

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMAPEOPLE FIRST OF ALABAMA, *et al.*,

Plaintiffs,

v.

JOHN MERRILL, *et al.*,

Defendants.

Civil Action No. 2:20-cv-619 (AKK)

**STATEMENT OF INTEREST OF THE UNITED STATES
CONCERNING SECTION 201 OF THE VOTING RIGHTS ACT**

The United States respectfully submits this Statement of Interest pursuant to 28 U.S.C. § 517, which authorizes the Attorney General “to attend to the interests of the United States in a suit pending in a court of the United States.” This case presents important questions regarding Section 201 of the Voting Rights Act, 52 U.S.C. § 10501 (“Section 201”). Congress has accorded the Attorney General broad authority to enforce the Voting Rights Act on behalf of the United States. *See* 52 U.S.C. § 10504. Accordingly, the United States has a substantial interest in ensuring the proper interpretation and uniform enforcement of Section 201. The United States submits this Statement of Interest for the limited purpose of addressing Plaintiffs’ Section 201 claim.

Most of Plaintiffs’ claims in their preliminary injunction papers are premised on the factual circumstances related to the COVID-19 pandemic. By contrast,

Plaintiffs' claim under Section 201 is not moored to these same circumstances. Rather, Plaintiffs essentially argue that Alabama's long-standing absentee witness requirement has been void *ab initio* on the supposed grounds that it constitutes a "test or device" prohibited by Section 201. Hence, Plaintiffs argue that this requirement must be enjoined permanently, with no possibility of remediation or cure. Plaintiffs' claim appears to implicate absentee witness requirements on the books in at least eleven other states.

As explained below, Plaintiffs' Section 201 claim cannot form the basis for preliminary injunctive relief because their claim fails as a matter of law. The United States does not express a view on any other claim in this case.

PROCEDURAL BACKGROUND

Alabama requires all absentee voters to swear or affirm as to their place of residence in Alabama, their date of birth, and their entitlement to vote absentee; that they have not voted nor will vote in person; that they have marked the ballot voluntarily; and that they understand and have complied with ballot instructions. Ala. Code §§ 17-11-7(b), -8. An absentee voter affidavit on the ballot envelope must be signed or marked by the voter, and the voter must "have a notary public (or other officer authorized to acknowledge oaths) or two witnesses witness his or her signature to the affidavit." *Id.* § 17-11-9; *see also id.* § 17-11-10(b) (specifying that witnesses must be "18 years of age or older"); *id.* § 17-11-7(c) (specifying that

candidates in contested elections may not serve as a notary or witness). The State rules also provide that absent military and overseas voters under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), 52 U.S.C. §§ 20301-11, are exempted from the state absentee envelope notarization requirement, but must still have two witnesses. Ala. Admin. Code § 820-2-10-.03(4); *see also* Alabama Secretary of State, *Alabama Voter Guide* 11 (2020), available at <https://www.sos.alabama.gov/sites/default/files/voter-pdfs/2020/VoterGuide2020.pdf>. An absentee ballot may not be counted unless its ballot envelope was properly signed and witnessed. Ala. Code § 17-11-10(b).

On May 1, Plaintiffs sued Alabama officials alleging, among other claims, that the witness requirement to the State’s absentee voter oath violates Section 201. Compl. ¶¶ 10, 166-173 (ECF No. 1). Among other relief, Plaintiffs seek a declaration that the witness requirement violates Section 201 and an injunction prohibiting enforcement. Compl. ¶¶ A, B-1, B-4.

On May 13, Plaintiffs moved for a preliminary injunction. Mot. for Prelim. Inj. (ECF No. 15). On May 15, this Court granted the Plaintiffs’ request to strike and replace their brief in support of their motion. Order (ECF No. 21). As relevant here, Plaintiffs argue that the witness requirement violates Section 201 because, in their view, it requires an absentee voter to “prove his qualifications by . . . voucher,”

within the meaning of the Voting Rights Act. Pls.’ Rev. Br. 20-21 (ECF No. 20-1) (quoting 52 U.S.C. § 10501(b)(4)).

STATUTORY BACKGROUND

Section 201 of the Voting Rights Act, 52 U.S.C. § 10501 (formerly codified at 42 U.S.C. § 1973aa), establishes that “[n]o citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any Federal, State, or local election conducted in any State or political subdivision of a State.” 52 U.S.C. § 10501(a). The term “test or device” encompasses

any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) *prove his qualifications by the voucher of registered voters or members of any other class.*

Id. § 10501(b) (emphasis added). Section 14(c)(1) of the Voting Rights Act defines the terms “vote” and “voting” to include “all action necessary to make a vote effective in any primary, special, or general election, including, but not limited to, registration, . . . casting a ballot, and having such ballot counted properly and included in the appropriate totals of votes cast.” *Id.* § 10310(c)(1).

Section 201’s nationwide ban on tests and devices is an extension of the earlier ban limited to jurisdictions subject to preclearance and other special provisions of the Voting Rights Act. As originally enacted, the Voting Rights Act applied special provisions to jurisdictions that had maintained a “test or device” on November 1,

1964, and had either less than fifty percent voter registration on that date or less than fifty percent turnout in the 1964 presidential election. Voting Rights Act of 1965, Pub. L. No. 89-110, § 4(b), 79 Stat. 437, 438 (1965) (current version at 52 U.S.C. § 10303(b)). The 1965 definition of “test or device” mirrors the definition in Section 201. *Compare* Voting Rights Act of 1965 § 4(c), 79 Stat. at 438-39 (current version at 52 U.S.C. § 10303(c)), *with* 52 U.S.C. 10501(b). Section 4(a) of the Voting Rights Act of 1965 suspended tests and devices in jurisdictions subject to the special provisions for an initial period of five years (that was later extended). *See* 79 Stat. at 438 (current version at 52 U.S.C. § 10303(a)). In 1970, Congress enacted Section 201, which at first extended the ban on tests or devices nationwide until 1975. *See* Voting Rights Act Amendments of 1970, Pub. L. No. 91-285, § 6, 84 Stat. 314, 315 (1970); *see also Oregon v. Mitchell*, 400 U.S. 112, 131-34 (1970). In 1975, Congress made Section 201 permanent nationwide. *See* Voting Rights Act Amendments of 1975, Pub. L. No. 94-73, § 102, 89 Stat. 400, 400 (1975).

The 1965 prohibition on voucher requirements, which also appears in the provision of Section 201 invoked by Plaintiffs, addressed procedures under which “registered voters must vouch for new applicants in areas where practically no Negroes are registered and where whites cannot be found to vouch for Negroes.” S. Rep. No. 89-162, pt. 3, at 16 (1965), *as reprinted in* 1965 U.S.C.C.A.N. 2508, 2553; *see also* H.R. Rep. No. 89-439, at 15 (1965), *as reprinted in* 1965 U.S.C.C.A.N.

2437, 2446.¹ Before passage of the Voting Rights Act of 1965, the United States had successfully challenged such requirements in protracted litigation. *See, e.g., United States v. Logue*, 344 F.2d 290, 291-93 (5th Cir. 1965) (per curiam) (enjoining requirement that applicants put forward a registered voter to “affirm that he is acquainted with the applicant, knows that the applicant is a bona fide resident of the county, and is aware of no reason why the applicant would be disqualified from registering”); *United States v. Ward*, 349 F.2d 795, 799-802 (5th Cir. 1965) (enjoining requirement that two registered voters establish the identity of an applicant); *United States v. Manning*, 205 F. Supp. 172, 173-74 (W.D. La. 1962) (same). And Congress noted these cases when it prohibited voucher requirements. *See* S. Rep. No. 89-162, pt. 3, at 46 app’x G, *as reprinted in* 1965 U.S.C.C.A.N. at 2549-50; *Hearings on H.R. 6400 before the House Subcommittee No. 5 of the Committee on the Judiciary*, 89th Cong., 1st Sess., at 33-34 tbls. B-2(a), B-3(a) (1965) (materials provided by the Department of Justice); *see also Davis v. Gallinghouse*, 246 F. Supp. 208, 217 (E.D. La. 1965) (“Congress undoubtedly meant this ban on ‘vouching’ to hit at the requirement in some states that identity be proven

¹ *See also* S. Rep. No. 89-162, at 12, *as reprinted in* 1965 U.S.C.C.A.N. at 2449-50 (“The voucher requirement has similarly been used to effect discrimination. Registrars have required Negroes, but not whites, to produce supporting witnesses to vouch for them Registrars have required Negroes to produce whites to vouch for them . . . , and registrars have helped whites, but not Negroes, in obtaining supporting witnesses”); H.R. Rep. No. 89-439, at 21, *as reprinted in* 1965 U.S.C.C.A.N. at 2452 (finding that practices such as voucher requirements kept many black voters “from ever reaching the poll tax stage”).

by the voucher of two registered voters, which, where all or a large majority of the registered voters are white, minimizes the possibility of a Negro registering.”). Section 201 simply expanded this voucher-requirement ban so that it applied nationwide.

