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SB535 HFIN AM 4-9

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1 The Committee on Finance moves to amend the bill on page two,
2 following the enacting section, by striking out the remainder of
3 the bill and inserting in lieu thereof the following:

4 **"ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

5 **§3-1-3. Persons entitled to vote.**

6 Citizens of the state shall be entitled to vote at all
7 elections held within the precincts of the counties and
8 municipalities in which they respectively reside. But no person
9 who has not been registered as a voter as required by law, or who
10 is a minor, or ~~of unsound mind~~ who has been declared mentally
11 incompetent by a court of competent jurisdiction, or who is under
12 conviction of treason, felony or bribery in an election, or who is
13 not a bona fide resident of the state, county or municipality in
14 which he or she offers to vote, shall be permitted to vote at such
15 election while such disability continues, unless otherwise
16 specifically provided by federal or state code. Subject to the
17 qualifications otherwise prescribed in this section, however, a
18 minor shall be permitted to vote only in a primary election if he
19 or she will have reached the age of eighteen years on the date of
20 the general election next to be held after such primary election.

21 **ARTICLE 2. REGISTRATION OF VOTERS.**

22 **§3-2-2. Eligibility to register to vote.**

23 (a) Any person who possesses the constitutional qualifications
24 for voting may register to vote. To be qualified, a person must be
25 a citizen of the United States and a legal resident of West

1 Virginia and of the county where he or she is applying to register,
2 shall be at least eighteen years of age, except that a person who
3 is at least seventeen years of age and who will be eighteen years
4 of age by the time of the next ensuing general election may also be
5 permitted to register, and shall not be otherwise legally
6 disqualified: *Provided,* That a registered voter who has not
7 reached eighteen years of age may vote both partisan and
8 nonpartisan ballots in a federal, state, ~~or~~ county, municipal or
9 special primary election, ~~but may only vote in a municipal primary~~
10 ~~election~~ if he or she will be eighteen years of age by the time of
11 the ~~next municipal~~ corresponding general election. ~~but is not~~
12 ~~eligible to vote in a special election.~~

13 (b) Any person who has been convicted of a felony, treason or
14 bribery in an election, under either state or federal law, is
15 disqualified and is not eligible to register or to continue to be
16 registered to vote while serving his or her sentence, including any
17 period of incarceration, probation or parole related thereto. Any
18 person who has been ~~determined to be~~ declared mentally incompetent
19 by a court of competent jurisdiction is disqualified and shall not
20 be eligible to register or to continue to be registered to vote for
21 as long as that ~~determination remains in effect~~ disability
22 continues.

23 **§3-2-4a. Statewide voter registration list database.**

24 (a) The Secretary of State shall implement and maintain a
25 single, official, statewide, centralized, interactive computerized
26 voter registration ~~list~~ database of every legally registered voter
27 in the state, ~~which shall include the following as follows:~~

28 (1) The ~~computerized list~~ statewide voter registration

1 database shall serve as the single system for storing and managing
2 the official list of registered voters throughout the state.

3 (2) The ~~computerized list~~ statewide voter registration
4 database shall contain the name, registration information and voter
5 history of every legally registered voter in the state.

6 (3) ~~Under the computerized list,~~ In the statewide voter
7 registration database, the Secretary of State shall assign a unique
8 identifier to each legally registered voter in the state.

9 (4) The ~~computerized list~~ statewide voter registration
10 database shall be coordinated with other agency databases within
11 the state, and elsewhere, as appropriate. ~~including, but not~~
12 ~~limited to, the vital statistics database maintained by the~~
13 ~~Department of Health and Human Resources. The Department of Health~~
14 ~~and Human Resources by January 31st of each calendar year shall~~
15 ~~provide to each county clerk a list from this database of all~~
16 ~~decedents in that county in the preceding year and shall provide to~~
17 ~~the Secretary of State the list of all decedents in the state in~~
18 ~~the preceding year.~~

19 (5) The Secretary of State, and any clerk of the county
20 commission or any authorized designee of the Secretary of State or
21 clerk of the county commission may obtain immediate electronic
22 access to the information contained in the ~~computerized list~~
23 statewide voter registration database.

