

1 HB334
2 165352-1
3 By Representatives Fincher and Hanes
4 RFD: Constitution, Campaigns and Elections
5 First Read: 19-MAR-15

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8 SYNOPSIS: Under existing law, there is a separate
9 ballot for each party for which there are
10 candidates in primary elections, and an elector may
11 only vote for candidates of one political party.

12 This bill would create a primary election
13 system for state and local offices where all
14 qualified candidates, including independent
15 candidates, would have their names on the primary
16 election ballot and all qualified electors may vote
17 the same ballot.

18 This bill would provide that the two
19 candidates that receive the highest number of votes
20 in a primary election, regardless of their party
21 affiliation or lack thereof, would be placed on the
22 ballot in the general election.

23 This bill would also authorize the Secretary
24 of State to adopt rules to carry out the provisions
25 of this act.

26
27 A BILL

1 TO BE ENTITLED

2 AN ACT

3
4 Relating to primary elections; to amend 17-5-2,
5 17-5-7, 17-5-8, 17-6-21, 17-6-22, 17-9-3, 17-11-12, 17-13-1,
6 17-13-2, 17-13-3, 17-13-7, 17-13-8, 17-13-16, 17-13-18,
7 17-13-50, 17-16-45, 17-16-46, and 21-4-21, Code of Alabama
8 1975; to repeal Sections 17-13-19, 17-13-20, 17-13-21, and
9 17-13-42, Code of Alabama 1975; to create a primary election
10 system for state and local offices where all qualified
11 candidates, including independent candidates, would have their
12 names on the primary election ballot and all qualified
13 electors may vote the same ballot; to provide that the two
14 candidates that receive the highest number of votes in a
15 primary election, regardless of their party affiliation or
16 lack thereof, would be placed on the ballot in the general
17 election; and to authorize the Secretary of State to adopt
18 rules to carry out the provisions of this act.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 17-5-2, 17-5-7, 17-5-8, 17-6-21,
21 17-6-22, 17-9-3, 17-11-12, 17-13-1, 17-13-2, 17-13-3, 17-13-7,
22 17-13-8, 17-13-16, 17-13-18, 17-13-50, 17-16-45, 17-16-46, and
23 21-4-21, Code of Alabama 1975, are amended to read as follows:

24 "§17-5-2.

25 "(a) For purposes of this chapter, the following
26 terms shall have the following meanings:

1 "(1) CANDIDATE. An individual who has done any of
2 the following:

3 "a. Taken the action necessary under the laws of the
4 state to qualify himself or herself for nomination or for
5 election to any state office or local office or in the case of
6 an independent seeking ballot access, on the date when he or
7 she files a petition with the judge of probate in the case of
8 county offices, with the appropriate qualifying municipal
9 official in the case of municipal offices, or the Secretary of
10 State in all other cases.

11 "b. Received contributions or made expenditures in
12 excess of one thousand dollars (\$1,000), or given his or her
13 consent for any other person or persons to receive
14 contributions or make expenditures in excess of one thousand
15 dollars (\$1,000), with a view to bringing about his or her
16 nomination or election to any state office or local office.

17 "(2) CONTRIBUTION.

18 "a. Any of the following shall be considered a
19 contribution:

20 "1. A gift, subscription, loan, advance, deposit of
21 money or anything of value, a payment, a forgiveness of a
22 loan, or payment of a third party, made for the purpose of
23 influencing the result of an election.

24 "2. A contract or agreement to make a gift,
25 subscription, loan, advance, or deposit of money or anything
26 of value for the purpose of influencing the result of an
27 election.

1 "3. Any transfer of anything of value received by a
2 political committee from another political committee,
3 political party, or other source.

4 "4. The payment of compensation by any person for
5 the personal services or expenses of any other person if the
6 services are rendered or expenses incurred on behalf of a
7 candidate, political committee, or political party without
8 payment of full and adequate compensation by the candidate,
9 political committee, or political party. Provided, however,
10 that the payment of compensation by a corporation for the
11 purpose of establishing, administering, or soliciting
12 voluntary contributions to a separate, segregated fund as
13 permitted in this chapter, shall not constitute a
14 contribution.

15 "b. The term "contribution" does not include:

16 "1. The value of services provided without
17 compensation by individuals who volunteer a portion or all of
18 their time on behalf of a candidate or political committee.

19 "2. The use of real or personal property and the
20 cost of invitations, food, or beverages, voluntarily provided
21 by an individual to a candidate or political committee in
22 rendering voluntary personal services on the individual's
23 residential or business premises for election-related
24 activities.

25 "3. The sale of any food or beverage by a vendor for
26 use in an election campaign at a charge to a candidate or
27 political committee less than the normal comparable charge, if

1 the charge to the political committee for use in an election
2 campaign is at least equal to the cost of the food or beverage
3 to the vendor.

4 "4. Any unreimbursed payment for travel expenses
5 made by an individual who, on his or her own behalf,
6 volunteers personal services to a candidate or political
7 committee.

8 "5. The payment by a state or local committee of a
9 political party of the cost of preparation, display, or
10 mailing or other distribution incurred by the committee with
11 respect to a printed slate card or sample ballot, or other
12 printed listing of two or more candidates for any public
13 office for which an election is held in the state, except that
14 this subparagraph shall not apply in the case of costs
15 incurred by the committee with respect to a display of the
16 listing made on broadcasting stations, or in newspapers,
17 magazines, or other similar types of general public political
18 advertising.

19 "6. The value or cost of polling data and voter
20 preference data and information if provided to a candidate or
21 political committee, unless the information was compiled with
22 the advance knowledge of and approval of the candidate or the
23 political committee.

24 "(3) DESIGNATED FILING AGENT. An individual
25 appointed and authorized as attorney in fact to electronically
26 submit any report or other filing required by this chapter on

1 behalf of a candidate, his or her principal campaign
2 committee, or a political action committee.

3 "(4) ELECTION. Unless otherwise specified, any
4 general, special, or primary, ~~or runoff~~ election, or any
5 convention or caucus of a political party held to nominate a
6 candidate, or any election at which a constitutional amendment
7 or other proposition is submitted to the popular vote.