Section 201 serves an important role in prohibiting the covered practices within its scope, namely, those that parallel the historical, racially discriminatory voting practices described above. And courts consistently have rejected claims that would extend the ban on tests and devices, including voucher requirements, beyond the statute’s proper focus. Soon after the Voting Rights Act’s passage, a district court declined to stretch the prohibition to reach documentary proof of residency requirements, under the theory that “voucher of . . . members of any other class,” 52 U.S.C. § 10303(c)(4), might include “the class of people who issue driver’s licenses, library cards, rent receipts, postmarked envelopes, etc.” *Davis*, 246 F. Supp. at 217. More recently, a judge of this Court concluded that an allowance for voters who do not have identification at the polls to vote if “positively identified by two election officials,” Ala. Code § 17-9-30(f), is not a prohibited voucher requirement because it is not a “requirement” at all; rather, it is a fail-safe to extend the franchise to those lacking requisite identification, *Greater Birmingham Ministries v. Alabama*, 161 F. Supp. 3d 1104, 1115-16 (N.D. Ala. 2016). *See also Greater Birmingham Ministries v. Merrill*, 284 F. Supp. 3d 1253, 1281-83 (N.D. Ala. 2017), *appeal pending*, No.

18-10151 (11th Cir. argued July 28, 2018); *cf. Ne. Ohio Coal. for the Homeless v. Husted*, 837 F.3d 612, 629 (6th Cir. 2016) (holding that a “requirement that absentee and provisional voters accurately complete address and birthdate fields . . . bears no similarity to” the tests and devices prohibited by Section 201).

ARGUMENT

Alabama’s witness requirement for absentee ballot envelopes does not violate Section 201. It does not violate the first three provisions of Section 201 in that it is not a literacy test, it is not an educational requirement, and it is not a moral character requirement. Nor, contrary to Plaintiffs’ position, is it a voucher requirement prohibited by Section 201’s fourth and final provision.

To begin with, Plaintiffs’ argument is not supported by Section 201’s plain text. As relevant here, Section 201 prohibits any requirement that a voter “prove his qualifications by the voucher of registered voters or members of any other class.” This provision is inapplicable here in two respects. First, the witness requirement does not—and is not intended to—“prove [a voter’s] qualifications.” It merely mandates that two persons over age 18 confirm that they observed the voter’s signing of the affidavit on the ballot envelope. *See* Ala. Code § 17-11-7(b); *see also id.* § 17-11-10(b) (“The provision for witnessing of the voter’s affidavit signature or mark in Section 17-11-7 goes to the integrity and sanctity of the ballot and election.”). The witnesses need not attest to the voter’s qualifications or to the contents of the ballot

envelope affidavit. *See* Ala. Code Ann. § 17-11-7(b); *see also* Ala. Const. art. VIII, § 177 (listing voter qualifications). Simply put, a witness “does not attest to the validity of the statements made in the document itself.” *Butler v. Encyclopedia Britannica, Inc.*, 41 F.3d 285, 293-94 (7th Cir. 1994).² In these respects, the witness requirement fundamentally differs from a voucher requirement, which mandates that a voter must proffer an individual who can independently establish the voter’s identity or qualifications. *See, e.g., Ward*, 349 F.2d at 799 (noting that registrar told black voters “that they would need two electors to identify them” and would not accept “any other form of identification”). Because the witness requirement is not a test or device whereby the absentee voter must “prove his qualifications” to register or vote via another’s voucher, it is not prohibited by Section 201.³

² The evidentiary hearsay rule illustrates the difference between witnessing and vouching. Witness testimony that recounts an out-of-court statement is not hearsay so long as it is not offered for the truth of the matter asserted, *i.e.*, does not purport to vouch for the third-party declarant. *See* Fed. R. Evid. 801(c); *Anderson v. United States*, 417 U.S. 211, 220-21 (1974). Similarly, a prosecutor may not vouch for a witness’s credibility when recounting earlier testimony by asserting that the witness testified truthfully. *See, e.g., United States v. Young*, 470 U.S. 1, 18-19 (1985).

³ Plaintiffs err by suggesting that Alabama requires all witnesses to “vouch for a voter’s identity by ‘certify[ing] that the [voter] is known (or made known) to [the witness] to be the identical party he or she claims to be.’” Pls.’ Rev. Br. 20-21 (quoting Ala. Code § 17-11-7) (alterations in original). First, by its terms, the certification in state law applies to notaries only, *see* Ala. Code § 17-11-7(b), based on the notary practice of ensuring “that the signer’s documents are for their true identity,” Alabama Secretary of State, *Notaries Public: The Handbook 4* (1st ed. 2019), available at <https://www.sos.alabama.gov/sites/default/files/notaries-public/notaryPublicHandbook.pdf>. *See also* Exhibit 1 (State of Alabama, *Affidavit of Absentee Voter* (undated)). It does not apply to non-notary witnesses, who by definition are not publicly commissioned officials authorized to certify a voter’s identity. *See* Ala. Code § 36-20-70. Alabama’s absentee voting statutes do not force voters to get absentee ballot envelopes notarized; rather, notarization is one option. The statutes provide the alternative that a voter can

The witness requirement also falls outside Section 201's scope because it does not force a voter to obtain "the voucher of registered voters or members of any other class." 52 U.S.C. § 10501(b)(4). Section 201 targeted the practice of conditioning African-American registration or voting on the acquiescence of white registered voters or another group that could withhold the franchise. *See, e.g., Ward*, 349 F.2d at 799 (noting that registrar imposing voucher requirement "did not expect that any white persons would identify these Negroes"). Alabama voters, however, may choose any adults as their witnesses, except for candidates in contested elections.

obtain the signature of two witnesses, which is clearly not a voucher requirement under Section 201. *See Greater Birmingham Ministries v. Merrill*, 284 F. Supp. 3d at 1281-83 (concluding that an allowance for voters who do not have identification at the polls to vote if positively identified by two election officials is not a voucher requirement). And in any case, mere notarization is not a voucher requirement that violates Section 201. "[B]oth the Congress and the Supreme Court have viewed the prohibition against vouchers as an attack on a specific, racially discriminatory voting registration requirement," namely "the so-called 'supporting witness' requirement which had commonly been used to disenfranchise black voters in the South." *Howlette v. City of Richmond*, 485 F. Supp. 17, 23-24 (E.D. Va.), *aff'd*, 580 F.2d 704 (4th Cir. 1978) (citing *South Carolina v. Katzenbach*, 383 U.S. 301, 312-13 (1966)) (describing prohibited tests and devices designed to disenfranchise African American citizens). A "notary merely administers an oath" and does not vouch for the voter's qualifications. *Id.* at 24; *see also Notaries Public: The Handbook*, at 3 (noting that a notary is "expected to follow written rules without the exercise of significant personal discretion"). We note that at a time when Alabama required absentee ballot envelopes to be completed before an officer, such as an officer authorized to administer oaths—that is, before the State afforded voters the expanded option of relying on two non-notary witnesses—the Department of Justice declined to interpose an objection under Section 5 of the Voting Rights Act or otherwise seek to block the statute as a test or device under Section 4. Indeed, the Department interposed no objection to state statutes from Alabama that included the notary/officer requirement for absentee ballots/applications at the same time as it objected to other state statutes as tests or devices. *See* Exhibit 2 (Letter of Sept. 18, 1969 from MacDonald Gallion to John Mitchell (Alabama submission letter for 20 Alabama acts); Letter of Nov. 13, 1969 from Jerris Leonard to MacDonald Gallion (Department determination letter for 20 Alabama acts including Act 795 of 1965 and Act 176 of 1967 relating to absentee voting)).

Thus, unlike the prohibited forms of “vouching” that led to Section 201’s enactment, Alabama’s witness requirement does not limit the pool of potential witnesses to registered voters or any other relevant class. *See* Ala. Code §§ 17-11-7(b), -10(b)-(c). Thus, Section 201’s plain text does not prohibit a flexible, straightforward witness requirement such as Alabama’s.⁴

Subsequent federal legislation further confirms that Section 201 does not address absentee ballot witness requirements. In 2009, Congress enacted the Military and Overseas Voter Empowerment (MOVE) Act amendments to UOCAVA, which in part prohibits States from rejecting absentee ballots cast by members of the uniformed services, their family members, and U.S. citizens residing outside the country because those ballots did not meet state notarization mandates. *See* 52 U.S.C. § 20302(i)(1). But if Section 201 already prohibited witness requirements nationwide, that MOVE Act mandate would have been entirely unnecessary. Congress can be presumed not to enact redundant legislation. *See, e.g., Miles v. Apex Marine Corp.*, 498 U.S. 19, 32 (1990) (“We assume that Congress is aware of existing law when it passes legislation.”); *see also, e.g., Corely v. United*

⁴ Plaintiffs’ brief elides this aspect of Section 201 by suggesting that the Voting Rights Act bars any requirement that a voter “‘prove his qualifications by the voucher’ of another person.” Pls.’ Rev. Br. 20. Not so. Apart from the fact that a voter’s witnesses are not required to vouch for the voter’s qualifications, Alabama’s witness requirement lets a voter choose her witnesses. That the witnesses must be at least 18 years of age does not create a prohibited class; it merely ensures that witnesses’ signatures have legal import. *See, e.g.,* Ala. Code § 26-1-1(a), (e)-(f) (establishing that persons under 18 years of age retain all “disabilities of minority”).

States, 556 U.S. 303, 314 (2009) (“[A] statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant.” (internal quotation marks and citation omitted)).