24 (6) The clerk of the county commission shall electronically
25 enter voter registration information into the ~~computerized list~~
26 statewide voter registration database on an expedited basis at the
27 time the information is provided to the clerk.

28 (7) The Secretary of State shall provide necessary support to

1 enable every clerk of the county commission in the state to enter
2 information as described in subdivision (6) of this subsection.

3 (8) The ~~computerized list~~ statewide voter registration
4 database shall serve as the official voter registration list for
5 conducting all elections in the state.

6 (b) The Secretary of State or any clerk of a county commission
7 shall perform maintenance with respect to the ~~computerized list~~
8 statewide voter registration database on a regular basis as
9 follows:

10 (1) If an individual is to be removed from the ~~computerized~~
11 ~~list~~ statewide voter registration database, he or she shall be
12 removed in accordance with the provisions of 42 U. S. C. §1973gg,
13 *et seq.*, the National Voter Registration Act of 1993.

14 (2) The Secretary of State shall coordinate the ~~computerized~~
15 ~~list~~ statewide voter registration database with state agency
16 records and ~~remove the~~ shall establish procedures for the removal
17 of names of individuals who are not qualified to vote because of
18 felony status or death. ~~∴ Provided, That~~ No state agency may
19 withhold information regarding a voter's status as deceased or as
20 a felon unless ordered by a court of law. ~~∴ Provided further, the~~
21 ~~Secretary of State shall, in each calendar year, certify that the~~
22 ~~removal of individuals who are not qualified to vote because of a~~
23 ~~felony conviction as provided in section two of this article or~~
24 ~~death is completed at least thirty days preceding the date of any~~
25 ~~primary election.~~

26 (c) The list maintenance performed under subsection (b) of
27 this section shall be conducted in a manner that ensures that:

28 (1) The name of each registered voter appears in the

1 ~~computerized list~~ statewide voter registration database;

2 (2) Only voters who are not registered, who have requested in
3 writing that their voter registration be canceled or who are not
4 eligible to vote are removed from the ~~computerized list~~ statewide
5 voter registration database;

6 (3) Duplicate names are eliminated from the ~~computerized list~~
7 statewide voter registration database; and

8 (4) Deceased ~~individuals~~ individuals' names are eliminated
9 from the ~~computerized list~~ statewide voter registration database.

10 (d) The Secretary of State and the clerks of all county
11 commissions shall provide adequate technological security measures
12 to prevent the unauthorized access to the ~~computerized list~~
13 statewide voter registration database established under this
14 section.

15 (e) The Secretary of State shall ensure that voter
16 registration records in the state are accurate and updated
17 regularly, including the following:

18 (1) A system of file maintenance that makes a reasonable
19 effort to remove registrants who are ineligible to vote from the
20 official list of eligible voters. Under the system, consistent
21 with 42 U. S. C. §1973gg, et seq., registrants who have not
22 responded to a notice sent pursuant to section twenty six, article
23 two of this chapter, who have not otherwise updated their voter
24 registration address and who have not voted in two consecutive
25 general elections for federal office shall be removed from the
26 official list of eligible voters, except that no registrant may be
27 removed solely by reason of a failure to vote; ~~and~~

28 (2) By participation in programs across state lines to share

1 data specifically for voter registration to ensure that voters who
2 have moved across state lines or become deceased in another state
3 are removed in accordance with state law and 42 U. S. C. §1973gg,
4 et seq.; and

5 ~~(2)~~(3) Through safeguards to ensure that eligible voters are
6 not removed in error from the official list of eligible voters.

7 (f) Applications for voter registration may only be accepted
8 when the following information is provided:

9 (1) Except as provided in subdivision (2) of this subsection
10 and notwithstanding any other provision of law to the contrary, an
11 application for voter registration may not be accepted or processed
12 unless the application includes:

13 (A) In the case of an applicant who has been issued a current
14 and valid driver's license, the applicant's driver's license
15 number;

16 (B) In the case of an applicant who has been issued an
17 identification card by the Division of Motor Vehicles, the
18 applicant's identification number; or

19 (C) In the case of any other applicant, the last four digits
20 of the applicant's Social Security number; and

21 (2) If an applicant for voter registration has not been issued
22 a current and valid driver's license, Division of Motor ~~Vehicles'~~
23 Vehicles identification card or a Social Security number, the
24 Secretary of State shall assign the applicant a number which will
25 serve to identify the applicant for voter registration purposes.
26 ~~To the extent that the state has a computerized list in effect~~
27 ~~under this section and the list assigns unique identifying numbers~~
28 ~~to registrants,~~ The number assigned under this ~~section~~ subdivision

1 shall be the unique identifying number assigned under the ~~list~~
2 statewide voter registration database.