8 "(5) ELECTIONEERING COMMUNICATION. Any communication
9 disseminated through any federally regulated broadcast media,
10 any mailing, or other distribution, electronic communication,
11 phone bank, or publication which (i) contains the name or
12 image of a candidate; (ii) is made within 120 days of an
13 election in which the candidate will appear on the ballot;
14 (iii) the only reasonable conclusion to be drawn from the
15 presentation and content of the communication is that it is
16 intended to influence the outcome of an election; and (iv)
17 entails an expenditure in excess of one thousand dollars
18 (\$1,000).

19 "(6) EXPENDITURE.

20 "a. The following shall be considered expenditures:

21 "1. A purchase, payment, distribution, loan,
22 advance, deposit, or gift of money or anything of value made
23 for the purpose of influencing the result of an election.

24 "2. A contract or agreement to make any purchase,
25 payment, distribution, loan, advance, deposit, or gift of
26 money or anything of value, for the purpose of influencing the
27 result of an election.

1 "3. The transfer, gift, or contribution of funds of
2 a political committee to another political committee.

3 "b. The term "expenditure" does not include:

4 "1. Any news story, commentary, or editorial
5 prepared by and distributed through the facilities of any
6 broadcasting station, newspaper, magazine, or other periodical
7 publication, unless the facilities are owned or controlled by
8 any political party or political committee.

9 "2. Nonpartisan activity designed to encourage
10 individuals to register to vote, or to vote.

11 "3. Any communication by any membership organization
12 to its members or by a corporation to its stockholders and
13 employees if the membership organization or corporation is not
14 organized primarily for the purpose of influencing the result
15 of an election.

16 "4. The use of real or personal property and the
17 cost of invitations, food, or beverages, voluntarily provided
18 by an individual in rendering voluntary personal services on
19 the individual's residential or business premises for
20 election-related activities.

21 "5. Any unreimbursed payment for travel expenses
22 made by an individual who, on his or her own behalf,
23 volunteers personal services to a candidate or political
24 committee.

25 "6. Any communication by any person which is not
26 made for the purposes of influencing the result of an
27 election.

1 "7. The payment by a state or local committee of a
2 political party of the cost of preparation, display, or
3 mailing or other distribution incurred by the committee with
4 respect to a printed slate card or sample ballot, or other
5 printed listing of two or more candidates for any public
6 office for which an election is held in the state, except that
7 this subparagraph shall not apply in the case of costs
8 incurred by the committee with respect to a display of the
9 listing made on broadcasting stations, or in newspapers,
10 magazines, or other similar types of general public political
11 advertising.

12 "(7) IDENTIFICATION. The full name and complete
13 address.

14 "(8) LOAN. A transfer of money, property, or
15 anything of value in consideration of a promise or obligation,
16 conditional or not, to repay in whole or part.

17 "(9) LOCAL OFFICE. Any office under the constitution
18 and laws of the state, except circuit, district, or
19 legislative offices, filled by election of the registered
20 voters of a single county or municipality, or by the voters of
21 a division contained within a county or municipality.

22 "(10) PERSON. An individual, partnership, committee,
23 association, corporation, labor organization, or any other
24 organization or group of persons.

25 "(11) PERSONAL AND LEGISLATIVE LIVING EXPENSES.
26 Household supplies, personal clothing, tuition payments,
27 mortgage, rent, or utility payments for a personal residence;

1 admission to an entertainment event or fees for a country club
2 or social club, unless tied to a specific campaign event or
3 functions involving constituents; and any other expense,
4 excluding food and beverages, that would exist irrespective of
5 the candidate's campaign or duties as a legislator. Personal
6 and legislative living expenses shall not include expenses for
7 food, beverages, travel, or communications incurred by the
8 legislator in the performance of the office held.

9 "(12) POLITICAL ACTION COMMITTEE. Any committee,
10 club, association, political party, or other group of one or
11 more persons, whether in-state or out-of-state, which receives
12 or anticipates receiving contributions and makes or
13 anticipates making expenditures to or on behalf of any Alabama
14 state or local elected official, proposition, candidate,
15 principal campaign committee or other political action
16 committee. For the purposes of this chapter, a person who
17 makes a political contribution shall not be considered a
18 political action committee by virtue of making such
19 contribution.

20 "(13) POLITICAL PARTY. A political party as defined
21 in Section 17-13-40.

22 "(14) PRINCIPAL CAMPAIGN COMMITTEE. The principal
23 campaign committee designated by a candidate under Section
24 17-5-4. A political action committee established primarily to
25 benefit an individual candidate or an individual elected
26 official shall be considered a principal campaign committee
27 for purposes of this chapter.

1 "(15) PROPOSITION. Any proposal for submission to
2 the general public for its approval or rejection, including
3 proposed as well as qualified ballot questions.

4 "(16) PUBLIC OFFICIAL. Any person elected to public
5 office, whether or not that person has taken office, by the
6 vote of the people at the state, county, or municipal level of
7 government or their instrumentalities, including governmental
8 corporations, and any person appointed to a position at the
9 state, county, or municipal level of government or their
10 instrumentalities, including governmental corporations. For
11 purposes of this chapter, a public official includes the
12 chairs and vice chairs or the equivalent offices of each state
13 political party as defined in Section 17-13-40.

14 "(17) STATE. The State of Alabama.

15 "(18) STATE OFFICE. All offices under the
16 constitution and laws of the state filled by election of the
17 registered voters of the state or of any circuit or district
18 and shall include legislative offices.

19 "(b) The words and terms used in this chapter shall
20 have the same meanings respectively ascribed to them in
21 Section 36-25-1.

22 "§17-5-7.

23 "(a) Except as provided in subsection (d) and in
24 Section 17-5-7.1, a candidate, public official, or treasurer
25 of a principal campaign committee as defined in this chapter,
26 may only use campaign contributions, and any proceeds from
27 investing the contributions that are in excess of any amount

1 necessary to defray expenditures of the candidate, public
2 official, or principal campaign committee, for the following
3 purposes:

4 "(1) Necessary and ordinary expenditures of the
5 campaign.