Plaintiffs are incorrect to suggest that the Department of Justice has employed the Voting Rights Act broadly to block “witness requirements in the absentee voting process.” Compl. ¶ 168. At least twelve states currently require the signature of a notary or witness with a returned absentee ballot. *See* Ala. Code § 17-11-7; Alaska Stat. § 15.20.203(b)(2); La. Stat. Ann. § 18:1306(E)(2); Minn. Stat. § 203B.07(3); Miss. Code Ann. § 23-15-627; Mo. Rev. Stat. § 115.283; N.C. Gen. Stat. § 163-321(a)(5); Okla. Stat. tit. 26, § 14-108; R.I. Gen. Laws § 17-20-23(c); S.C. Code §§ 7-15-220, -380; Va. Code Ann. § 24.2-706; Wis. Stat. § 6.87(4)(b). *See generally* National Conference of State Legislatures, *Verification of Absentee Ballots*, at <https://www.ncsl.org/research/elections-and-campaigns/verification-of-absentee-ballots.aspx> (Jan. 21, 2020). Yet, based on a diligent search, the United States is unaware of any challenge brought by the Attorney General—or a private plaintiff for that matter—to any such requirements as a prohibited test or device under Section 201 of the Voting Rights Act (or the time-limited and geographically-limited ban on tests and devices in Section 4(a) of the Voting Rights Act) before last month. *See Thomas v. Andino*, Civil Action No. 3:20-cv-1552 (D.S.C. filed Apr. 22, 2020).

Plaintiffs note that the Attorney General interposed an objection under Section 5 of the Voting Rights Act, 52 U.S.C. § 10304, to Florida legislation that would have imposed a witness requirement on absentee ballots, Compl. ¶ 168 n.116. But that objection does not support their claim. The objection letter stated that, although Florida had met its burden of establishing lack of discriminatory purpose, it had not met its burden of establishing lack of retrogressive effect under Section 5, as to the measure at issue there—a more restrictive absentee witness requirement than the one at issue here.⁵ And, as the Florida objection letter makes clear, the objection was not interposed based on any conclusion that the witness requirement was a prohibited test or device within the meaning of Section 4(a) or 201 of the Voting Rights Act. *See* Letter of Aug. 14, 1998 from Bill Lann Lee to Robert A. Butterworth, *available at* <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/FL-1030.pdf>.⁶

⁵ The Florida absentee witness requirement would have required the absentee voter to provide the signature of a witness who is a registered voter in Florida, the signing of an oath promising that the witness has not witnessed more than five absentee ballots, the voter identification number of the witness, and the county where the witness is registered (or in lieu thereof, notarization of the absentee voter’s signature). *See id.*

⁶ Similarly, none of the other Section 5 preclearance objections and cases on which Plaintiffs rely concern voucher requirements. *See* Letter of Mar. 13, 1970 from Jerris Leonard to MacDonald Gallion (objecting to a de facto literacy requirement for absentee voters in Alabama), *available at* <https://www.justice.gov/crt/case-document/file/1277176/download>; *Arcia v. Fla. Sec’y of State*, 772 F.3d 1335, 1344 (11th Cir. 2014) (addressing voter registration list maintenance); *Lodge v. Buxton*, 639 F.2d 1358, 1363 (5th Cir. Unit B 1981) (noting in challenge to at-large elections that “[c]ases involving literacy tests or poll taxes, or property ownership requirements are, by comparison, easy to decide” because the “most obvious purpose for the creation or maintenance of such systems is clearly discrimination”), *aff’d sub nom. Rogers v. Lodge*, 458 U.S. 613, 625 (1982).

In fact, Alabama submitted various amendments to its statutes relating to the witness requirement for absentee voting to the Attorney General for review under Section 5 of the Voting Rights Act during the time the State was covered by the preclearance requirement, and the Attorney General interposed no objection to those amendments.⁷ Indeed, the Department has found no record that it interposed an objection under Section 5 to any Alabama statutes imposing the absentee witness requirement, or that the Department otherwise sought to block the absentee witness requirement in Alabama as a prohibited test or device. *See generally* U.S. Dep't of Justice, *Voting Determination Letters for Alabama*, at <https://www.justice.gov/crt/voting-determination-letters-alabama> (cataloging objections).⁸ On the other hand, when the Department identified an Alabama statute

⁷ Exhibit 3 contains Section 5 preclearance letters related to various amendments to Sections 17-11-7 to 17-11-10 of the Alabama Code and the predecessor statutes. *See* Letter of Nov. 13, 1969 from Jerris Leonard to MacDonalD Gallion (Act 795 of 1965 and Act 176 of 1967); Letter of Oct. 24, 1975 from J. Stanley Pottinger to C. Lawson Little (Act 117 of 1965); Letter of Dec. 16, 1975 from J. Stanley Pottinger to William T. Stephens (Act 1147 of 1975); Letter of Aug. 18, 1978 from Gerald W. Jones to Eugenia D.B. Hofammann (Act 616 of 1978); Letter of July 24, 1980 from Gerald W. Jones to Don Siegelman (Act 80-732); Letter of Aug. 29, 1994 from Steven H. Rosenbaum to Lynda Knight Oswald (Act 94-320); Letter of Feb. 4, 1997 from Elizabeth Johnson to Lynda K. Oswald (Act 96-885); Letter of Aug. 18, 1999 from Joseph D. Rich to Lynda K. Woodall (Act 99-388); Letter of Mar.15, 2002 from Joseph D. Rich to Charles B. Campbell (Act 2001-1097); Letter of Nov. 17, 2003 from Joseph D. Rich to Charles B. Campbell (Act 2003-313); Letter of Mar. 3, 2004 from Joseph D. Rich to Charles B. Campbell (Act 2003-400); Letter of June 2, 2006 from John Tanner to Misty S. Fairbanks (Act 2006-354); Letter of Oct. 29, 2007 from John Tanner to Misty S. Fairbanks (Act 2006-570).

⁸ Alabama was among the states first covered by the special provisions of the Voting Rights Act in 1965, based on determinations by the Attorney General and Director of the Census. *See* Determination of the Attorney General Pursuant to Section 4(b)(1) of the Voting Rights Act of 1965, 30 Fed. Reg. 9897 (Aug. 6, 1965); Determination of the Director of the Census Pursuant to

that imposed a limitation on absentee voter assistance as a de facto literacy requirement, the Department interposed an objection on the ground that the provision, “if enforced, would violate the provisions of Section 4 of the Voting Rights Act.” Letter of Mar. 13, 1970 from Jerris Leonard to MacDonald Gallion, *available at* <https://www.justice.gov/crt/case-document/file/1277176/download>. Hence, the Department blocked various state statutes that it viewed as constituting tests or devices, and it did not do so with regard to Alabama’s absentee witness requirement.

CONCLUSION

The United States expresses no view on the other claims Plaintiffs advance in support of their motion for a preliminary injunction based on factual circumstances related to COVID-19.

However, Plaintiffs’ Section 201 claim does not depend on conditions related to COVID-19, and instead argues that Alabama’s long-standing absentee witness requirement statutes were void *ab initio* and must be enjoined permanently, with no

Section 4(b)(2) of the Voting Rights Act of 1965, 30 Fed. Reg. 9897 (Aug. 6, 1965). The legislative record indicated that, as of November 1, 1964, Alabama had employed every form of test or device subsequently prohibited by the Voting Rights Act of 1965. *See, e.g.*, Ala. Code, tit. 17, § 32 (1965) (literacy test and good character requirement); *see also* S. Rep. 89-162, pt. 3, at 4-5, 7-12, 42 & nn.1-2, *as reprinted in* 1965 U.S.C.C.A.N. at 2542-50; H.R. Rep. 89-439, at 12, *as reprinted in* 1965 U.S.C.C.A.N. at 2443. Alabama ceased to be covered by these special provisions of the Voting Rights Act when the Supreme Court concluded that the coverage formula in Section 4 of the Act was unconstitutional. *See Shelby Cty. v. Holder*, 570 U.S. 529 (2013).

possibility of remediation or cure. By implication, Plaintiffs' Section 201 argument, if accepted, would appear to bar absentee witness requirements on the books in a number of other states. Plaintiffs' Section 201 claim against Alabama's absentee witness requirement fails as a matter of law. Accordingly, this claim cannot support Plaintiffs' request for preliminary injunctive relief.

Date: May 25, 2020

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 25, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of this filing to counsel of record.

/s/ Daniel J. Freeman

Daniel J. Freeman

Voting Section

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EXHIBIT 1

AFFIDAVIT OF ABSENTEE VOTER

“State of Alabama
County of _____

I, the undersigned, do swear (or affirm) that:

My place of residence in Alabama is: _____

(street) _____, Alabama _____

(city or town) _____ (zip code)

My date of birth is: _____
(month day year)

I am entitled to vote an absentee ballot because:

Check at least one:

- I expect to be out of the county or the state on election day.
- I am physically incapacitated and will not be able to vote in person on election day.
- I expect to work a required workplace shift which has at least 10 hours which coincide with the polling hours at my regular polling place.
- I am a student at an educational institution located outside the county of my permanent residence and am therefore unable to vote at my usual polling place on election day.
- I am a member of or a spouse or dependent of a member of the Armed Forces of the United States or am otherwise entitled to vote pursuant to the federal Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff.
- I have been appointed as an election officer at a polling place which is not my regular polling place.
- I will be out of the county on election day responding to a state of emergency as declared by this state or any other state, or by the federal government.
- I am a caregiver for a family member to the second degree of kinship by affinity or consanguinity and the family member is confined to his or her home.
- I am currently incarcerated in prison or jail and I have not been convicted of a felony involving moral turpitude.

