or such other information necessary to verify that the applicant is a registered voter. Any applicant may receive assistance in filling out the application as he or
she desires, but each application shall be manually signed by
the applicant and, if he or she signs by mark, the name of the
witness to his or her signature shall be signed thereon. The
application may be handed by the applicant to the absentee
election manager or forwarded to him or her by United States
mail. An application for an emergency absentee ballot pursuant
to Section 17-10-12 may be forwarded to the absentee election
manager by the applicant or his or her designee. Application
forms which are printed and made available to any applicant by
the absentee election manager shall have printed thereon all
penalties provided for any violation of this chapter. The
Secretary of State shall provide applications for absentee
evoting to military and overseas voters in accordance with
Section 17-4-211.

"§17-10-5.

"(a) Upon receipt of an application for an absentee
ballot as provided in Section 17-10-3(a) if the applicant's
name appears on the list of qualified voters produced from the
state voter registration list in the election to be held, or
if the voter makes an affidavit for a challenged vote
provisional ballot, the absentee election manager shall
furnish the absentee ballot to the applicant by: (1)
Forwarding it by United States mail to the applicant's or
voter's residence address or upon written request of the
voter, to the address where the voter regularly receives mail
or (2) by handing the absentee ballot to the voter in person or, in the case of emergency voting, his or her designee in person. If the absentee election manager has reasonable cause to believe that the applicant has given a fraudulent address on the application for the absentee ballot, the absentee election manager shall turn over the ballot application to the district attorney for any action which may be necessary under Act 94-320 or other acts. The absentee election manager further may require additional proof of a voter's eligibility to vote absentee when there is evidence of continuous absentee voting. The absentee election manager shall mail any absentee ballot requested to be mailed as provided in Section 17-10-3(a) no later than the next business day after an application has been received unless the absentee ballots have not been delivered to the absentee election manager. If the absentee ballots have not been so delivered, the absentee election manager shall hold all requests until the ballots are delivered and shall then respond by placing ballots in the mail no later than the next business day.

"(b) The official list of qualified voters shall be furnished to the absentee election manager by the judge of probate using a printout from the state voter registration list of registered voters for that county containing vote registration information useful in the identification of absentee voters. The information provided in this report shall
be established by rules adopted by the Secretary of State with
the advice of the Alabama Circuit Court Clerks Association or
its members and shall indicate whether the individual is
obligated to produce identification in accordance with Section
4 of the act adding this sentence. The Secretary of State may
further provide by administrative rule for electronic access
to this list for optional use by the absentee election
manager. This list shall be made available beginning at least
45 days before the election. Any supplemental list of
qualified electors shall also be provided to the absentee
election manager as soon as the list becomes available. The
absentee election manager shall underscore on the list the
name of each voter who has applied for an absentee ballot and
shall write immediately beside his or her name the word
"absentee." The Secretary of State by rule may provide for
electronic access to the absentee election manager's county
list of registered voters and for the method of identifying
applicants for absentee ballots in conjunction with the state
voter registration list.

"(c) The absentee election manager shall enroll the
name, residence, and polling place of the applicant, and the
date the application was received on a list of absentee
voters. Each day the absentee election manager shall enter on
the list the names, addresses, and polling places of each
voter who has that day applied for an absentee ballot and
shall post a copy of the list of applications received each
day on the regular bulletin board or other public place in the
county courthouse. The list shall be maintained in the office
of the clerk or register for 60 days after the election, at
which time it shall be filed with the judge of probate. Before
the polls open at any election on election day, the absentee
election manager shall effectuate the delivery to the election
officers of each polling place a list showing the name and
address of every person whose name appears on the official
list of qualified electors for the polling place who applied
for an absentee ballot in the election. The name of the person
who applied for an absentee ballot shall be stricken from the
list of qualified electors kept at the polling place, and the
person shall not vote again. Separate Except as to individuals
voting pursuant to the Uniformed and Overseas Absentee Voting
Act, 42 U.S.C. 1973ff, applications for absentee ballots are
required for elections which are more than 30 days apart.