6 "(2) Expenditures that are reasonably related to
7 performing the duties of the office held. For purposes of this
8 section, expenditures that are reasonably related to
9 performing the duties of the office held do not include
10 personal and legislative living expenses, as defined in this
11 chapter.

12 "(3) Donations to the State General Fund, the
13 Education Trust Fund, or equivalent county or municipal funds.

14 "(4) Donations to an organization to which a federal
15 income tax deduction is permitted under subparagraph (A) of
16 paragraph (1) of subsection (b) of Section 170 of the Internal
17 Revenue Code of 1986, as amended, or any other charitable,
18 educational, or eleemosynary cause of Section 501 of Title 26
19 of the U. S. Code.

20 "(5) Inaugural or transitional expenses.

21 "(6) Donations to a legislative caucus organization
22 registered under this chapter which does not operate as a
23 political action committee.

24 "(b) Notwithstanding any other provision of law,
25 including, but not limited to, Section 13A-10-61, a candidate,
26 public official, or principal campaign committee may only
27 accept, solicit, or receive contributions:

1 "(1) To influence the outcome of an election.

2 "(2) For a period of 12 months before an election in
3 which the person intends to be a candidate. Provided, however,
4 candidates for legislative and statewide office and their
5 principal campaign committees may not accept, solicit, or
6 receive contributions during the period when the Legislature
7 is convened in session. For purposes of this section, the
8 Legislature is convened in session at any time from the
9 opening day of the special or regular session and continued
10 through the day of adjournment sine die for that session.
11 However, this subdivision shall not apply within 120 days of
12 any primary, ~~runoff~~, or general election, and shall not apply
13 to the candidates or their principal campaign committees
14 participating in any special election as called by the
15 Governor. This subdivision shall not apply to a loan from a
16 candidate to his or her own principal campaign committee.

17 "(3) For a period of 120 days after the election in
18 which the person was a candidate, but only to the extent of
19 any campaign debt of the candidate or principal campaign
20 committee of the candidate as indicated on the campaign
21 financial disclosure form or to the extent of reaching the
22 threshold that is required for qualification as a candidate
23 for the office which he or she currently holds, or both.

24 "(4) For the purpose of paying all expenses
25 associated with an election challenge including, but not
26 limited to, quo warranto challenges.

1 "(c) Notwithstanding any other provision of law,
2 including, but not limited to, Section 13A-10-61, a candidate,
3 public official, or principal campaign committee shall not
4 accept, solicit, or receive contributions for any of the
5 following reasons:

6 "(1) As a bribe, as defined by Sections 13A-10-60 to
7 13A-10-63, inclusive.

8 "(2) For the intention of corruptly influencing the
9 official actions of the public official or candidate for
10 public office.

11 "(d) Notwithstanding any other provision of law, a
12 principal campaign committee, during a two-year period
13 commencing on the day after each regularly scheduled general
14 election and ending on the day of the next regularly scheduled
15 general election, may pay qualifying fees to a political party
16 and in addition thereto, during that period, may expend up to
17 a cumulative total of five thousand dollars (\$5,000) of
18 campaign contributions, and any proceeds from investing the
19 contributions, for the following purposes:

20 "(1) Tickets for political party dinners or
21 functions.

22 "(2) State or local political party dues or similar
23 expenses incurred by independent or write-in candidates.

24 "§17-5-8.

25 "(a) The treasurer, designated filing agent, or
26 candidate, shall file with the Secretary of State or judge of
27 probate, as designated in Section 17-5-9, periodic reports of

1 contributions and expenditures at the following times once a
2 principal campaign committee files its statement under Section
3 17-5-4 or a political action committee files its statement of
4 organization under Section 17-5-5:

5 "(1) Beginning after the 2012 election cycle,
6 regardless of whether a candidate has opposition in any
7 election, monthly reports not later than the second business
8 day of the subsequent month, beginning 12 months before the
9 date of any primary, special, ~~runoff~~, or general election for
10 which a political action committee or principal campaign
11 committee receives contributions or makes expenditures with a
12 view toward influencing such election's result. A monthly
13 report shall include all reportable transactions for the
14 previous full month period. Reports shall be required as
15 provided in subdivisions (2) and (3).

16 "(2) With regard to a primary, special, ~~runoff~~, or
17 general election, a report shall be required weekly on the
18 Monday of the succeeding week for each of the four weeks
19 before the election that includes all reportable activities
20 for the previous week.

21 "(3)a. In addition to the reporting dates specified
22 in subdivisions (1) and (2), reports required to be filed with
23 the Secretary of State shall be filed with the Secretary of
24 State on the eighth, seventh, sixth, fifth, fourth, third, and
25 second day preceding a legislative, state school board, or
26 other statewide primary, special, ~~runoff~~, or general election,
27 and by 12:01 p.m. on the day preceding a legislative, state

1 school board, or statewide, primary, special, ~~runoff,~~ or
2 general election if any principal campaign committee or
3 political action committee receives or spends in the aggregate
4 five thousand dollars (\$5,000) or more on any day with a view
5 toward influencing an election's results. If a daily report is
6 required pursuant to this subdivision, the report shall
7 include all reportable activity occurring on the day of the
8 report as well as all reportable activity that has occurred on
9 each day since the most recent prior report. Principal
10 campaign committees and political action committees that are
11 exempt from electronic filing and principal campaign
12 committees and political action committees required to make
13 daily reports pursuant to this subdivision for the 2012
14 election cycle may file reports by facsimile (FAX)
15 transmission provided they keep proper documentation in their
16 office.

17 "b. Electronic filing on the Secretary of State's
18 website may be implemented sooner than the 2014 election cycle
19 as an alternative method of reporting; however, electronic
20 filing shall be required beginning with the 2014 election
21 cycle. Electronic filings shall be available to the public on
22 a searchable database maintained on the Secretary of State's
23 website.

24 "(b) Except as provided in subsection (k), each
25 principal campaign committee, political action committee, and
26 elected state and local official covered under the provisions
27 of this chapter, shall annually file with the Secretary of

1 State or judge of probate, as designated in Section 17-5-9,
2 reports of contributions and expenditures made during that
3 year. The annual reports required under this subsection shall
4 be made on or before January 31 of the succeeding year.