I further swear (or affirm) that I have not voted nor will I vote in person in the election to which this ballot pertains. I have marked the enclosed absentee ballot voluntarily and I have read or had read to me and understand the instructions accompanying this ballot and I have carefully complied with such instructions.

Moreover, I further swear (or affirm) that all of the information given above is true and correct to the best of my knowledge and that I understand that by knowingly giving false information so as to vote illegally by absentee ballot that I shall be guilty of a misdemeanor which is punishable by a fine not to exceed one thousand dollars (\$1,000) or confinement in the county jail for not more than six months, or both.”

(Signature or mark of voter.)

(Printed name of voter.)

IF YOUR AFFIDAVIT IS NOT SIGNED (OR MARKED), AND IF YOUR AFFIDAVIT IS NOT WITNESSED BY 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, YOUR BALLOT WILL NOT BE COUNTED.

Sworn to and subscribed before me this _____

day of _____, 2_____.
I certify that the affiant is known (or made known) to me to be the identical party he or she claims to be.

(Signature of official)

(Title of official)

(Address of official)

OR

1st
Witness _____
(Signature)

(Print name)

(Address)

(City) (Zip Code)

2nd
Witness _____
(Signature)

(Print name)

(Address)

(City) (Zip Code)

EXHIBIT 2



MACDONALD GALLION
ATTORNEY GENERAL

R. HUNTER PHILLIPS
EXECUTIVE ASSISTANT

STATE OF ALABAMA
OFFICE OF ATTORNEY GENERAL
MONTGOMERY, ALABAMA 36104

September 18, 1969

JOHN G. BOOKOUT
DEPUTY ATTORNEY GENERAL

Honorable John N. Mitchell
United States Attorney General
Department of Justice
Washington, D. C. 20530

Dear General Mitchell:

Pursuant to the provisions of the Voting Rights Act of 1965, I am submitting to you for such action or non action by you as is authorized or permitted by the provisions of said Act the following enclosed Acts of Alabama:

Act No. 748, Acts of Alabama 1967 - authorizing boards of registrars to meet additional days for the purpose of registering voters.

Act No. 54, Acts of Alabama 1965, Special Session - relating to absentee voting.

Act No. 795, Acts of Alabama 1965 - relating to absentee voting.

Act No. 176, Acts of Alabama 1967, Special Session - relating to absentee voting.

Act No. 221, Acts of Alabama 1965 - relating to the establishment of voting centers in various counties to accommodate additional numbers of voters.

Act No. 812, Acts of Alabama 1965 - relating to the establishment of voting centers.

Act No. 60, Acts of Alabama 1966, Special Session - relating to the establishment of voting centers.

Honorable John N. Mitchell
September 18, 1969
Page 2

Act No. 112, Acts of Alabama 1966, Special Session -
relating to the establishment of voting centers.

Act No. 119, Acts of Alabama 1967 - relating to the
establishment of voting centers.

Act No. 126, Acts of Alabama 1967 - relating to the
establishment of voting centers.

Act No. 479, Acts of Alabama 1967 - relating to the
establishment of voting centers.

Act No. 552, Acts of Alabama 1967 - relating to the
establishment of voting centers.

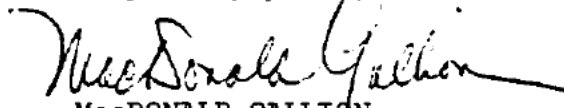
Each of the following Acts provide for reidentification of voters in order to purge from voting lists the names of persons who are now deceased or no longer reside in the county or the state. I understand that in 1966 some 36 Alabama counties had more persons on their voting list than the 1960 census showed as being residents of voting age within the county. The following Acts were enacted to establish accurate voting lists:

Act Nos 36 and 74, Acts of Alabama 1965, Special Session.

Act Nos. 37, 44, 355, 725 and 876, Acts of Alabama 1965.

Act Nos. 65, Acts of Alabama 1966, Special Session.

Very truly yours,


MacDONALD GALLION
ATTORNEY GENERAL

NOV 13 1969

D.J. 166-012-3

Honorable MacDonald Gallion
Attorney General
State of Alabama
Montgomery, Alabama 36104

Dear Mr. Attorney General:

This is in reference to your letter of September 18, 1969, with which you submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965 20 Alabama Acts relating to election procedures and voting.

I have examined and considered the submitted Acts. The Attorney General will not at this time interpose any objection to the Act authorizing boards of registrars to meet additional days for the purpose of registering voters, the Acts relating to absentee voters and the Acts providing for the reidentification of voters in order to purge from voting lists the names of persons who are now deceased or who no longer reside in the county or the state. However, as provided by Section 5 of the Voting Rights Act of 1965, the failure to object does not bar any subsequent action to enjoin enforcement of these Acts.

With regard to Acts Nos. 221 (1965), 812 (1965), 60 (1966), 112 (1966), 119 (1967), 126 (1967), 479 (1967), and 552 (1967) I must on behalf of the Attorney General interpose objections to the provisions in those Acts requiring a voter to sign, at the voting machine, a poll list before he is allowed to enter the machine

- 2 -

to vote. It is our view that these provisions in the Acts, if enforced, would have the effect of discriminating against Negro voters and would violate the provisions of Section 4 of the Voting Rights Act of 1965.

Should you wish to present justification for the provisions objected to or evidence that their enforcement would not violate Section 4 of the Voting Rights Act of 1965, we will consider the matter further. Of course, as provided for by Section 5 of the Voting Rights Act, you have the alternative of instituting an action in the United States District Court for the District of Columbia for a declaratory judgment that the provisions objected to do not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color.

Sincerely,

JERRIS LEONARD
Assistant Attorney General
Civil Rights Division

EXHIBIT 3

NOV 13 1969

D.J. 166-012-3

Honorable MacDonald Gallion
Attorney General
State of Alabama
Montgomery, Alabama 36104

Dear Mr. Attorney General:

This is in referenca to your letter of September 18, 1969, with which you submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965 20 Alabama Acts relating to election procedures and voting.

I have examined and considered the submitted Acts. The Attorney General will not at this time interpose any objection to the Act authorizing boards of registrars to meet additional days for the purpose of registering voters, the Acts relating to absentee voters and the Acts providing for the reidentification of voters in order to purge from voting lists the names of persons who are now deceased or who no longer reside in the county or the state. However, as provided by Section 5 of the Voting Rights Act of 1965, the failure to object does not bar any subsequent action to enjoin enforcement of these Acts.

With regard to Acts Nos. 221 (1965), 812 (1965), 60 (1966), 112 (1966), 119 (1967), 126 (1967), 479 (1967), and 552 (1967) I must on behalf of the Attorney General interpose objections to the provisions in those Acts requiring a voter to sign, at the voting machine, a poll list before he is allowed to enter the machine

- 2 -

to vote. It is our view that these provisions in the Acts, if enforced, would have the effect of discriminating against Negro voters and would violate the provisions of Section 4 of the Voting Rights Act of 1965.

Should you wish to present justification for the provisions objected to or evidence that their enforcement would not violate Section 4 of the Voting Rights Act of 1965, we will consider the matter further. Of course, as provided for by Section 5 of the Voting Rights Act, you have the alternative of instituting an action in the United States District Court for the District of Columbia for a declaratory judgment that the provisions objected to do not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color.

Sincerely,

JERRIS LEONARD
Assistant Attorney General
Civil Rights Division

T. 10/15/75
JSP:SKD:bhj
D.J. 166-012-3
V9425-V9426

OCT 24 1975

Mr. J. Lawson Little
Assistant Attorney General
State of Alabama
Office of the Attorney General
Montgomery, Alabama 36130

Dear Mr. Little:

This is in reference to Act No. 54 and Act No. 117, 1965 Alabama Legislature, which were submitted to the Attorney General pursuant to Section 3 of the Voting Rights Act of 1965. The submission was received on August 25, 1975.

The Attorney General does not interpose an objection to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of the changes.

Sincerely,

J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

ASSISTANT ATTORNEY GENERAL

Department of Justice
Washington, D.C. 20530

DEC 9 1975

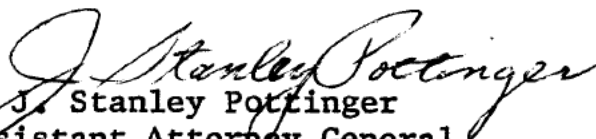
Mr. William T. Stephens
Assistant Attorney General
State of Alabama
Montgomery, Alabama 36104

Dear Mr. Stephens:

This is in reference to your letter of October 24, 1975, in which you submitted Act No. 1147 (H. 113) of the 1975 Regular Session of the Alabama Legislature pertaining to absentee voting, to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965. Your letter was received on October 28, 1975.

The Attorney General does not interpose any objection to the change in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of the change.

Sincerely,


J. Stanley Pottinger
Assistant Attorney General
Civil Rights Division

AUG 18 1978

DSD:DHH:AJS:rjs
DJ 166-012-3
A6860-6864
A6858

Ms. Eugenia D. B. Hofammann
Assistant Attorney General
State of Alabama
Montgomery, Alabama 36130

Dear Ms. Hofammann:

This is in reference to Act Nos. 691, 616, 504, 426, 380, and 533 of the 1978 Regular Session of the Alabama Legislature, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submissions were received on June 19, 1978.