3 (g) The Secretary of State and the Commissioner of the
4 Division of Motor Vehicles shall enter into an agreement to match
5 and transfer applicable information in ~~the database of the~~
6 statewide voter registration ~~system~~ database with information in
7 the database of the Division of Motor Vehicles to the extent
8 required to enable each official to verify the accuracy of the
9 information provided on applications for voter registration.

10 (h) The Commissioner of the Division of Motor Vehicles shall
11 enter into an agreement with the Commissioner of Social Security
12 under 42 U. S. C. ~~§301~~ §401, *et seq.*, the Social Security Act. All
13 fees associated with this agreement shall be paid for from moneys
14 in the fund created under section twelve of this article ~~two~~ of
15 ~~this chapter.~~

16 **§3-2-18. Registration records; active, inactive, canceled, pending**
17 **and rejected registration files; procedure; voting**
18 **records.**

19 (a) For the purposes of this article:

20 (1) "Original voter registration record" means all records
21 submitted or entered in writing or electronically, where permitted
22 by law, for voter registration purposes, including:

23 (A) Any original application or notice submitted by any person
24 for registration or reinstatement, change of address, change of
25 name, change of party affiliation, correction of records,
26 cancellation, confirmation of voter information or other request or
27 notice for voter registration purposes; and

28 (B) Any original entry made on any voter's registration record

1 at the polling place, or made or received by the clerk of the
2 county commission relating to any voter's registration, such as
3 records of voting, presentation of identification and proof of age,
4 challenge of registration, notice of death or obituary notice,
5 notice of disqualifying conviction or ruling of mental incompetence
6 or other original document which may affect the status of any
7 person's voter registration.

8 (2) "Active voter registration ~~files~~ records" means the ~~files~~
9 ~~of~~ registration records, whether ~~maintained~~ on paper ~~forms~~ or in
10 ~~digitized data~~ electronic format, containing the names, addresses,
11 birth dates and other required information for all persons within
12 a county who are registered to vote and whose registration has not
13 been designated as "~~inactive~~" inactive or "~~canceled~~" canceled
14 pursuant to the provisions of this article.

15 (3) "Inactive voter registration ~~files~~ records" means the
16 ~~files of~~ registration records, whether ~~maintained~~ on paper ~~forms~~ or
17 in ~~digitized data~~ electronic format, containing the names,
18 addresses, birth dates and other required information for all
19 persons designated "~~inactive~~" inactive pursuant to the provisions
20 of section twenty-seven of this article following the return of the
21 prescribed notices as undeliverable at the address provided by the
22 United States Postal Service or entered on the voter registration,
23 ~~. For the purposes of this chapter or of any other provisions of~~
24 ~~this code relating to elections conducted under the provisions of~~
25 ~~this chapter, whenever a requirement is based on the number of~~
26 ~~registered voters, including, but not limited to, the number of~~
27 ~~ballots to be printed, the limitations on the size of a precinct,~~
28 ~~or the number of petition signatures required for election~~

1 ~~purposes, only those registrations included on the active voter~~
2 ~~registration files shall be counted and voter registrations~~
3 ~~included on the inactive voter registration files, as defined in~~
4 ~~this subdivision, shall not be counted.~~ or for failure of the
5 contacted voter to return a completed confirmation notice within
6 thirty days of the mailing.

7 (4) "Canceled voter registration ~~files~~ records" means the
8 ~~files~~ records containing all required information for all persons
9 who have been removed from the active and inactive voter
10 registration ~~files~~ records and who are no longer registered to vote
11 within the county.

12 (5) "Pending application ~~files~~ records" means the temporary
13 ~~files~~ records containing all information submitted on a voter
14 registration application, pending the expiration of the
15 verification period.