5 "(c) Each report under this section shall disclose:

6 "(1) The amount of cash or other assets on hand at
7 the beginning of the reporting period and forward until the
8 end of that reporting period and disbursements made from same.

9 "(2) The identification of each person who has made
10 contributions to such committee or candidate within the
11 calendar year in an aggregate amount greater than one hundred
12 dollars (\$100), together with the amount and date of all such
13 contributions; provided, however, in the case of a political
14 action committee identification shall mean the name and city
15 of residence of each person who has made contributions within
16 the calendar year in an aggregate amount greater than one
17 hundred dollars (\$100).

18 "(3) The total amount of other contributions
19 received during the calendar year but not reported under
20 subdivision (c) (2) of this section.

21 "(4) Each loan to or from any person within the
22 calendar year in an aggregate amount greater than one hundred
23 dollars (\$100), together with the identification of the
24 lender, the identification of the endorsers, or guarantors, if
25 any, and the date and amount of such loans.

26 "(5) The total amount of receipts from any other
27 source during such calendar year.

1 "(6) The grand total of all receipts by or for such
2 committee during the calendar year.

3 "(7) The identification of each person to whom
4 expenditures have been made by or on behalf of such committee
5 or elected official within the calendar year in an aggregate
6 amount greater than one hundred dollars (\$100), the amount,
7 date, and purpose of each such expenditure, and, if
8 applicable, the designation of each constitutional amendment
9 or other proposition with respect to which an expenditure was
10 made.

11 "(8) The identification of each person to whom an
12 expenditure for personal services, salaries, and reimbursed
13 expenses greater than one hundred dollars (\$100) has been
14 made, and which is not otherwise reported or exempted from the
15 provisions of this chapter, including the amount, date, and
16 purpose of such expenditure.

17 "(9) The grand total of all expenditures made by
18 such committee or elected official during the calendar year.

19 "(10) The amount and nature of debts and obligations
20 owed by or to the committee or elected official, together with
21 a statement as to the circumstances and conditions under which
22 any such debt or obligation was extinguished and the
23 consideration therefor.

24 "(d) Each report required by this section shall be
25 signed and filed by the elected official or on behalf of the
26 political action committee by its chair or treasurer and, if
27 filed on behalf of a principal campaign committee, by the

1 candidate represented by such committee. There shall be
2 attached to each such report an affidavit subscribed and sworn
3 to by the official or chair or treasurer and, if filed by a
4 principal campaign committee, the candidate represented by
5 such committee, setting forth in substance that such report is
6 to the best of his or her knowledge and belief in all respects
7 true and complete, and, if made by a candidate, that he or she
8 has not received any contributions or made any expenditures
9 which are not set forth and covered by such report.

10 "(e) Commencing with the 2014 election cycle,
11 electronic filing of contributions and expenditures for any
12 legislative, state school board, and statewide primary,
13 special, ~~runoff~~, or general election shall be mandatory,
14 except as provided in subsection (g). The Secretary of State
15 may provide electronic reporting sooner than the 2014 election
16 cycle. Electronic filing shall satisfy any filing requirements
17 of this chapter and no paper filing is required for any report
18 filed electronically.

19 "(f) In the 2012 election cycle the provisions for
20 the time of filing contained in subsection (a) shall apply to
21 the paper or facsimile (FAX) filings for any legislative,
22 state school board, or statewide primary, special, ~~runoff~~, or
23 general election.

24 "(g) Electronic filing of reports shall not apply to
25 any campaign, principal campaign committee, or political
26 action committee receiving ten thousand dollars (\$10,000) or
27 less per election cycle.

1 "(h) In connection with any electioneering
2 communication paid for by a person, nonprofit corporation,
3 entity, principal campaign committee, or other political
4 committee or entity, the payor shall disclose its
5 contributions and expenditures in accordance with this
6 section. The disclosure shall be made in the same form and at
7 the same time as is required of political action committees in
8 this section; provided, however, no duplicate reporting shall
9 be required by a political committee.

10 "(i) Notwithstanding any disclosure requirements of
11 subsection (h), churches are exempt from the requirements of
12 this section unless the church's expenditures are used to
13 influence the outcome of an election. Nothing herein shall
14 require a church to disclose the identities, donations, or
15 contributions of members of the church. As used in this
16 section, the term church is defined in accordance with and
17 recognized by Internal Revenue Service guidelines and
18 regulations.

19 "(j) Notwithstanding the disclosure requirements of
20 this section, the provisions of this section shall not be
21 interpreted to nor shall they require any disclosure for
22 expenses incurred for any electioneering communication used by
23 any membership or trade organization to communicate with or
24 inform its members, its members' families, or its members'
25 employees or for any electioneering communication by a
26 business entity of any type to its employees or stockholders
27 or their families.

1 "(k) Each report required by this section shall
2 include all reportable transactions occurring since the most
3 recent prior report; however, duplicate reporting is not
4 required by this section. A political action committee or
5 principal campaign committee that is required to file a daily
6 report is not required to also file a weekly report for the
7 week preceding an election specified in subdivision (3) of
8 subsection (a); a committee required to file a weekly report
9 is not required to also file a monthly report in the month in
10 which the election is held; and a committee required to file a
11 monthly report is not required to also file an annual report
12 in the year in which the election is held. The monetary
13 balance in a report of each committee shall begin at the
14 monetary amount appearing in the most recent prior report.

15 "(l) The Secretary of State may promulgate
16 administrative rules pursuant to the Alabama Administrative
17 Procedure Act as are necessary to implement and administer the
18 changes made to this section by Act 2012-477.

19 "§17-6-21.

20 "(a) The official ballots shall contain the names of
21 all candidates nominated by caucus, convention, mass meeting,
22 primary election, or other assembly of any political party or
23 faction, or by petition of electors and certified as provided
24 in Section 17-9-3, but no person's name shall be printed upon
25 the ballots who, within the time period set forth in
26 subsection (c), notifies the judge of probate in writing,
27 acknowledged before an officer authorized by law to take

1 acknowledgments, that he or she will not accept the nomination
2 specified in the certificate of nomination or petition of
3 electors. The name of each candidate shall appear but one time
4 on the ballot and under only one emblem.