The Attorney General does not interpose any objections to the changes in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such changes.

Sincerely,

DREW S. DAYS III
Assistant Attorney General
Civil Rights Division

By:

GERALD W. JONES
Chief, Voting Section

24 JUL 1980

DSD:JAC:ELG:gml
DJ 166-012-3
D2775

Honorable Don Sigelman
Secretary of State
State Capitol
Montgomery, Alabama 36130

Dear Mr. Secretary:

This is in reference to Act No. 80-732 of the 1980 Alabama Legislature, which provides for several changes in the absentee voting procedures for the State of Alabama, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended. Your submission was received on June 17, 1980.

The Attorney General does not interpose any objection to the change in question. However, we feel a responsibility to point out that Section 5 of the Voting Rights Act expressly provides that the failure of the Attorney General to object does not bar any subsequent judicial action to enjoin the enforcement of such change. In addition, as authorized by Section 5, the Attorney General reserves the right to reexamine this submission if additional information that would otherwise require an objection comes to his attention during the remainder of the sixty-day period.

Sincerely,

DREW S. DAYS III
Assistant Attorney General
Civil Rights Division

By:

GERALD W. JONES
Chief, Voting Section



U.S. Department of Justice

Civil Rights Division

DLP:GS:SAS:tlb
DJ 166-012-3
94-2609

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

August 29, 1994

Lynda Knight Oswald, Esq.
Assistant Attorney General
Alabama State House
11 South Union Street
Montgomery, Alabama 36130

Dear Ms. Oswald:

This refers to Act No. 94-320, which revises election code provisions regarding absentee voting for the State of Alabama, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received your submission on June 28, 1994.

The Attorney General does not interpose any objection to the specified change. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Certain provisions of this Act are viewed as enabling legislation. Therefore, any changes affecting voting (e.g., adoption by Secretary of State of absentee ballot application forms) proposed to be implemented pursuant to this Act will be subject to Section 5 review. See 28 C.F.R. 51.15.

Sincerely,

Deval L. Patrick
Assistant Attorney General
Civil Rights Division

By:

A handwritten signature in cursive script, appearing to read "Steven H. Rosenbaum".

Steven H. Rosenbaum
Chief, Voting Section



U.S. Department of Justice

Civil Rights Division

IKP:GS:NG:emr:lrj
DJ 166-012-3
96-3252

Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128

February 4, 1997

Lynda K. Oswald, Esq.
Assistant Attorney General
Alabama State House
11 South Union Street
Montgomery, Alabama 36130

Dear Ms. Oswald:

This refers to Act No. 96-885 (1996), which enacts or amends procedures regarding absentee voting, including changes in the eligibility requirements for absentee voting by mail or by hand delivery, procedures for on-site voting for persons who will be out of the county on election day, changes in the absentee ballot affidavit, including new and revised descriptions of persons eligible to vote absentee and a paragraph advising voters that ballots without witness signatures or notarization will not be counted, procedures to be followed where more than one absentee ballot is cast in the name of a single voter, deadlines for the receipt of valid absentee ballots, procedures for delivery and accounting of blank or unused absentee ballots, penalties for the preparation of absentee ballots for persons who are comatose or who otherwise cannot communicate their voting preferences and for the failure of an election official to count a legal vote under the Act, and the requirement that the Secretary of State promulgate administrative rules and procedures regarding challenged absentee ballots for the State of Alabama, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your response to our October 7, 1996, request for additional information on December 6, 1996; supplemental information was received on January 23, 24, 31, and February 4, 1997.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).


- 2 -

Act No. 96-885 includes provisions that are enabling in nature. Therefore, any changes affecting voting that are adopted pursuant to this legislation will be subject to Section 5 review (e.g., administrative rules and procedures regarding challenged absentee ballots adopted pursuant to Section 8 of the Act; designation of on-site absentee balloting locations by counties (other than each courthouse and courthouse annex) and by municipalities). See 28 C.F.R. 51.15.

Sincerely,

Isabelle Katz Pinzler
Acting Assistant Attorney General
Civil Rights Division

By:


for Elizabeth Johnson
Chief, Voting Section



Civil Rights Division

JRD:GS:NG:jdh
DJ 166-012-3
99-1776

*Voting Section
P.O. Box 66128
Washington, DC 20035-6128*

August 18, 1999

Lynda K. Woodall, Esq.
Assistant Attorney General
11 South Union Street
Montgomery, Alabama 36130-0152

Dear Ms. Woodall:


This refers to Act No. 99-388, which revises absentee voting procedures, including the following: eliminates on-site absentee voting on the Tuesday of the week immediately preceding the day of the election and the requirement that persons wishing to vote an absentee ballot by mail or hand delivery be absent from the county on that day; provides that absentee ballots will be mailed upon request to the address where the voter regularly receives mail; revises the affidavit which accompanies absentee ballots voted by mail or hand delivery; allows persons to vote absentee if they are eligible under the provisions of the federal Uniformed and Overseas Citizens Absentee Voting Act; permits late application for a regular absentee ballot following the close of on-site voting; requires counties to designate each county voting precinct to a particular on-site location and specifies the information that is to be advertised regarding the designation of precincts and description of the on-site locations, requires the posting of signs at on-site locations notifying prospective voters that they may vote on-site only if they will be out of the county on election day; requires that the list of qualified electors at on-site locations specify the precinct or ballot style applicable to the voter; provides for the compensation of absentee election managers and reimbursement for the cost of preparing the on-site voting list; requires voters at on-site locations to provide their residence address, date of birth, and voting precinct, and permits voters to sign or mark the poll list; changes the requirements for the number and location of on-site absentee voting locations; and provides for the sealing and delivery of the poll list for the State of Alabama, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on July 6, 1999.

- 2 -

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

Act No. 99-388 includes provisions that are enabling in nature. Therefore, local jurisdictions are not relieved of their responsibility to seek Section 5 preclearance of any changes affecting voting that are adopted pursuant to this legislation (e.g., designation of discretionary on-site absentee voting locations, designation of voting precincts to be served by each on-site location). See 28 C.F.R. 51.15.

Sincerely,


for Joseph D. Rich
Acting Chief
Voting Section

U.S. Department of Justice



Civil Rights Division

JDR:CKD:RJD:nj
DJ 166-012-3
2002-0168

*Voting Section - NWB.
950 Pennsylvania Avenue, N.W.
Washington, DC 20530*

March 15, 2002

Charles B. Campbell, Esq.
Assistant Attorney General
11 South Union Street
Montgomery, Alabama 36130

Dear Mr. Campbell:

This refers to Act No. 2001-1097, which abolishes on-site absentee voting and modifies the applications for absentee ballots for general, primary, and municipal elections to reflect this change for the State of Alabama, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on January 16, 2002.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

A handwritten signature in black ink, appearing to read "J. Rich", written over the word "Sincerely,".

Joseph D. Rich
Chief, Voting Section



U.S. Department of Justice
Civil Rights Division

JDR:TCH:TAR:jdh
DJ 166-012-3
2003-2245
2003-3434

Voting Section - NWB
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

November 17, 2003

Charles B. Campbell, Esq.
Assistant Attorney General
11 South Union Street
Montgomery, Alabama 36130

Dear Mr. Campbell:

This refers to Act 2003-313, which makes a number of changes, inter alia, to implement the Help America Vote Act of 2002, 42 U.S.C. 15301 to 15545 ("HAVA"), including: designating the Secretary of State as the chief election official in the State to carry out various responsibilities with the assistance of certain boards and committees; enabling the Secretary of State to promulgate administrative rules, instructions, guidance, and forms to implement various statutes; moving the Office of Voter Registration and its responsibilities under the Office of the Secretary of State; designating the probate judge as the chief election official in each county and chair of the canvassing board; revising procedures for voters on the inactive list to re-identify; revising procedures on absentee voting; revising procedures for registration and absentee voting by military and overseas voters; revising provisions related to registrars; revising procedures for voter information posters; creating procedures for mail-in registrants to provide voter identification; requiring a statewide computerized voter registration list meeting specific standards which will serve as the official list for the conduct of all elections; requiring the statewide list be coordinated with driver license and social security records; creating procedures for provisional voting, including procedures for all voters who fail to provide identification to be notified and allowed to provide identification up to six days after election day; requiring a free access system for voters to determine if their provisional ballot was counted; extending post-election canvass and reporting deadlines; requiring administrative procedures for hearing complaints under Title III of HAVA; creating a state Help America

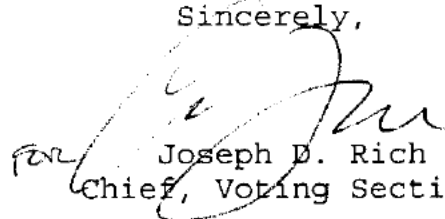
-2-

Vote Fund; creating criminal penalties for providing false information in registering or voting; requiring voting systems to satisfy certain standards on or before January 1, 2005; requiring adoption of standards for what constitutes a vote on each voting system; repealing procedures for marking voters' hands; and repealing certain challenged ballot procedures; Section 1(c) of Act 2003-381, which provides that voters who vote by mail must include a copy of one form of voter identification specified in that Act; the Alabama Attorney General's Opinion of May 30, 2003, which provides that the Secretary of State is the chief State election official under HAVA, and that HAVA requires the Secretary to implement a statewide voter registration list according to specific standards; and the Alabama Attorney General's Opinion of July 31, 2003, which clarifies that existing challenged ballot procedures, rather than provisional balloting procedures in Act 2003-313, will apply to in-person and absentee voters in municipal elections, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on September 17, 2003; supplemental information was received on November 13, 2003.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Act 2003-313 includes provisions that are enabling in nature. Therefore, any changes affecting voting that are adopted pursuant to this legislation require Section 5 review (e.g., rules, instructions, guidance and forms promulgated by the Secretary of State). See 28 C.F.R. 51.15.