"(d) For individuals voting pursuant to the
Uniformed and Overseas Absentee Voting Act, 42 U.S.C. 1973ff,
the Secretary of State shall by rule prescribe use of
standardized military and overseas voter registration
applications and applications for absentee ballots adopted by
the United States government for such use. The Secretary of
State shall also prescribe by rule provisions within the
standard state application form for absentee voting which
permit the voter to identify himself or herself as a military or overseas voter. Unless otherwise indicated by the military or overseas voter, an application for an absentee ballot by such a voter shall remain valid through the next two regularly scheduled general election cycles for federal office. The circuit clerk shall confirm by January 1, of each election year the address of the military and overseas voters prior to mailing the ballots during each election cycle, and the absentee election manager shall provide an absentee ballot to the military and overseas voters for each such subsequent election. The absentee election manager, within seven days after each regularly scheduled general election for federal office, shall report the number of military and overseas ballots mailed out and the number of ballots received to the Secretary of State who shall report this information to the Federal Election Assistance Commission within 90 days of each regularly scheduled general election for federal office.

"§17-10-9.

"Each prospective absentee voter who meets the requirements of this chapter shall be furnished with the absentee ballot herein provided for, together with two envelopes for returning his or her marked ballot and instructions for completing and returning the absentee ballot as well as instructions for correcting mistakes in completing ballots or obtaining a replacement ballot. One envelope shall
be a plain envelope in which the ballot shall be sealed by the voter after he or she has marked it.

"The second envelope shall have the voter's affidavit printed on the back and shall be large enough to seal the plain ballot envelope inside. The second envelope shall also be a return mail envelope.

"Such return mail envelope shall be addressed on the front to the absentee election manager and shall be endorsed on the left-hand upper corner thereof as follows:

"Absent Voter's Ballot. State, County, Municipal, General, Primary or Special Election (as the case may be) to be held on the ___ day of ____, 2__ From _____ (name of voter), precinct or districts _________, County of _______, Alabama."

"After marking the ballot and subscribing the oath herein required, the voter shall seal his or her ballot in the plain envelope, place that plain envelope inside the affidavit envelope, complete the affidavit, shall have a notary public (or other officer authorized to acknowledge oaths) or two witnesses witness his or her signature to the affidavit, and shall forward it by United States mail to the addressee or shall hand it to him or her in person.

"Notwithstanding the other provisions of this section, the absentee election manager shall determine whether an applicant for an absentee ballot is obligated to produce
identification in accordance with Section 4 of the act adding
this paragraph or reidentify in accordance with Section 4 of
the act adding this paragraph. For absentee applicants
required to produce identification, a third envelope of
different color and sufficient size to enclose the first and
second envelopes shall be provided to the applicant along with
instructions for including a proper form of identification in
accordance with Section 3 of the act adding this paragraph.

"For absentee applicants required to reidentify
because they do not appear in the precinct for which they seek
to vote but do appear in another precinct within the state
voter registration list, the absentee election manager shall
provide to the voter a third envelope of different color and
sufficient size to enclose the first and second envelopes
along with a voter reidentification form, a provisional voter
affirmation, and instructions in accordance with Section 5 of
the act adding this paragraph. Such ballot shall be treated as
a provisional ballot and the term "Provisional" shall be
marked on the second or affidavit envelope prior to
transmitting the ballot to the voter. Applicants for an
absentee ballot who do not appear on the state voter
registration list shall not be entitled to an absentee ballot.

"§17-10-10.

"Upon receipt of the absentee ballot, the absentee
election manager shall record its receipt thereof on the
absentee list as provided in Section 17-10-5 and shall safely keep the ballot without breaking the seal of the affidavit envelope. On the day of the election, beginning at 12:00 noon, the absentee election manager shall deliver the sealed affidavit envelopes containing absentee ballots to the election officials provided for in Section 17-10-11. The election officials shall then call the name of each voter casting an absentee ballot with poll watchers present as may be provided under the laws of Alabama and shall examine each affidavit envelope to determine if the signature of the voter has been appropriately witnessed. If the witnessing of the signature and the information in the affidavit establish that the voter is entitled to vote by absentee ballot, then the election officials shall certify the findings, open each affidavit envelope, and deposit the plain envelope containing the absentee ballot into a sealed ballot box.