5 "(b) A nomination for a candidate in a primary or
6 general election shall be finalized by the respective state
7 executive committees not later than 76 days before the primary
8 or general election. Any amendment to a certification of a
9 candidate by a state executive committee shall be filed with
10 the judge of probate in the case of a county office, or the
11 Secretary of State in the case of a state or federal office.
12 Any amendment filed after the 76th day before a primary or a
13 general election shall be accepted by the judge of probate or
14 the Secretary of State but shall not be cause for reprinting
15 of the ballots. The name of a candidate who is the subject of
16 the amendment and who is disqualified by a political party or
17 who has withdrawn as a candidate shall remain on the ballot,
18 not be replaced by the name of another candidate, and the
19 appropriate canvassing board shall not certify any votes for
20 the candidate. Any amendment to a certification to correct the
21 spelling of the name of a candidate that is filed after the
22 76th day before a primary or general election, ~~or after the~~
23 ~~printing of absentee ballots for a primary runoff election has~~
24 ~~commenced,~~ shall not be cause for reprinting of the ballots
25 and shall not affect the counting or certification of any
26 votes cast for the candidate.

1 "(c) The notification deadline for persons who do
2 not wish to accept nomination in a primary election is 76 days
3 before the date of the election. ~~A person who does not wish to~~
4 ~~accept nomination in a second primary election shall submit~~
5 ~~the notification set forth in subsection (a) before the~~
6 ~~printing of absentee ballots.~~ The notification deadline for
7 persons who do not wish to accept nomination in a general
8 election is 76 days before the date of the election. In the
9 event that a candidate submits a notification of withdrawal
10 after the applicable deadline, the name of the candidate shall
11 remain on the ballot and the appropriate canvassing board may
12 not certify any votes for the candidate.

13 "§17-6-22.

14 "(a) No political party, except those qualified as a
15 political party under Chapter 13, shall be included on any
16 general election ballot unless:

17 "(1) The party shall have filed with the Secretary
18 of State or other appropriate official on the date of the
19 ~~first~~ primary election a list of the signatures of at least
20 three percent of the qualified electors who cast ballots for
21 the office of Governor in the last general election for the
22 state, county, city, district, or other political subdivision
23 in which the political party seeks to qualify candidates for
24 office; and unless

25 "(2) The party shall have fulfilled all other
26 applicable requirements of federal, state, or local laws.

1 "(b) The provisions of this section are supplemental
2 to the provisions of Chapter 13, and other laws regarding the
3 conduct of elections in Alabama, and shall repeal only those
4 laws or parts of laws in direct conflict herewith.

5 "§17-9-3.

6 "(a) The following persons shall be entitled to have
7 their names printed on the appropriate ballot for ~~the general~~
8 a primary election, provided they are otherwise qualified for
9 the office they seek:

10 "~~(1) All candidates who have been put in nomination~~
11 ~~by primary election and certified in writing by the chair and~~
12 ~~secretary of the canvassing board of the party holding the~~
13 ~~primary and filed with the judge of probate of the county, in~~
14 ~~the case of a candidate for county office, and the Secretary~~
15 ~~of State in all other cases, on the day next following the~~
16 ~~last day for contesting the primary election for that office~~
17 ~~if no contest is filed. If a contest is filed, then the~~
18 ~~certificate for the contested office must be filed on the day~~
19 ~~next following the date of settlement or decision of the~~
20 ~~contest.~~

21 "~~(2)~~ (1) All candidates who have been put in
22 nomination by any caucus, convention, mass meeting, or other
23 assembly of any political party or faction and certified in
24 writing by the chair and secretary of the nominating caucus,
25 convention, mass meeting, or assembly and filed with the judge
26 of probate, in the case of a candidate for county office, and
27 the Secretary of State in all other cases, on or before 5:00

1 P.M. on the date of the ~~first~~ primary election as provided for
2 in Section 17-13-3.

3 ~~"(3)~~ (2) Each candidate who has been requested to be
4 an independent candidate for a specified office by written
5 petition signed by electors qualified to vote in the election
6 to fill the office when the petition has been filed with the
7 judge of probate, in the case of a county office and with the
8 Secretary of State in all other cases, on or before 5:00 P.M.
9 on the date of the ~~first~~ primary election as provided for in
10 Section 17-13-3. The number of qualified electors signing the
11 petition shall equal or exceed three percent of the qualified
12 electors who cast ballots for the office of Governor in the
13 last general election for the state, county, district, or
14 other political subdivision in which the candidate seeks to
15 qualify.

16 "(b) The two candidates who received the greatest
17 number of votes cast for an office in a primary election shall
18 be entitled to have their names printed on the appropriate
19 ballot for the general election. The Secretary of State, not
20 later than 74 days before the general election, shall certify
21 to the judge of probate of each county in the state, in the
22 case of an officer to be voted for by the electors of the
23 whole state, and to the judges of probate of the counties
24 composing the circuit or district in the case of an officer to
25 be voted for by the electors of a circuit or district, ~~upon~~
26 ~~suitable blanks to be prepared by him or her for that purpose,~~
27 ~~the fact of nomination or independent candidacy of each~~

1 ~~nominee or independent candidate or candidate of a party who~~
2 ~~did not receive more than 20 percent of the entire vote cast~~
3 ~~in the last general election preceding the primary who has~~
4 ~~qualified to appear on the general election ballot. The judge~~
5 ~~of probate shall then prepare the ballot with the names of~~
6 ~~each candidate qualified under the provisions of this section~~
7 ~~printed on the ballot. The judge of probate may not print on~~
8 ~~the ballot the name of any independent candidate who was a~~
9 ~~candidate in the primary election of that year and the name of~~
10 ~~any nominee of a political party who was a candidate for the~~
11 ~~nomination of a different political party in the primary~~
12 ~~election of that year the names of the applicable candidates.~~

13 "§17-11-12.