Sincerely,


FOR Joseph D. Rich
Chief, Voting Section



U.S. Department of Justice

Civil Rights Division

JDR:JR:SMC:par
DJ 166-012-3
2004-0084

Voting Section - NWB
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

March 3, 2004

Charles B. Campbell, Esq.
Assistant Attorney General
11 South Union Street
Montgomery, Alabama 36130

Dear Mr. Campbell:

This refers to Act No. 2003-400, which provides for changes in absentee voting procedures, including allowing certain election officials to vote absentee; adopts ballot recount procedures applicable to certain elections; codifies the role of poll watchers; specifies the number of electronic voting devices required for specified municipal elections and the posting requirements for the sample ballot or vote card; changes the form of election notice; provides for polling place hours; allows officials for certain elections to reside anywhere in a municipality; and provides for candidate residency qualifications and technical changes for municipalities and towns, for the State of Alabama, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on January 9, 2004.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41).

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph D. Rich".

for Joseph D. Rich
Chief, Voting Section



U.S. Department of Justice

Civil Rights Division

JKT:EAM:maj
DJ 166-012-3
2006-3774
2006-4644

*Voting Section - NWB.
950 Pennsylvania Avenue, N.W.
Washington, DC 20530*

June 2, 2006

Misty S. Fairbanks, Esq.
Assistant Attorney General
11 South Union Street
Montgomery, Alabama 36130

Dear Ms. Fairbanks:

This refers to Act No. 2006-354, insofar as it extends the period between primary and primary runoff elections for federal, state, and county offices and amends the schedule and procedures regarding ballots cast by voters covered under the Uniformed and Overseas Citizens Absentee Voting Act; the decision to delay until after the 2006 primary election cycle the requirement that voters submit two applications to receive absentee ballots for both the primary and any primary runoff elections; the attendant publicity and notification regarding the changes in application procedures; and Secretary of State Emergency Rule 820-2-3-.01ER regarding application forms for absentee voting for the State of Alabama, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on April 13 and 27, 2006; supplemental information was received through May 26, 2006.

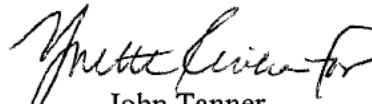
Your May 26, 2006, letter withdraws Secretary of State Emergency Rule 820-2-3-.01ER from Section 5 review. Accordingly, no determination by the Attorney General is required concerning this matter. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.25(a)).

The Attorney General does not interpose any objection to the remaining specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine these changes if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See 28 C.F.R. 51.41 and 51.43.

-2-

We note that Act No. 2006-354 includes voting provisions that apply to municipalities and that your April 13, 2006, letter specifically states that these voting changes will be submitted at a later date.

Sincerely,



John Tanner
Chief, Voting Section

cc: The Honorable Mark E. Fuller



U.S. Department of Justice

Civil Rights Division

JKT:RPL:JEM:jdh
DJ 166-012-3
2007-3488

*Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530*

October 29, 2007

Ms. Misty S. Fairbanks
Assistant Attorney General
11 South Union Street
Montgomery, Alabama 36130

Dear Ms. Fairbanks:

This refers to Act No. 2006-570 (H.B. 100) (2007), which substantially revised Title 17 of the Alabama Election Code as further amended by Act No. 2007-147 (2007), for the State of Alabama, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on August 29, 2007.

Other than re-codifying and renumbering changes which are separately addressed in this letter, our analysis indicates the submitted matters specified in Attachment A to this letter, either do not represent any change from the prior law or practice or have no other identified voting-related change, according to the state's submission. Accordingly, no determination by the Attorney General is required or appropriate under Section 5. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.2, 51.12, 51.13, and 51.35).

In addition, former Section 17-9-20 was previously repealed by Act No. 2006-327 which we precleared on May 16, 2006. (Copy enclosed) Accordingly, no determination by the Attorney General is required or appropriate under Section 5. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.2, 51.12, 51.13, and 51.35).

The Attorney General does not interpose any objection to the submitted changes specified in Attachment B to this letter. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41).

-2-

With regard to former Section 17-4-132, as re-codified and renumbered in Section 17-4-3, the publication requirement prior to purging voter registration lists specifies, "Notice of the names of all other persons proposed to be stricken from the list shall be published in some newspaper published in the county." The submission notes that this provision was eliminated during a committee hearing and "the absence of this publication requirement is a change submitted for preclearance." Our analysis indicates that the information sent is insufficient to enable us to determine that the proposed change does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group, as required under Section 5. The following information is necessary so that we may complete our review of your submission:

1. All documents concerning the adoption of the proposed change, including any house or senate committee meeting regarding that change.
2. A description of the circumstances and rationale which prompted or led to the proposed change.

The Attorney General has sixty days to consider a completed submission pursuant to Section 5. This sixty day period with regard to this particular submitted change, will begin when we receive the information specified above. See the Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.37). However, if no response is received within sixty days of this request, the Attorney General may object to the proposed change consistent with the burden of proof placed upon the submitting authority. See 28 C.F.R. 51.40 and 51.52(a) and (c). Changes which affect voting are legally unenforceable unless Section 5 preclearance has been obtained. *Clark v. Roemer*, 500 U.S. 646 (1991); 28 C.F.R. 51.10. Therefore, please inform us of the action the State of Alabama plans to take to comply with this request.

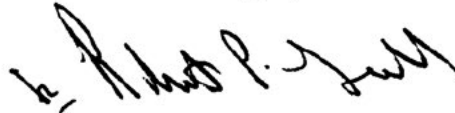
If you have any questions concerning this letter or if we can assist you in obtaining the requested information, you should call Joseph E. Murray (202-616-2340) of our staff. Refer to File No. 2007-3488 in any response to this letter so that your correspondence will be channeled properly.

Sections 17-1-2(26), 17-3-9, 17-3-52, 17-6-24(b), 17-6-27, 17-6-35, and 17-6-48 include provisions that are enabling in nature. Therefore, the state and named boards of registrars are not relieved of their responsibility to seek Section 5 review of any changes affecting voting proposed to be implemented pursuant to this legislation (e.g., the adoption of local legislation authorizing

-3-

voting centers where multiple precincts are to be located in a single center; any changes to registration procedures adopted by Barbour, Coffee, and St. Clair Counties, any implementing administrative rules the Secretary of State promulgates involving voting-related changes referenced in the cited sections). See C.F.R. 51.15.

Sincerely,

A handwritten signature in black ink, appearing to read "John Tanner", written in a cursive style.

John Tanner
Chief, Voting Section

Enclosures



U.S. Department of Justice
Civil Rights Division

*Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530*

JKT:JR:MDS:jdh
DJ 166-012-3
2006-3819

May 16, 2006


Troy King, Esq.
State Attorney General
11 South Union Street
Montgomery, Alabama 36130

Dear Mr. King:

This refers to Act No. 2006-327 (S.B. 18), which provides for compensation and mandatory training of election officials for the State of Alabama, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on April 17, 2006.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41 and 51.43).

Sincerely,


John Tanner
Chief, Voting Section

Attachment A

Sections 17-1-1, 17-1-2 (except for subsections separately addressed), 17-1-2(3), 17-1-2(7), 17-1-2(9), 17-1-2(14), 17-1-2(15), 17-1-2(16), 17-1-2(18), 17-1-2(22) through (25), 17-1-2(28), 17-1-3(a), 17-1-4, 17-1-5, 17-2-1 through 17-2-4, 17-3-1 through 17-3-8, 17-3-10, 17-3-11(b), 17-3-12, 17-3-13, 17-3-30, 17-3-50(b), 17-3-54, 17-3-59, 17-4-11, 17-4-12, 17-4-14, 17-4-31 through 17-4-34, 17-4-36 through 17-4-39, 17-4-61, 17-4-63, 17-5-1, 17-5-19, 17-6-1, 17-6-7 through 17-6-9, 17-6-22, 17-6-23, 17-6-31, 17-6-32, 17-6-34, 17-6-40, 17-6-42, 17-6-45, 17-6-47, 17-7-1 through 17-7-7, 17-7-23(6), 17-7-24, 17-7-27 through 17-7-29, 17-8-12, 17-9-1, 17-9-2, 17-9-4, 17-9-6, 17-9-8, 17-9-9, 17-9-11, 17-9-14, 17-9-30, 17-10-1, 17-10-3, 17-11-11, 17-11-3, 17-11-4, 17-11-6 through 17-11-10, 17-11-12, 17-11-13 (that portion which deletes obsolete references), 17-11-14 through 17-11-17, 17-11-19, 17-12-1, 17-12-3, 17-12-5 through 17-12-7, 17-12-10, 17-12-18, 17-12-21 through 17-12-25, 17-13-1 through 17-13-4, 17-13-6, 17-13-13, 17-13-18 through 17-13-25, 17-13-40 through 17-13-47, 17-13-49, 17-13-51, 17-13-52, 17-31-72 through 17-13-76, 17-13-78, 17-13-79, 17-13-84, 17-13-87 through 17-13-89, 17-13-100 through 17-13-103, 17-14-30 through 17-14-32, 17-14-36, 17-14-37, 17-14-50, 17-14-52 through 17-14-55, 17-14-70, 17-14-71, 17-14-73, 17-15-1, 17-15-2, 17-15-4, 17-15-7, 17-16-2 through 17-16-7, 17-16-42, 17-16-47 through 17-16-49, 17-16-54 through 17-16-70, 17-16-72 through 17-16-76, 17-17-1, including repealed former Sections 17-2-8, 17-4-137, 17-4-139, 17-4-190, 17-4-200, 17-4-204, 17-6-15, 17-7-8, 17-7-14, 17-8-13, 17-8-14, 17-8-21, 17-8-27, 17-8-34 through 17-8-39, 17-8-42, 17-9-1 through 17-9-7, 17-9-15 through 17-9-18, 17-9-21 through 17-9-28, 17-9-31, 17-9-32, 17-9-36 through 17-9-39, 17-9-41, 17-10-20, 17-10-25, 17-10-26, 17-13-3, 17-16-19, 17-16-21, 17-16-27, 17-16-29, 17-16-54, 17-22A-15, 17-24-8, and 17-24-10.