"No poll worker or other election official shall open an affidavit envelope if the envelope indicates the ballot is an unverified provisional ballot or the affidavit printed thereon is unsigned by the voter (and unmarked), and no ballot envelope or ballot therein may be removed or counted. No poll worker or other election official shall open an affidavit envelope if the voter's affidavit signature (or mark) is not witnessed by the signatures of two witnesses or a notary public (or other officer authorized to acknowledge
oaths) and no ballot envelope or ballot therein may be removed
or counted. The provision for witnessing of the voter's
affidavit signature (or mark) in Section 17-10-7 goes to the
integrity and sanctity of the ballot and election. No court or
other election tribunal shall allow the counting of an
absentee ballot with respect to which the voter's affidavit
signature (or mark) is not witnessed by the signatures of two
witnesses 18 years of age or older or a notary public (or
other officer authorized to acknowledge oaths) prior to being
delivered or mailed to the absentee election manager.

"The absentee ballots shall upon the closing of the
polls be counted and otherwise handled in all respects as if
the absentee voter were present and voting in person. As
regards municipalities with populations of less than 10,000,
in the case of municipal elections held at a time different
from a primary or general election, the return mail envelopes
containing the ballots shall be delivered to the election
official of the precinct of the respective voters.

"§17-10-23.

"No absentee ballot shall be opened or counted if
received by the absentee election manager by mail, unless
postmarked as of the date prior to the day of the election and
received by mail no later than noon on the day of election,
or, if received by the absentee election manager by hand
delivery, unless so delivered to the absentee election manager not later than 5:00 p.m. on the day prior to the election.

"Except as to provisional absentee ballots that have not been verified by seven days after the election, any election official who fails to count a legal vote under Act 96-885 shall be guilty of a Class C felony and punished as provided by law.

"§17-14-1.

"On the second Friday next after the election, at the hour of 12:00 noon, the returning officer of the county, in person or by deputy, and the judge of probate and the clerk of the circuit court shall assemble at the courthouse; and if there is no such judge or clerk, or if either of them fails to attend, or if either of them is interested by reason of having been a candidate at such election, his place must be supplied by a respectable freeholder or householder of the county, appointed by the board hereinbefore provided for the appointing of the inspectors in the various precincts for said election, at the time of appointing the election inspectors, and if said appointing board fails to provide for such member or members, or if any member or members as herein provided should fail to attend at the time and place herein mentioned, the returning officer shall supply such deficiency by a respectable freeholder or householder of the county who is a qualified elector; and if all such officers are of the same
political party, then the returning officer of the county must summon three reputable persons resident householders or freeholders of the county, members of the opposite political party who are qualified electors, to attend at such time and place; and, in the presence of such other persons as choose to attend, the board shall make a correct statement from the returns of the votes from the several precincts of the county of the whole number of votes given therein for each officer, and the person to whom such votes were given.

"§17-14-20.

"All returns of elections required by law to be sent to the Secretary of State must, within 15 days after an election, be opened and counted in the presence of the Governor, Secretary of State and Attorney General, or two of them.

"§17-16-31.

"At the close of the primary election at each polling place, and nowhere else, the inspectors and clerks shall proceed forthwith, without adjournment, in the manner provided by law in the case of general elections, to count the votes. This section shall not apply to provisional ballots governed by Section 5 of the act adding this sentence.

"§17-16-35.

"The county executive committee of the party or parties participating in said primary election shall meet at
the courthouse of its county, not later than noon on Wednesday
Monday next following said primary election, and receive said
returns, canvass and tabulate the same, by precincts, and
publicly declare the results thereof. The chairman of each
county executive committee shall forthwith, and not later than
noon on the Friday next Wednesday eight days following said
primary election, certify and return to the chairman of the
state executive committee a statement and tabulation, by
precincts, of the result of said primary election and of the
number of votes received by each candidate therein for office,
except candidates for county office. Not later than noon on
the Monday next Friday 10 days following such primary
election, the state executive committee, or such subcommittee
thereof as may have been appointed by the chairman thereof for
such purpose, shall meet at the State Capitol in Montgomery
and receive said returns, canvass and tabulate the same by
counties and publicly declare on that day the results thereof
as to all candidates for office therein, except candidates for
county office, which results shall be final. The state
executive committee or such subcommittee as provided in this
section shall also provide the Secretary of State with the
primary election returns by precincts according to county on a
form authorized by the Secretary of State on the Monday next
Friday 10 days following the primary election, county and
municipal returns excepted.
"§17-16-36."

"(a) At the respective meetings of the respective executive committees, said county executive committee shall, as to candidates in said primary election for office, except candidates for county office, publicly ascertain, determine and declare whether any candidate for office in said primary election has received a majority of the votes cast for the office, and, if so, declare said candidate the nominee of the party for the office for which he was a candidate and for which he received a majority of the votes cast for that office in said primary election.