14 "Not less than 55 days prior to the holding of any
15 election, except a municipal election, to which this chapter
16 pertains, ~~or in the case of a runoff primary election, not~~
17 ~~more than seven days after the first primary election,~~ the
18 officer charged with the printing and distribution of the
19 official ballots and election supplies shall deliver to the
20 absentee election manager of each county in which the election
21 is held or to the person designated to serve in his or her
22 place a sufficient number of absentee ballots, envelopes, and
23 other necessary supplies. Not more than seven days after the
24 last day to qualify as a candidate in a municipal election, or
25 in the case of a runoff municipal election, not more than 14
26 days after the first election, or in the case of a municipal
27 election held for a purpose other than the election of

1 municipal officers, not more than seven days after the giving
2 of notice of the election, the officer charged with the
3 printing and distribution of the official ballots and election
4 supplies shall deliver to the absentee election manager of the
5 municipality in which the election is held, or to the person
6 designated to serve in his or her place, a sufficient number
7 of absentee ballots, envelopes, and other necessary supplies.
8 If the absentee election manager is a candidate with
9 opposition in the election, he or she shall immediately, upon
10 receipt of the ballots, envelopes, and supplies, deliver them
11 to the person authorized to act in his or her place, as
12 provided in Section 17-11-13.

13 "§17-13-1.

14 "A primary election, including a separate and
15 special presidential preference primary election, within the
16 meaning of this chapter, is an election held by the qualified
17 voters ~~who are members of any political party,~~ for the purpose
18 of nominating a candidate or candidates for public or party
19 office.

20 "§17-13-2.

21 "All primary elections ~~held by any political party~~
22 in this state for the nomination of any state, national,
23 district, circuit, county, or municipal officer shall be held
24 and conducted under the provisions of this chapter and, except
25 as herein modified, shall be held and conducted in the same
26 manner and form, under the same requirements and subject to
27 the same forfeitures, penalties, and punishments as are now or

1 shall hereafter be provided by law for the holding of ~~regular~~
2 ~~state~~ general elections, ~~but nothing herein contained shall~~
3 ~~make it obligatory upon any political party or parties to hold~~
4 ~~a primary election.~~

5 "§17-13-3.

6 "(a) Except as otherwise provided in subsection (b),
7 primary elections, except special primary elections and
8 presidential preference primaries, held at the expense of the
9 state or counties, shall be held on the first Tuesday in June.
10 ~~When necessary, as provided in this chapter, a second or~~
11 ~~runoff primary election shall be held on the sixth Tuesday~~
12 ~~following the primary election. Any second primary shall be~~
13 ~~held by the same election officers who held the first primary,~~
14 ~~and be held at the same places as the first primary election.~~
15 No primary shall be held by any political party except as
16 herein provided. Primary elections herein provided for shall
17 be held at the regular polling places established for the
18 purpose of holding general elections.

19 "(b) In years in which a presidential primary is
20 conducted, the primary election shall be the second Tuesday in
21 March.

22 "(c) Notwithstanding any other provision of law, in
23 any year in which the primary election is held in March and
24 the primary election is held in conjunction with the
25 presidential preference primary election, as provided in this
26 section and Section 17-13-100, any reference in any existing

1 statutes to a primary election being held in June shall be
2 construed to refer to the primary election in March.

3 "§17-13-7.

4 ~~"(a) All persons who are qualified electors under~~
5 ~~the general laws of the State of Alabama and who are also~~
6 ~~members of a political party and entitled to participate in~~
7 ~~such primary election under the rules of the party shall be~~
8 ~~entitled to vote therein in a primary election and shall~~
9 ~~receive the official primary ballot of that political party,~~
10 ~~and no other ; but every governing body of a party shall have~~
11 ~~the right, power, and authority to fix and prescribe the~~
12 ~~political or other qualifications of its own members and~~
13 ~~shall, in its own way, declare and determine who shall be~~
14 ~~entitled and qualified to vote in such primary election or to~~
15 ~~be candidates therein or to otherwise participate in such~~
16 ~~political parties and primaries containing the names of all~~
17 ~~qualified candidates, as provided in Section 17-9-3. The~~
18 ~~qualifications of electors entitled to vote in such primary~~
19 ~~election shall not necessarily be the same as the~~
20 ~~qualifications for electors entitled to become candidates~~
21 ~~therein. Nothing herein contained shall be so construed as to~~
22 ~~prohibit any state executive committee of a party from fixing~~
23 ~~such qualifications as it may deem necessary for persons~~
24 ~~desiring to become candidates for nomination to offices at a~~
25 ~~primary election.~~

26 ~~"(b) A political party may require all poll lists~~
27 ~~for primary elections to state at the top thereof that by~~

1 ~~participating in the primary election a voter shall indicate a~~
2 ~~preference for the party holding the primary, and will support~~
3 ~~the nominees of that party in the general election, and that~~
4 ~~he or she is qualified under the rules of such party to vote~~
5 ~~in its primary election. No person shall be eligible to~~
6 ~~participate in the primary unless he or she signs the poll~~
7 ~~list and thereby certifies to the truth of the statement.~~

8 "§17-13-8.

9 ~~"Separate official ballots and other election~~
10 ~~stationery and supplies for each political party Official~~
11 ~~ballots containing the names of all qualified candidates, as~~
12 ~~provided in Section 17-9-3, shall be printed and furnished for~~
13 ~~use at each election district or precinct ~~and shall be of a~~~~
14 ~~different color for each of the political parties~~
15 ~~participating in such primary election. All ballots for the~~
16 ~~same political party shall be alike, ~~except as herein~~~~
17 ~~otherwise provided,~~ printed in plain type and upon paper so
18 thick that the printing cannot be distinguished from the back.
19 Across the top of the ballot shall be printed ~~the party's~~
20 ~~emblem, if any, and the words, "Official Primary Election~~
21 ~~Ballot."~~ Beneath this heading shall be printed the year in
22 which the election is held ~~and the words "Democratic Party" or~~
23 ~~"Republican Party" or other proper party designation. Each~~
24 ~~group of candidates to be voted on shall be preceded by the~~
25 ~~designation of the office for which the candidates seek~~
26 ~~nomination, and in the proper place shall be printed the words~~

1 "Vote for one" or "Vote for two" (or more) according to the
2 number to be elected to such office at the ensuing election.