Attachment B

The re-codification and renumbering of Title 17 as provided for in Act No. 2006-570(H.B. 100)(2007) and the non-substantive, grammatical changes enacted in Act No. 2007-147 (2007), as follows:

Chapter 1: General Provisions: - the definition changes provided in Section 17-1-2(1),(2),(4) through (6), (8), (10) through (13), (17), (19) through (21), (26), and (27); the reference changes in 17-1-3(b);

Chapter 3: Voter Registration, Article 1: Board of Registrars - the discretion granted the named boards of registrars in 17-3-9; the authorization for board of registrars to visit junior colleges and the new requirement for each college or university provided in Section 17-3-11(a), as well as the repeal of subsections (b) and (c), therein;

Chapter 3: Article 2: Voter Registration - the deletion of obsolete references in Section 17-3-31; and the changes in terms found in Sections 17-3-31 through 17-3-34;

Chapter 3: Article 3: Registration of Electors -

- 1) the deletion of obsolete references in Section 17-3-50(a);
- 2) the changes governing when a new certificate of registration shall be issued in Section 17-3-51;
- 3) the transfer of responsibility for developing registration application forms, deletions of obsolete references, and the language moved to Section 17-3-53 as found in Section 17-3-52;
- 4) the change in references, the new limitation pertaining to what registration application data is publically available, and the expansion of political party access to registration data sources in Section 17-3-53;
- 5) the change in the denial of registration appeals process in Section 17-3-55;
- 6) the deletion of obsolete references, and changes in terms in Section 17-3-56;
- 7) the merger of former Sections 17-4-126 and 17-4-137 and deletion of obsolete references in Section 17-3-57;
- 8) the change in terms in Section 17-3-58;
- 9) the change in responsibility for certification and clarifying changes in Section 17-3-60;

Chapter 4: Voter Registration Lists, Article 1: County Voter Registration Lists -

- 1) the publication change and clarifying changes in Section 17-4-1;
- 2) the change in duties and in the voter registration list certification procedures in Section 17-4-2;
- 3) the changes pertaining to voter registration lists; except for the provision eliminating the registration cancellation publication requirement which is discussed further elsewhere, those changes pertaining to the purging of voter registration lists, the removal of obsolete references, clarifying changes, and the change in the appeals process in Section 17-4-3;
- 4) the clarifying changes and removal of obsolete references in Section 17-4-4;
- 5) the change in voter registration list maintenance procedures in Section 17-4-5;
- 6) the additional language in Section 17-4-5; the reference changes and the addition of subsection (b) in Section 17-4-6;
- 7) the changes in voter registration duties and procedures in Section 17-4-7;
- 8) the clarification in voter registration procedures and deletion of obsolete references in Section 17-4-8;
- 9) the changes relating to purging made to comply with 42 U.S.C. 1973gg-6 in Section 17-4-9;
- 10) the change in the timing of statewide voter file maintenance activities in Section 17-4-10;
- 11) and the deletion of obsolete references in Section 17-4-13;

Chapter 4: Article 2: Statewide Voter Registration File, Registration Advisory Board, and Director of Voter Registration - the move of subsection (a) to Section 17-4-7, and the deletion of obsolete references in Section 17-4-30; and the deletion of obsolete references in Section 17-4-35;

Chapter 4: Article 3: National Voter Registration Act and the Help America Vote Act of 2002 - the renumbering and re-codifying of Section 17-4-60(g); and the deletion of an obsolete reference in Section 17-4-62;

Chapter 5: The Fair Campaign Practices Act -

- 1) the changes in definitions and references in Section 17-5-2;
- 2) the changes in terms and references including the elimination of requiring treasurers of principal campaign committees in Section 17-5-3;
- 3) the change in section title in Section 17-5-4;

- 4) the changes in terms, the language clarifications, deletion of obsolete references in Section 17-5-5 including subsection (d);
- 5) the conforming and clarifying changes in terms in Section 17-5-6;
- 6) the deletion of obsolete provisions in Section 17-5-7;
- 7) the conforming changes, change in filing schedule, clarifications, and deletion of obsolete terms in Section 17-5-8;
- 8) the clarification that reporting requirements apply to amendments in Section 17-5-9;
- 9) the use of copies when providing public disclosure of expenditure reports in Section 17-5-10;
- 10) the clarifying and conforming changes in Section 17-5-11;
- 11) the clarifying and conforming changes including the identification requirement for paid political advertisements in Section 17-5-12;
- 12) the change in terms including clarification of the identification requirement in Section 17-5-13;
- 13) the conforming and clarifying changes in Sections 17-5-14 through Section 17-5-17;
- 14) and a change in the revocation of an issued certificate of election or nomination procedures to apply provision to candidates for both municipal and county offices in Section 17-5-18;

Chapter 6: Election Preparation, Article 1: Precincts -

- 1) a change in terms and deletion of obsolete references in Section 17-6-2;
- 2) the deletion of obsolete references, conforming changes, changes in terms, addition of new standards, and reorganization of subsections in Section 17-6-3;
- 3) the deletion of obsolete references and conforming changes in Section 17-6-4;
- 4) the deletion of references to municipal elections and clarifying changes pertaining to the duties of the judge of probate in Section 17-6-5;
- 5) the deletion of obsolete references, changes to conform with the use of electronic voting methods, and the authority granted county governing bodies regarding alphabetical separation of poll lists in Section 17-6-6;

Chapter 6: Article 2: Ballots -

- 1) the deletion of obsolete references to former voting methods in Section 17-6-20;
- 2) clarifying changes including the addition of subsection (b) and the extension of the notification deadline to 45 days in Section 17-6-21;
- 3) the addition of subsection (a), the deletion of obsolete references, conforming changes in terms, and the addition of subsection(b) which grants rule-making authority to the Secretary of State regarding ballot style and design in Section 17-6-24;
- 4) the transfer of the ballot format from Chapter 16 so as to apply to both primary and general elections in Section 17-6-25;
- 5) the deletion of obsolete terms in Section 17-6-26;
- 6) the change granting rule-making authority to the Secretary of State regarding the ballot form in Section 17-6-27;
- 7) the deletion of obsolete terms in Section 17-6-28;
- 8) the conforming changes to reflect the use of electronic voting methods in Section 17-6-29;
- 9) the change in the notification process provided for in Section 17-6-30;
- 10) the changes in the assignment of place designations procedures and duties in Section 17-6-33;
- 11) the conforming changes to reflect the adoption of an electronic voting method and rule-making authority granted the Secretary of State in Section 17-6-35;
- 12) the conforming and clarifying changes in Sections 17-6-36 through 17-6-39;
- 13) the deletion of obsolete terms and clarifying changes in Section 17-6-41;
- 14) the changes pertaining the ballot packaging and numbering and the deletion of obsolete terms in Section 17-6-43;
- 15) the clarifying change in Section 17-6-44;
- 16) the explicit non-partisan requirement in Section 17-6-46;
- 17) the authority granted the Secretary of State to designate place numbers for certain judicial offices and associate members of the public service commission in Section 17-6-48;
- 18) and the change in designation procedures in Section 17-6-49;

Chapter 7: Electronic Voting Machines, Article 2: Electronic Vote County System -

- 1) the change in terms, reordering, deletion of obsolete references, and clarifying language in Section 17-7-20;
- 2) the deletion of obsolete references in Section 17-7-21;
- 3) the change in the selection process described in Section 17-7-22;
- 4) the removal of redundant language in Section 17-7-23;
- 5) the deletion of obsolete provisions and changes in duties in Section 17-7-25;
- 6) and the changes in terms in Section 17-7-26;