"(b) If no candidate receives a majority of all of the votes cast in such primary election for any one office or offices for the nomination to which there were more than two candidates, then there shall be held a second primary election on the third Tuesday next thereafter last Tuesday in June following said primary election, and the chairman of the state executive committee shall certify to the Secretary of State, immediately upon the completion of such canvass as aforesaid, the names of the two candidates of his party to receive the highest number of votes in the first primary election for such office or offices, except county officers, and who are to be voted for in the second primary election. The chairman of each county executive committee shall, immediately upon the completion of such canvass, certify to the probate judge of
the county the names of the two candidates who received the
highest number of votes in the first primary for nomination to
any county office. The Secretary of State shall, within not
more than six days from the date said certificate is received
from the chairman of the state executive committee, certify to
the probate judge of any county where a second primary
election is to be held the name or names of the candidates
certified to him as herein provided by the chairman of the
state executive committee. The probate judge of each county in
Alabama shall in the manner and form as required by this
chapter and the general laws of Alabama, have prepared and
printed all election supplies and all ballots to be voted in
the second primary election, which ballots shall contain,
under appropriate headings or titles of the offices to be
filled, the names of the two candidates for each office so
certified to him by the Secretary of State and the chairman of
the county executive committee, as herein required, as well as
such other matters as are required by this chapter and the
general laws of Alabama, on ballots for the first primary
election.

"(c) At the second primary election, no person can
be a candidate except the two persons who receive the highest
number of votes for the offices for which they were candidates
in the first primary election."
"(d) The returns from the second primary election shall be made and the votes canvassed, tabulated and certified and the results declared in the same manner provided in this chapter for making, canvassing, tabulating, certifying and declaring the results of the first primary election. The county executive committee of the parties participating in said primary election shall meet at the courthouse of their respective counties not later than Wednesday next the second Friday following the second primary election and receive said returns, canvass and tabulate the same by precinct and publicly declare the results thereof. The chairman of each county executive committee shall forthwith, and not later than noon on the Friday next second Monday following said primary election, certify and return to the chairman of the state executive committee a statement and tabulation by precincts of the results of the second primary election and of the number of votes received by each candidate for office therein voted for except candidates for county office. Not later than noon on the Monday next third Wednesday following the second primary election, the state executive committee, or such subcommittee thereof as may have been appointed by the chairman thereof for such purpose, shall meet at the State Capitol in Montgomery and receive said returns and canvass and tabulate the same by counties, and publicly declare on that day the result thereof as to all candidates voted for, except
as to candidates for county office which results shall be final. At said respective meetings of said respective executive committees, said county executive committee shall, as to candidates for county office voted for in the second primary election, and said state executive committee shall, as to candidates for office in the second primary election voted for therein, except candidates for county office, publicly ascertain and determine the candidates receiving a majority of all of the votes cast in such second primary election for any one office, and the candidates so ascertained and determined to have received a majority of all of the votes cast in such second primary election for said office shall be declared the nominee of the party for such office by said respective county and state executive committees. Thereupon and immediately upon the completion of such canvass as aforesaid, the chairman thereof shall certify to and file with the probate judge of his county the names of those who have been nominated in the first or the second primary election or as otherwise authorized or provided by this chapter, as candidates of his party for county offices; and in like manner, and immediately upon the completion of such canvass, as aforesaid by the state executive committee, or subcommittee thereof, the chairman of the state executive committee shall certify to and file with the Secretary of State the names of those who have been nominated in the first or second primary election or as
otherwise authorized or provided by this chapter as candidates of his party for office, except candidates for county office, and the names of the persons so certified shall be placed upon the official ballot of the general election to be held in November next thereafter as the candidates of the party for the offices for which they, respectively, have been so nominated.

"(e) The state executive committee or such subcommittee as provided in this section shall also provide the Secretary of State with the second primary election returns by precincts according to county on a form authorized by the Secretary of State on the Monday next following the secondary primary, county and municipal returns excepted.

"§17-20-4.

"Within 15 days after the time for making the returns, the Governor, in the presence of the Secretary of State and Attorney General, or either of them in the absence of the other, must estimate the returns, ascertain which candidates are elected and notify them by proclamation."