3 ~~"At the option of a political party at the bottom of~~
4 ~~the ballot and after the name of the last candidate shall be~~
5 ~~printed the following: "By casting this ballot I do pledge~~
6 ~~myself to abide by the result of this primary election and to~~
7 ~~aid and support all the nominees thereof in the ensuing~~
8 ~~general election."~~

9 ~~"Should any voter scratch out, deface, or in any way~~
10 ~~mutilate or change the pledge printed on the ballot, the voter~~
11 ~~shall not be considered or held to have repudiated or to have~~
12 ~~refused to take the pledge, but shall, conclusively, be~~
13 ~~presumed and held to have scratched out, defaced, or mutilated~~
14 ~~or changed the same for the sole purpose of identifying the~~
15 ~~ballot; and, accordingly, such ballot shall be marked "spoiled~~
16 ~~ballot" and shall not be counted.~~

17 "§17-13-16.

18 "The counting of the ballots having been completed,
19 the results shall be publicly proclaimed. ~~Separate~~
20 ~~certificates for each of the political parties entering the~~
21 ~~primary and the~~ The results of the election shall be drawn up
22 by the inspector and clerks at each and every voting place,
23 which shall contain all matters and things provided for in the
24 law regulating general elections. The certificates shall be
25 signed by the election workers; one copy of the same shall be
26 forthwith posted in a conspicuous place at such voting place,
27 one copy shall be transmitted to the chair of the county

1 executive committee of each of the political parties in the
2 primary, at such place as the county executive committee of
3 the county shall designate at which to receive such returns,
4 and another copy shall be transmitted to the chairs of the
5 state executive committees of the political parties
6 participating in the primary.

7 "§17-13-18.

8 ~~"(a) At the respective meetings of the respective~~
9 ~~executive committees, the county executive committee, as to~~
10 ~~candidates in the primary election for office, except~~
11 ~~candidates for county office, shall publicly ascertain,~~
12 ~~determine, and declare whether any candidate for office in the~~
13 ~~primary election has received a majority of votes cast for the~~
14 ~~office, and, if so, declare the candidate the nominee of the~~
15 ~~party for the office for which he or she was a candidate and~~
16 ~~for which he or she received a majority of votes cast for that~~
17 ~~office in the primary election.~~

18 ~~"(b) If no candidate receives a majority of all of~~
19 ~~the votes cast in such primary election for any one office or~~
20 ~~offices for the nomination to which there were more than two~~
21 ~~candidates, then there shall be held a second primary election~~
22 ~~on the sixth Tuesday following the primary election, and the~~
23 ~~chair of the state executive committee shall certify to the~~
24 ~~Secretary of State, immediately upon the completion of such~~
25 ~~canvass, the names of the two candidates of the party to~~
26 ~~receive the highest number of votes in the first primary~~
27 ~~election for such office or offices, except county officers,~~

1 and who are to be voted for in the second primary election.
2 The chair of each county executive committee shall,
3 immediately upon the completion of such canvass, certify to
4 the judge of probate of the county the names of the two
5 candidates who received the highest number of votes in the
6 first primary for nomination to any county office. The
7 Secretary of State shall, within two business days from the
8 date the certificate is received from the chair of the state
9 executive committee, certify to the judge of probate of any
10 county where a second primary election is to be held the name
11 or names of the candidates certified as herein provided by the
12 chair of the state executive committee. The judge of probate
13 of each county in Alabama shall in the manner and form as
14 required by this chapter and the general laws of Alabama, have
15 prepared and printed all election supplies and all ballots to
16 be voted in the second primary election, which ballots shall
17 contain, under appropriate headings or titles of the offices
18 to be filled, the names of the two candidates for each office
19 so certified by the Secretary of State and the chair of the
20 county executive committee, as herein required, as well as
21 such other matters as are required by this chapter and the
22 general laws of Alabama, on ballots for the first primary
23 election.

24 "(c) At the second primary election, no person can
25 be a candidate except the two persons who receive the highest
26 number of votes for the offices for which they were candidates
27 in the first primary election.

1 ~~"(d) The returns from the second primary election~~
2 ~~shall be made and the votes canvassed, tabulated, and~~
3 ~~certified and the results declared in the same manner provided~~
4 ~~in this chapter for making, canvassing, tabulating,~~
5 ~~certifying, and declaring the results of the first primary~~
6 ~~election. The county executive committee of the parties~~
7 ~~participating in the primary election shall meet at the~~
8 ~~courthouse of their respective counties not later than the~~
9 ~~second Friday following the second primary election and~~
10 ~~receive the returns, canvass and tabulate the same by~~
11 ~~precinct, and publicly declare the results thereof. The chair~~
12 ~~of each county executive committee shall forthwith, and not~~
13 ~~later than noon on the second Monday following the primary~~
14 ~~election, certify and return to the chair of the state~~
15 ~~executive committee a statement and tabulation by precincts of~~
16 ~~the results of the second primary election and of the number~~
17 ~~of votes received by each candidate for office therein voted~~
18 ~~for, except candidates for county office. Not later than noon~~
19 ~~on the third Wednesday following the second primary election,~~
20 ~~the state executive committee, or such subcommittee thereof as~~
21 ~~may have been appointed by the chair thereof for such purpose,~~
22 ~~shall meet at the State Capitol in Montgomery and receive the~~
23 ~~returns and canvass and tabulate the same by counties, and~~
24 ~~publicly declare on that day the result thereof as to all~~
25 ~~candidates voted for, except as to candidates for county~~
26 ~~office, which results shall be final. At such respective~~
27 ~~meetings of the respective executive committees, the county~~