16 (6) "Rejected application ~~files~~ records" means the ~~files~~
17 records containing all information submitted on a voter
18 registration application which was rejected for reasons as
19 described in this article.

20 (7) "Confirmation pending records" means the records
21 containing all required information for persons who have been
22 identified to be included in the next succeeding mailing of address
23 confirmation notices as set forth by the National Voter
24 Registration Act of 1993(42 U. S. C. §1973gg, et seq.).

25 (b) For the purposes of this chapter or of any other
26 provisions of this code relating to elections conducted under the
27 provisions of this chapter, whenever a requirement is based on the
28 number of registered voters, including, but not limited to, the

1 number of ballots to be printed, the limitations on the size of a
2 precinct, or the number of petition signatures required for
3 election purposes, only those registrations included on the active
4 voter registration files shall be counted and voter registrations
5 included on the inactive voter registration files, as defined in
6 this subdivision, shall not be counted.

7 ~~(b)~~ (c) Active voter registration ~~files~~ records, confirmation
8 pending records and inactive voter registration ~~files~~ records may
9 be maintained in the same physical location ~~or database~~, providing
10 the records are coded, marked or arranged in such a way as to make
11 the status of the registration immediately obvious. Canceled voter
12 registration ~~files~~ records, pending application ~~files~~ records and
13 rejected application ~~files~~ records ~~shall each~~ may be maintained in
14 separate physical locations. ~~or databases.~~ However, all such
15 records shall be maintained in the statewide voter registration
16 database, subject to this article.

17 ~~(c)~~ (d) The effective date of any action affecting any voter's
18 registration status shall be entered on the voter record ~~in the~~
19 ~~appropriate file~~, including the effective date of registration,
20 change of name, address or party affiliation or correction of the
21 record, effective date of transfer to inactive status, return to
22 active status or cancellation. When any registration is designated
23 inactive or is canceled, the reason for the designation or
24 cancellation and any reference notation necessary to locate the
25 original documentation related to the change shall be entered on
26 the voter record.

27 ~~(d)~~ (e) Within one hundred twenty days after each primary,
28 general, municipal or special election, the clerk of the county

1 commission shall ~~as evidenced by the presence or absence of~~
2 ~~signatures on the pollbooks for such election, correct any errors~~
3 ~~or omissions on the voter registration records resulting from the~~
4 ~~poll clerks erroneously checking or failing to check the~~
5 ~~registration records as required by the provisions of section~~
6 ~~thirty-four, article one of this chapter, or shall enter the voting~~
7 ~~records into the state uniform data system if the precinct books~~
8 ~~have been replaced with printed registration books as provided in~~
9 ~~section twenty-one of this article.~~ statewide voter registration
10 database.

11 **§3-2-19. Maintenance of active and inactive registration files in**
12 **precinct record books and county alphabetical**
13 **registration file records for municipal elections.**

14 (a) ~~Each county shall continue to maintain a record of each~~
15 ~~active and inactive voter registration in precinct registration~~
16 ~~books until the statewide voter registration system is adopted~~
17 ~~pursuant to the provisions of section four-a of this article, fully~~
18 ~~implemented and given final approval by the Secretary of State.~~
19 ~~The precinct registration books shall be maintained as follows:~~

20 (1) ~~Each active voter registration shall be entered in the~~
21 ~~precinct book or books for the county precinct in which the voter's~~
22 ~~residence is located and shall be filed alphabetically by name,~~
23 ~~alphabetically within categories, or by numerical street address,~~
24 ~~as determined by the clerk of the county commission for the~~
25 ~~effective administration of registration and elections. No active~~
26 ~~voter registration record shall be removed from the precinct~~
27 ~~registration books unless the registration is lawfully transferred~~
28 ~~or canceled pursuant to the provisions of this article.~~

1 ~~(2) Each voter registration which is designated "inactive"~~
2 ~~pursuant to the procedures prescribed in section twenty seven of~~
3 ~~this article shall be retained in the precinct book for the county~~
4 ~~precinct in which the voter's last recorded residence address is~~
5 ~~located until the time period expires for which a record must~~
6 ~~remain on the inactive files. Every inactive registration shall be~~
7 ~~clearly identified by a prominent tag or notation or arranged in a~~
8 ~~separate section in the precinct book clearly denoting the~~
9 ~~registration status. No inactive voter registration record shall~~
10 ~~be removed from the precinct registration books unless the~~
11 ~~registration is lawfully transferred or canceled pursuant to the~~
12 ~~provisions of this article.~~