Chapter 8: Election Officers -

- 1) the reordering of the section, the appointment of precinct election officials procedures, expansion of eligibility exclusions, and the enumerated duties of election officers in Section 17-8-1;
- 2) the change in duties in Section 17-8-2;
- 3) the change in eligibility requirements, and the moving of penalty requirements to a new section in Section 17-8-3;
- 4) the changes in selection procedures in Section 17-8-4;
- 5) the changes pertaining to the selection of poll workers including considering their political affiliation in Section 17-8-5;
- 6) the conforming and clarifying changes in the selection of election officials and the moving of the penalty provision in Section 17-8-6;
- 7) the changes in procedures for naming poll watchers, the moving of penalty provisions, the reordering of the section and clarifying changes in Section 17-8-7;
- 8) the deletion of obsolete terms in Section 17-8-8;
- 9) the change in duties and responsibilities regarding poll worker training including the addition of timing and certification requirements in Section 17-8-9;
- 10) the clarifying change regarding responsibility for ballot returns in Section 17-8-10;
- 11) and the deletion of obsolete terms and the clarification regarding responsibility for ballot returns in certain circumstances in Section 17-8-11;

12) the deletion of obsolete terms and references and clarifying changes in Section 17-8-13;

Chapter 9: Conduct and Management of Elections, Article 1: General Provisions -

1) the deletion of an obsolete reference in Section 17-9-3;

2) the change in duties and notification requirement in Section 17-9-5;

3) the change in terms, time, and the deletion of obsolete terms in Section 17-9-7;

4) the change in terms in Section 17-9-10;

5) the change in terms and a technical change in Section 17-9-12;

6) the change in assistor of choice procedures in Section 17-9-13;

7) and the changes in tabulation procedures in Section 17-9-15;

Chapter 9: Article 2: Voter Identification - adds the judge of probate to those permitted to be within 30 feet of the polling place and the change in terms in Section 17-9-50;

Chapter 9: Article 3: Prohibited Practices - the changes in polling place procedures including adding the judge of probate to those permitted to be within 30 feet of the polling place and the deletion of obsolete terms in Section 17-9-50; and the change in the deadline for submitting hand-delivered absentee ballots including the provisions regarding a "medical emergency designee" in Section 17-9-51;

Chapter 10: Provisional Voting: Challenge of Voters - a change in voter identification verification procedures, changes in provisional ballot procedures including a change in duties, and changes in absentee voting procedures including a change in duties in Section 17-10-2;

Chapter 11: Absentee Voting -

1) the change in duties and procedures pertaining to absentee voting in Section 17-11-2;

2) the changes in terms, duties, and procedures in Section 17-11-5;

3) the changes in absentee voting procedures including the changes in names and number of personnel in Section 17-11-11;

4) the conforming changes in Section 17-11-13;

5) and the deadline change in Section 17-11-18;

Chapter 12: Canvassing Returns/Declaring Results -

- 1) the change in duties and conforming changes to recognize use of electronic voting method in Section 17-12-2;
- 2) the changes in duties and procedures in Section 17-12-4; changes in the number of poll lists to be certified, construction materials for ballot boxes, and the elimination of a penalty provision in Section 17-12-8;
- 3) a change in terms pertaining to duties in Section 17-12-9;
- 4) the changes in duties in Section 17-12-11;
- 5) the changes in procedures including the elimination of a requirement that the record of assisted voters be delivered to probate judges, and the deletion of obsolete language in Section 17-12-12;
- 6) the changes in procedures and duties in Section 17-12-13;
- 7) the clarifying change in Section 17-12-14;
- 8) the change in duties and deletion of obsolete terms in Section 17-12-15;
- 9) the change in duties including requiring the probate judge to transmit copies of the results to the Secretary of State in Section 17-12-16;
- 10) the change to require certification of returns in Section 17-12-17;
- 11) the clarifying changes in procedures and duties relating to certificates of election in Section 17-12-19;
- 12) and the change in duties in Section 17-12-20;

Chapter 13: Primary Elections, Article 1: General Provisions -

- 1) a technical change in Section 17-13-5;
- 2) a change in primary election poll lists procedures in Sections 17-13-7 and 17-13-8;
- 3) the deletion of an election administration requirement in Section 17-13-9;
- 4) the deletion of obsolete procedures pertaining to paper ballots in Section 17-13-10;
- 5) the deletion of a penalty provision and moving of all other provisions to another code section in Section 17-13-11;
- 6) a change in duties and deletion of obsolete language in Section 17-13-12;

- 7) clarifying changes and changes in terms in Section 17-13-14;
- 8) a change in duties and procedures pertaining to ballot boxes and ballots in Section 17-13-15;
- 9) the elimination of a requirement that election certificates be signed in triplicate in Section 17-13-16;
- 10) a change in procedures in Section 17-13-17;
- 11) and the elimination of the prohibition that no more than one sheriff's deputy or police officer may enter the polling place in Section 17-13-26;

Chapter 13: Article 2: Political Parties - the changes in nomination procedures, poll worker selection procedures, and polling place procedures in Section 17-13-48; and the change in nomination deadlines in Section 17-13-50;

Chapter 13: Article 3: Contests of Primary Elections - the change in nomination procedures in Section 17-13-70; the deletion of obsolete terms in Section 17-13-71; the change in fee schedule in Section 17-13-77; and the timing changes in contest procedures in Sections 17-13-80 through 17-13-83, 17-13-85, 17-13-86 and 17-13-104;

Chapter 14: General Elections - the technical changes in terms and duties in Section 17-14-33; the changes in terms in Sections 17-14-34 and 17-14-35; and the changes in terms and procedures in 17-14-51, and 17-14-72;

Chapter 15: Special Elections - the change in terms and duties regarding writs of election in Section 17-15-3; and the changes in terms and duties pertaining to notices of elections and transfer of penalty provisions in Sections 17-15-5 and 17-15-6;

Chapter 16: Post Election Procedures -

- 1) changes in terms and deletion of obsolete references including those reflecting use of electronic voting equipment and the change in duties to require the sheriff or deputy sheriff to accompany electronic voting machine specialists assisting in precincts in Section 17-16-1;
- 2) a technical clarification, change in terms, and clarification of procedures in Section 17-16-20;
- 3) a technical change relating to standing to contest an election and changes in terms, duties, and procedures regarding recounts and the deletion of obsolete references in Section 17-16-21;
- 4) the changes in terms, deletion of obsolete references, and changes in election challenge procedures in certain circumstances in Section 17-16-40;

- 5) the changes in terms and deletion of obsolete references in Section 17-16-41;
- 6) a change in the fee schedule in Section 17-16-43;
- 7) a change in terms in Section 17-16-44;
- 8) the conforming changes in terms in Sections 17-16-45 and 17-16-46;
- 9) the clarifying changes in Sections 17-16-50 through 17-16-52;
- 10) the clarifying change regarding payment of costs associated with challenges in Section 17-16-53;
- 11) and the deletion of obsolete references in Section 17-16-71;

Chapter 17: Election Offenses -

- 1) the change in the penalty provision in Section 17-17-2;
- 2) the changes in duties and standards pertaining to sworn election officials and change in penalty provision in Section 17-17-3;
- 3) the clarifying changes and change in penalty provision in Section 17-17-4;
- 4) the re-codification of Section 17-17-5;
- 5) the changes in language and changes in penalty provisions in Sections 17-17-6 through Section 17-17-8;
- 6) the changes in language in Section 17-17-9;
- 7) the changes in language and penalty provisions in Sections 17-17-10 through 17-17-12;
- 8) the change in penalty provision to a Class C felony in Section 17-17-13;
- 9) the change in penalty provision in Section 17-17-14;
- 10) the change in penalty provision to a Class C felony in Section 17-17-15;
- 11) the clarifying change regarding a "signed" poll list and the change in penalty provision in Section 17-17-16;
- 12) the changes in penalty provisions in Sections 17-17-17 and 17-17-18;
- 13) the deletion of an obsolete reference and change in penalty provision to Class C felony in Section 17-17-19;

- 14) the elimination of the term "election" and the change in penalty provision in Section 17-17-20;
- 15) the changes in penalty provisions in Sections 17-17-21 through 17-17-24;
- 16) the clarifying change to include reference to Chapter 11 in Section 17-17-25;
- 17) the clarifying changes in Section 17-17-26;
- 18) the re-codification of Sections 17-17-27 and 17-17-28;
- 19) the changes in penalty provision of Sections 17-17-29 and 17-17-30;
- 20) the changes in terms and duties and penalty provisions in Sections 17-17-31 and 17-17-32;
- 21) the changes in penalty provisions in Sections 17-17-33 and 17-17-34;
- 22) the deletion of obsolete references and stylistic changes in Section 17-17-35;
- 23) the changes in penalty provisions in Sections 17-17-36 through 17-17-40;
- 24) the changes in terms in Section 17-17-41;
- 25) the changes in penalty provisions in Sections 17-17-42 through 17-17-45;
- 26) the stylistic changes in Section 17-17-46;
- 27) the changes in penalty provisions in Sections 17-17-47 through 17-17-49;
- 28) the re-codifying of Section 17-17-50;
- 29) the clarification changes and changes in penalty provisions in Sections 17-17-51 through 17-17-54;
- 30) the change from "inspector to "any person" prohibited from marking a ballot contrary to a voter's intent and a change in the penalty provision of Section 17-17-55;
- 31) and the technical change and change in penalty provision in Section 17-17-56.

Additionally, the Attorney General does not interpose an objection to the grammatical and stylistic changes, including gender neutrality, incorporated throughout Title 17 of the Election Code.