1 ~~executive committee, as to candidates for county office voted~~
2 ~~for in the second primary election, and the state executive~~
3 ~~committee, as to candidates for office in the second primary~~
4 ~~election voted for therein, except candidates for county~~
5 ~~office, shall publicly ascertain and determine the candidates~~
6 ~~receiving a majority of all of the votes cast in such second~~
7 ~~primary election for any one office, and the candidates so~~
8 ~~ascertained and determined to have received a majority of all~~
9 ~~of the votes cast in such second primary election for the~~
10 ~~office shall be declared the nominee of the party for such~~
11 ~~office by the respective county and state executive~~
12 ~~committees. Thereupon and immediately upon the completion of~~
13 ~~such canvass, the chair thereof shall certify to and file with~~
14 ~~the judge of probate of the county the names of those who have~~
15 ~~been nominated in the first or the second primary election or~~
16 ~~as otherwise authorized or provided by this chapter, as~~
17 ~~candidates of the party for county offices; and in like~~
18 ~~manner, and immediately upon the completion of such canvass,~~
19 ~~by the state executive committee, or subcommittee thereof, the~~
20 ~~chair of the state executive committee shall certify to and~~
21 ~~file with the Secretary of State the names of those who have~~
22 ~~been nominated in the first or second primary election or as~~
23 ~~otherwise authorized or provided by this chapter as candidates~~
24 ~~of the party for office, except candidates for county office,~~
25 ~~and the names of the persons so certified shall be placed upon~~
26 ~~the official ballot of the general election to be held in~~
27 ~~November next thereafter as the candidates of the party for~~

1 ~~the offices for which they, respectively, have been so~~
2 ~~nominated.~~

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

9 "For a single office, the two candidates who receive
10 the greatest number of votes cast for an office in a primary
11 election shall be declared the official candidates for the
12 general election. If there are two or more offices of the same
13 character to be filled, the candidates who received the four
14 highest number of votes, and so on among those not elected in
15 the primary election, until the maximum number of candidates
16 for each office on the general election ballot is reached,
17 shall be the official candidates for the general election.

18 "§17-13-50.

19 "(a) When any political party shall desire to hold
20 any mass meeting, beat meeting, or other meeting of the voters
21 of such party for the purpose of nominating any candidate or
22 candidates for public office to be voted for in a general
23 election in Alabama or for the purpose of selecting delegates
24 or other representatives to any convention which may select
25 such candidates for public office or when any such party shall
26 desire to hold such mass meeting, beat meeting, or other
27 meeting of the voters of such party for the purpose of

1 selecting committeemen, representatives, or other party
2 officers of such party, all of such meetings shall be held as
3 provided in this section.

4 "(b) All such meetings shall be held before the
5 ~~first~~ primary election. The general public is privileged to
6 attend such meetings, but not to participate. No less than
7 five days prior to the date upon which any such mass meeting,
8 beat meeting, or other meeting is to be held, notice of such
9 meeting, including the time and place of such meeting, shall
10 be filed with the judge of probate of the county in which any
11 such meeting is to be held and shall be published in a
12 newspaper of general circulation in the county at the expense
13 of the political party holding such meeting. The judge of
14 probate shall immediately forward to the Secretary of State a
15 certified copy of all notices filed under this section.

16 "§17-16-45.

17 "In all election contests other than political party
18 primaries ~~or runoffs~~, any person or candidate involved in the
19 contest is entitled to make an examination of the ballots
20 cast, given, or rejected in the election, to make an
21 examination of the voting equipment used in the election, and
22 to make an examination of voting machine computations or
23 printouts.

24 "§17-16-46.

25 "In all election contests involving elections other
26 than party primaries ~~or runoffs~~:

1 "(1) The examining person or candidate seeking to
2 examine the ballots, electronic voting machines, or electronic
3 voting machine computations or printouts must move, within 10
4 days of the filing of the contest, the court before whom the
5 election contest is pending for an examination. The court
6 shall set a hearing on the motion for examination which must
7 take place within 10 days after service of the motion on the
8 parties and candidates involved in the election contest. The
9 hearing shall be held to determine the procedures to be used
10 for the examination and the court shall, within five days
11 after the hearing, set forth the procedures for the
12 examination. Absent a subsequent court order extending the
13 time for reasonable cause shown, the examination must be
14 finished within 15 days of the court order which sets forth
15 the examination procedures.

16 "(2) Examination procedures shall be within the
17 discretion of the court. The court shall consider, in
18 determining appropriate procedures, the need to preserve the
19 integrity of the ballots, electronic voting machines, and
20 electronic voting machine computations and printouts; the need
21 to ensure that votes were accurately cast and counted; the
22 need to ensure that all persons and candidates involved in the
23 election have the opportunity to observe the examination and
24 ensure that an examination does not wrongfully alter the
25 election results; the need to expeditiously conclude the
26 election contest; and any other factor which is relevant to
27 the integrity of the election process. The court must, when so

1 requested by any party or candidate involved in the contest,
2 allow such party or candidate, and his or her agents, to
3 observe all of the examination proceedings.

4 "(3) The court shall require the examining party or
5 candidate to make a deposit with the court or post a bond in a
6 sum adequate to ensure prompt payment of all reasonable,
7 necessary, and actual expenses incurred by any governmental
8 entity during and as a result of the examination. If the
9 examining person or candidate prevails in the election contest
10 as a result of information obtained from the examination of
11 the ballots, electronic voting machines, or electronic voting
12 machine computations or printouts, he or she shall not be
13 responsible for any expenses or costs incurred by any
14 governmental entity during and as a result of the examination.

15 "§21-4-21.

16 "As used in this article, unless the context clearly
17 indicates a different meaning, the following terms shall have
18 meanings ascribed to them as follows:

19 "(1) ELDERLY INDIVIDUAL. An individual 65 years of
20 age or older;

21 "(2) ELECTION FOR STATE OFFICE. A general, special,
22 or primary, ~~or runoff~~ election for an executive, legislative
23 or judicial state office that is contested on a statewide
24 basis;

25 "(3) HANDICAPPED INDIVIDUAL. An individual qualified
26 to vote, who, by reason of illness, injury, age, congenital
27 malfunction, or other permanent or temporary incapacity or

1 disability, is unable without accessible facilities or
2 registration and voting aids to have access to registration
3 and voting equal to that available to persons who are not so
4 affected;

5 "(4) STATE. State of Alabama;

6 "(5) VOTING PRECINCT. The area inhabited by all
7 individuals assigned to one polling place for a state
8 election."

9 Section 2. The Secretary of State may promulgate
10 rules in accordance with the Administrative Procedure Act to
11 carry out the provisions of this act.

12 Section 3. Sections 17-13-19, 17-13-20, 17-13-21,
13 and 17-13-42, Code of Alabama 1975, are repealed.

14 Section 4. This act shall become effective on the
15 first day of the third month following its passage and
16 approval by the Governor, or its otherwise becoming law.