13 ~~(b)~~ (a) For municipal elections, the registration records of
14 active and inactive voters shall be maintained as follows:

15 (1) ~~County precinct books shall~~ Clerks of the county
16 commissions shall prepare pollbooks or voter lists to be used in
17 municipal elections when the county precinct boundaries and the
18 municipal precinct boundaries are the same and all registrants of
19 the precinct are entitled to vote in state, county and municipal
20 elections within the precinct or when the registration records of
21 municipal voters within a county precinct are separated and
22 maintained in a separate municipal section or book for that county
23 precinct and can be used either alone or in combination with other
24 ~~precinct books~~ pollbooks or voter lists to make up a complete set
25 of registration records for the municipal election precinct.

26 (2) Upon request of the municipality, and if the clerk of the
27 county commission does not object, separate municipal precinct
28 books shall be maintained in cases where municipal or ward

1 boundaries divide county precincts and it is impractical to use
2 county ~~precinct books~~ pollbooks or voter lists or separate
3 municipal sections of those ~~precinct books~~ pollbooks or voter
4 lists. If the clerk of the county commission objects to the
5 request of a municipality for separate municipal precinct books,
6 the State Election Commission must determine whether the separate
7 municipal precinct books should be maintained.

8 (3) No registration record may be removed from a municipal
9 registration record unless the registration is lawfully transferred
10 or canceled pursuant to the provisions of this article in both the
11 county and the municipal registration records.

12 ~~(c)~~ (b) Within thirty days following the entry of any
13 annexation order or change in street names or numbers, the
14 governing body of an incorporated municipality shall file with the
15 clerk of the county commission a certified current official
16 municipal boundary map and a list of streets and ranges of street
17 numbers within the municipality to assist the clerk in determining
18 whether a voter's address is within the boundaries of the
19 municipality.

20 ~~(d) Each county, so long as precinct registration books are~~
21 ~~maintained, shall maintain a duplicate record of every active and~~
22 ~~inactive voter registration in a county alphabetical file. The~~
23 ~~alphabetical file may be maintained on individual paper forms or,~~
24 ~~upon approval of the Secretary of State of a qualified data storage~~
25 ~~program, may be maintained in digitized format. A qualified data~~
26 ~~storage program shall be required to contain the same information~~
27 ~~for each voter registration as the precinct books, shall be subject~~
28 ~~to proper security from unauthorized alteration and shall be~~

1 ~~regularly duplicated to backup data storage to prevent accidental~~
2 ~~destruction of the information on file.~~

3 **§3-2-21. Maintenance of records in the statewide voter**
4 **registration database in lieu of precinct record**
5 **books.**

6 (a) The clerk of the county commission of each county, ~~upon~~
7 ~~installation of the state uniform voter data system,~~ shall ~~prepare~~
8 maintain a voter registration data system record book into which
9 all required records of appointments of authorized personnel,
10 tests, repairs, program alterations or upgrades and any other
11 action by the clerk of the county commission or by any other person
12 under supervision of the clerk affecting the programming or records
13 contained in the system, other than routine data entry, alteration,
14 use, transfer or transmission of records shall be entered.

15 (b) The clerk of the county commission shall appoint all
16 personnel authorized to add, change or transfer voter registration
17 information within the ~~state uniform voter data system~~ statewide
18 voter registration database, and a record of each appointment and
19 the date of authorization shall be entered as provided in
20 subsection (a) of this section. The assignment and confidential
21 record of assigned system identification or authorized user code
22 for each person appointed shall be as prescribed by the Secretary
23 of State.

24 (c) Voter registration records entered into and maintained in
25 the ~~state uniform voter data system~~ statewide voter registration
26 database shall include the information required for application for
27 voter registration, for maintenance of registration and voting
28 records, for conduct of elections and for statistical purposes, as

1 prescribed by the Secretary of State.