Section 3. In addition to all other appropriations heretofore or hereafter made, there is hereby appropriated such amount as determined necessary by the Secretary of State from the Voter Registration Fund to the Secretary of State for the fiscal year ending September 30, 2003. Furthermore, upon
the effective date of this act all property of the Office of
Voter Registration and any remaining fiscal year 2003 General
Fund appropriations to the Office of Voter Registration for
the Voter Registration Identification Program, shall be
transferred to the Office of the Secretary of State.

Section 4. (a) Each person registering to vote by
mail after January 1, 2003, shall provide identification prior
to the first time they vote in an election containing a
federal office on the ballot. Such voters shall not
subsequently be required to show identification in order to
vote.

(1) For voters required to show identification who
are voting in person, the voter must:

a. Present to the appropriate election official a
current and valid photo identification; or

b. Present to the appropriate election official a
copy of a current utility bill, bank statement, government
check, paycheck, or other government document that shows the
name and address of the voter.

(2) For voters required to show identification who
are voting by mail, the voter must submit with the ballot a
copy of one of the forms of identification listed in
subdivision (1).

(b) Notwithstanding the foregoing, a voter who
registers by mail after January 1, 2003, shall be exempt from
subsequent voter identification requirements if the registrant:

(1) Submits as part of such registration a copy of one of the forms of identification listed in subdivision (1) of subsection (a) of this section.

(2) Submits as part of such registration a driver's license number or the last four digits of the individual's Social Security number, and the board of registrars is able to match either number with a record bearing the same number, name, and date of birth in the driver's license database of the Department of Public Safety.


(c) An individual required to present identification in accordance with this section who is unable to meet the identification requirements of this section shall be permitted to vote by provisional ballot.

Section 5. (a) A voter shall be required to cast a provisional ballot when:

(1) The name of the individual does not appear on the official list of eligible voters for the precinct in which the individual seeks to vote, and the individual's
registration cannot be verified while at the polling place by
the registrar, deputy registrar, or a member of the canvassing
board.

(2) An inspector has knowledge that the individual
is not entitled to vote at that precinct and challenges the
individual.

(3) The individual is required to comply with the
voter identification provisions of Section 3 of this act but
is unable to do so.

(4) A federal or state court order extends the time
for closing the polls beyond that established by state law and
the individual votes during the extended period of time.
Notwithstanding any other provision of state law, where
provisional ballots are cast pursuant to a federal or state
court order extending the time for closing the polls beyond
that established by state law, the provisional ballots shall
be segregated from other provisional ballots into a separate
sealed container for such purpose and shall be counted,
tabulated, and canvassed only pursuant to the order of a court
having proper jurisdiction.

(b) The procedure for casting a provisional ballot
at the polling place shall be as follows:

(1) An inspector at the polling place shall notify
the individual that the individual may cast a provisional
ballot in that election and shall give the individual written
information that states that any individual who casts a
provisional ballot will be able to ascertain under the system
described in subsection (d) whether the vote was counted, and,
if the vote was not counted, the reason that the vote was not
counted.

(2) The individual shall execute a written
affirmation by the individual before the inspector or clerk
stating the following:

"State of Alabama, County of __________ I do
solemnly swear (or affirm) that I am a registered voter in the
precinct in which I am seeking to vote and that I am eligible
to vote in this election ___________ Signature or Mark
___________ Printed Name of Voter ___________ Printed
Residence Address of Voter ___________ City __________
State __________ Zip Code ___________ Date of Birth"

(3) The individual shall complete a voter
reidentification form prescribed by the Secretary of State for
use in updating the state voter registration list. This form
shall indicate whether it is associated with a provisional
ballot.

(4) Where a provisional ballot is required on the
basis of an inspector's knowledge that a voter is not
qualified to vote in the precinct in which the individual is
seeking to vote, the inspector shall sign a statement
under penalty of perjury setting forth facts which the
inspector or clerk believes to support his or her belief that
the individual is not qualified to vote in the precinct in
which the voter is seeking to vote. The challenge statement of
the inspector shall be written on a multi-part form prescribed
for such purpose by the Secretary of State and the inspector
shall give one copy to the provisional voter, provide one copy
to be sealed with the provisional ballots, and provide one
copy to be returned to the board of registrars in a sealed
envelope.

(5) The voter shall cast the provisional ballot and
place it into a sealed ballot box separately identified and
utilized for containing provisional ballots.

(c) The procedure for voting a provisional ballot by
absentee voting shall be as follows:

(1) Upon receipt of an absentee ballot from an
individual required to provide identification, the absentee
election manager shall determine whether such identification
has been properly provided. If the identification has not been
properly provided, the absentee election manager shall notify
the voter in writing of the following:

   a. That unless such identification is provided to
the absentee election manager by 5:00 p.m. on the Monday
before the election, the voter's absentee ballot will become a
provisional ballot.
b. That in the event the voter's ballot becomes a provisional ballot due to lack of identification, such identification must be provided to the board of registrars no later than 5:00 p.m. on the Monday following the election and shall include the address and telephone information for the board of registrars.

c. That in the event the voter fails to provide identification to the board of registrars by 5:00 p.m. on the Monday following the election, the voter's ballot will not be counted.

d. That any individual who casts a provisional ballot will be able to ascertain under the system described in subsections (d) and (f) whether the vote was counted and, if the vote was not counted, the reason that the vote was not counted.

(2) Upon receipt of an application for an absentee ballot where the voter is not identified as appearing in the precinct for which the voter seeks a ballot, the absentee election manager shall:

a. Mark the word "Provisional" on the second or affidavit envelope prior to transmittal of the absentee ballot.

b. Enclose the following information with the transmittal of the absentee ballot:
1. A written explanation as to why the ballot is a provisional ballot; how to complete the voter reidentification form and affirmation of provisional voter form; and the procedure followed by the board of registrars in verifying and certifying provisional votes.

2. A voter reidentification form and an affirmation of provisional voter form.

3. A written explanation that any individual who casts a provisional ballot will be able to ascertain under the system described in subsection (d) whether the vote was counted and, if the vote was not counted, the reason that the vote was not counted.

(3) When an absentee ballot becomes a provisional ballot as a result of an absentee precinct inspector or clerk having knowledge that the individual is not entitled to vote at the precinct applicable to the voter's ballot and challenges the voter's right to vote a particular ballot, the absentee precinct inspector or clerk shall follow the same procedure identified in subsection (b)(4) except as follows:

a. In lieu of providing the provisional voter with a copy of the poll worker challenge statement, the inspector shall provide two copies to the absentee election manager once the results from the absentee precinct have been tabulated and certified.
b. The absentee election manager shall mail one copy of the challenge statement of the inspector by first class mail by the day after the election to the mailing address provided on the provisional voter's application for an absentee ballot and shall enclose with it a written explanation of the procedure used by the board of registrars in verifying and certifying provisional ballots; an address and telephone number by which the provisional voter may respond; and a written explanation that any individual who casts a provisional ballot will be able to ascertain under the system described in subsection (d) whether the vote was counted and, if the vote was not counted, the reason that the vote was not counted.

(d) Upon the closing of the polls, the sealed ballot box containing the provisional ballots shall be returned unopened to the sheriff who shall keep it securely until such time as the provisional ballots are counted in accordance with subsection (f). The written affirmations of the provisional voters, inspector challenge statements, and all voter reidentification forms shall be placed in a sealed envelope addressed to the board of registrars and delivered by the sheriff to the board of registrars no later than noon on the day following the election.

(e) Upon receipt of materials returned from the polling places, the board of registrars shall forthwith update
the state voter registration list utilizing the voter reidentification forms of provisional voters and shall verify by a certification attached to each provisional voter affirmation whether the provisional vote is entitled to be counted and the reason for or against counting the provisional ballot. When verifying a provisional ballot based upon the challenge of an inspector, the board of registrars shall promptly contact the voter by first class mail and provide an explanation of how the provisional voter may respond to the challenge. After determining that the provisional voter has had notice and an opportunity to be heard, the board of registrars shall verify by a certification attached to the challenge statement whether the provisional ballot is due to be counted and, if not, why it should not be counted. The board of registrars shall deliver the provisional voter affirmations and inspector or clerk challenge statements, with the certified findings of the board of registrars attached, to the judge of probate no later than noon seven days after the election until which time such findings shall remain confidential. Upon delivery of such materials, the board of registrars shall enter into the state voter registration list a voter history providing identification of voters who cast provisional ballots, whether their ballot was counted, and the reason the ballot either was or was not counted.
(f) Commencing at noon seven days after the election, the appointing board for poll workers, in the presence of watchers designated by any interested candidates, shall tabulate provisional ballots which have been certified by the board of registrars as cast by registered and qualified voters of the precincts in which such ballots were cast. For the purpose of making election returns of provisional ballots, provisional balloting results shall be returned and canvassed as a separate precinct while disclosing all votes for candidates and ballot measures cast in such ballots. The appointing board shall certify on a form to be prescribed by the Secretary of State the results of the provisional votes cast and shall post one copy in a public location within the courthouse and shall seal one copy with the provisional ballots, provisional voter affirmations, inspector or clerk challenge statements, and certifications of the board of registrars into a sealed container or, in the case of primary elections, containers designated for each political party for such purpose. Such containers shall be delivered and remain secured with the other records of the election in accordance with state law.

(g) The board of registrars, after verifying the identity of a provisional voter, shall make available at the request of such voter, the findings of the board of registrars as to whether the individual's provisional ballot was counted
and, if not, the reason why. This may be accomplished by telephone, by letter, or by secured electronic means. The Secretary of State shall provide a secure means for provisional voters to verify by electronic means whether the individual's vote was counted and, if not, the reason why. There shall be no charge to the provisional voters for obtaining this information.

(h) The Secretary of State may by rule address the means of identifying ballots cast by particular provisional voters by the appointing board and the method of providing confidentiality and security to communications with provisional voters seeking information about the status of their ballot. Notice of any proposed rule or amendment to an existing rule relating to provisional balloting shall be sent by certified mail to every judge of probate at least 30 days prior to certification of the proposed rule or amendment under the Administrative Procedure Act.

Section 6. There is established a separate trust fund in the State Treasury to be known as the Help America Vote Fund. All state and federal monies designated in accordance with the Help America Vote Act of 2002 and accrued interest are to be deposited into this fund. The receipts shall be disbursed only by warrant of the state Comptroller drawn upon the State Treasury supported by itemized vouchers approved by the Secretary of State. No funds shall be
withdrawn or expended except as budgeted and allotted according to Sections 41-4-80 to 41-4-96, inclusive, and 41-19-1 to 41-19-12, inclusive, Code of Alabama 1975, and only in amounts as stipulated in the general appropriations act or other appropriation acts.

Section 7. (a) There is established, pursuant to Section 254 of the Help America Vote Act of 2002, a state plan to provide for the implementation of that act. There shall be appointed a committee of 23 individuals to assist the Secretary of State in the development of the state plan. The committee membership shall reflect the racial diversity of the state.

(b) In accordance with the provisions of Section 255 of the Help America Vote Act of 2002, the members of the committee shall include the following:

(1) The judge of probate of the most populous county in the state, according to the most recent federal decennial census.

(2) The judge of probate of the second most populous county in the state according to the most recent federal decennial census.

(3) Three additional election officials, serving in a county or municipality in the state, to be appointed by the Secretary of State, one of whom shall be recommended by the Probate Judges' Association, one of whom shall be recommended
by the Sheriffs' Association, and one of whom shall be recommended by the Circuit Clerks' Association.

(4) Five individuals in the state, representing the interests of the electorate to be appointed by the Secretary of State, one of whom shall represent the political party with the highest number of votes in the last Presidential election in the state, recommended by the chair of the party, one of whom shall represent the political party with the second highest number of votes in the last Presidential election in the state, recommended by the chair of the party, and one of whom shall represent an organization serving as an advocate for the rights of individuals with disabilities.

(5) Three private citizens, representing the public at large, to be appointed by the Governor.

(6) One member Five members of the state House of Representatives to be appointed by the Speaker of the House of Representatives and one member of the state Senate to be appointed by the President of the Senate. and two members of the State Senate to be appointed by the President of the Senate and three members of the State Senate to be appointed by the President Pro Tem of the Senate.

(c) Members of the committee shall be appointed within 14 days after the effective date of this act and shall hold their initial organizational meeting within 30 days after the effective date of this act. The committee shall elect a
chairperson from among its members. The members of the committee shall serve without compensation but shall be eligible for reimbursement for necessary and reasonable expenses incurred in the performance of their official duties.

(d) The members appointed by the Secretary of State to serve on the first state plan committee will serve until the next gubernatorial inauguration in January of 2007. Thereafter, each member appointed by the Secretary of State shall serve for a term of four years, with each term starting and ending on the date of the state gubernatorial inauguration. A vacancy shall be filled in the same manner as the original appointment.

(e) The committee shall have the power and the duty to advise the Secretary of State on the further development of the state plan, which the Secretary of State must develop and submit to the Election Assistance Commission in Accordance with the Help America Vote Act of 2002. The committee shall make recommendations on all aspects of the state plan described in Section 254 of the Help America Vote Act of 2002.

(f) **Eight Twelve** members of the committee shall constitute a quorum. A vote of a majority of the members of the board is required for the issuance of recommendations in accordance with subsection (e). The committee shall meet as needed to fulfill the requirements of this section.
Section 8. The Secretary of State, by administrative rule, shall establish procedures for the review of complaints regarding the administration of Title III of the Help America Vote Act of 2002. These procedures shall meet the following requirements:

(1) Any person who believes there has been a violation of Title III may file a complaint.

(2) Any complaint filed shall be in writing and notarized, and signed and sworn by the complaining person.

(3) The Secretary of State may consolidate complaints.

(4) At the request of the complainant, there shall be a hearing on the record.

(5) If it is determined that there has been a violation of Title III, the appropriate remedy shall be provided.

(6) If it is determined that there has not been a violation of Title III, the complaint shall be dismissed, and the results of the procedures shall be published.

(7) After a complaint is filed, a final determination shall be made within 90 days.

(8) If the 90-day deadline is not met, the complaint shall be resolved within 60 days under alternative dispute resolution.
Section 9. In addition to all other appropriations heretofore or hereafter made, there is appropriated such amount as determined necessary by the Secretary of State from the Help America Vote Fund to the Secretary of State for the fiscal year ending September 30, 2003.

Section 10. (a) On or before January 1, 2005, each voting system used in an election shall meet the following requirements:

(1) The voting system shall:

a. Permit the voter to verify, in a private and independent manner, the votes selected by the voter on the ballot before the ballot is cast and counted.

b. Provide the voter with the opportunity, in a private and independent manner, to change the ballot or correct any error before the ballot is cast and counted, including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error.

c. If the voter selects votes for more than one candidate for a single office:

1. Notify the voter that the voter has selected more than one candidate for a single office on the ballot.

2. Notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office.
3. Provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.

(2) A voting system may meet the requirements of subparagraph (1)c. by:

a. Establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office.

b. Providing the voter with instructions on how to correct the ballot before it is cast and counted, including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error.

(3) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot.

(b)(1) The voting system shall produce a record with an audit capacity for such system.

(2)a. The voting system shall produce a permanent paper record with a manual audit capacity for such system.

b. The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced.

c. The paper record produced under subparagraph (1) shall be available as an official record for any recount
conducted with respect to any election in which the system is used.

(c) The voting system shall:

(1) Be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters.

(2) Satisfy the requirement of subparagraph (1) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place.

(d) The voting system shall provide alternative language accessibility pursuant to the requirements of Section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a).

(e) The error rate of the voting system in counting ballots, determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter, shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Elections Commission which are in effect on the date of the enactment of this act.

(f) The Secretary of State by administrative rule shall adopt uniform and nondiscriminatory standards that
define what constitutes a vote and what will be counted as a vote for each category of voting system used in the state.

(g) The Secretary of State shall recommend to the Legislature on or before January 1, 2005, a uniform polling system, which includes machine capabilities to count each ballot at the polling place, a uniform ballot and prepare necessary legislation for implementation.

(h) Purchases of voting equipment made by a county in order to comply with the voting system guidelines established by the Secretary of State and the committee established in Section 7 of this act shall be approved for reimbursement from the Help America Vote Fund created in Section 6 of this act by the Secretary of State.

Section 11. Any person who knowingly provides false information in order to vote or register to vote in violation of this act shall be guilty of a Class A misdemeanor and upon conviction thereof shall be punished as provided by law.

Section 12. Sections 17-4-156, 17-11-1 to 17-11-4, inclusive, 17-12-1 to 17-12-8, inclusive, 17-16-23, and 17-16-24, Code of Alabama 1975, are hereby repealed.

Section 13. The provisions of this act are severable. If any part of this act is declared invalid or unconstitutional, that declaration shall not affect the part which remains.
Section 14. This act shall become effective upon its passage and approval by the Governor, or its otherwise becoming law.
I hereby certify that the within Act originated in
and was passed by the House 06-MAY-03, as amended.

Greg Pappas
Clerk

Senate  16-JUN-03  Amended and Passed

House  16-JUN-03  Concurred in Sen-
ate Amendment