2 (d) No person shall make any entry or alteration of any voter
3 record which is not specifically authorized by law. Each entry or
4 action affecting the status of a voter registration shall be based
5 on information in an original voter registration record, as defined
6 in section eighteen of this article.

7 (e) The clerk of the county commission shall maintain, within
8 the ~~data system~~ statewide voter registration database, active and
9 inactive voter registration ~~files~~ records, confirmation pending
10 records, canceled voter registration ~~files~~ records, pending
11 application ~~files~~ records and rejected application ~~files~~ records,
12 all as defined in section eighteen of this article.

13 (f) Upon receipt of a completed voter registration
14 application, the clerk shall enter into the statewide voter
15 registration database the information provided on the application,
16 mark the records as pending and ~~into the pending application file~~
17 ~~and~~ initiate the verification or notice of disposition procedure as
18 provided in section sixteen of this article. Upon completion of
19 the verification or notice of disposition, the status of the voter
20 record shall be ~~transferred to the proper file~~ properly noted in
21 the statewide voter registration database.

22 (g) Upon receipt of an application or written confirmation
23 from the voter of a change of address within the county, change of
24 name, change of party affiliation or other correction to ~~a~~ an
25 active voter registration record, ~~in the active voter registration~~
26 ~~file~~, the change shall be entered in the record and the required
27 notice of disposition mailed.

28 (h) Upon receipt of an application or written confirmation

1 from ~~the~~ an inactive voter of a change of address within the
2 county, change of name, change of party affiliation or other
3 correction to a registration record, ~~in the inactive voter~~
4 ~~registration file,~~ the any necessary change shall be entered in the
5 record, the required notice of disposition mailed and the record
6 transferred updated to ~~the active registration file or returned to~~
7 active status, and the date of the transaction shall be recorded.
8 Receipt of an application or written confirmation from an inactive
9 voter that confirms the voter's current address shall be treated in
10 the same manner.

11 (i) Upon receipt of a notice of death, a notice of conviction
12 or a notice of a determination of mental incompetence, as provided
13 ~~for~~ in section twenty-three of this article, the date and reason
14 for cancellation shall be entered on the voter's record and the
15 record status shall be ~~transferred~~ changed to ~~the canceled. voter~~
16 ~~registration file.~~

17 (j) Upon receipt from the voter of a request for cancellation
18 or notice of change of address to an address outside the county
19 pursuant to the provisions of section twenty-two of this article,
20 or as a result of a determination of ineligibility through a
21 general program of removing ineligible voters as authorized by the
22 provisions of this article, the date and reason for cancellation
23 shall be entered on the voter's record and the record status shall
24 be ~~transferred~~ changed to ~~the canceled. voter registration file.~~

25 ~~(k) At least once each month during a period prescribed by the~~
26 ~~Secretary of State, the clerk of the county commission of each~~
27 ~~county utilizing the state uniform voter data system shall transmit~~
28 ~~to the Secretary of State, by electronic transmission or by the~~

~~1 mailing of one or more data disks or other approved means, a copy
2 of the active, inactive and pending application files as of the
3 date of transmission, for the purpose of comparison of those
4 records to the voter registration records of other counties in the
5 state and for any other list maintenance procedures authorized by
6 the provisions of this article.~~

~~7 (1) The Secretary of State shall promulgate legislative rules
8 pursuant to the provisions of chapter twenty-nine-a of this code
9 establishing procedures for the elimination of separate precinct
10 registration books as the official active and inactive voter
11 registration files and for the use of the state uniform voter data
12 system to maintain all files, to produce voter lists for public
13 inspection and to produce precinct voter records for election day
14 use. Separate precinct registration books shall be maintained
15 pursuant to the provisions of section nineteen of this article
16 until all necessary provisions required for the conduct of
17 elections at the polling place and for the implementation of the
18 provisions of this chapter have been made. When a county is
19 authorized to use the state uniform voter data system exclusively
20 for all prescribed files, the clerk of the county commission shall
21 transfer the original voter records contained in the precinct
22 registration books to alphabetical record storage files which shall
23 be retained in accordance with the provisions of section twenty-
24 nine of this article, and any rules issued pursuant thereto.~~

**25 §3-2-23. Cancellation of registration of deceased or ineligible
26 voters.**

27 The clerk of the county commission shall cancel the
28 registration of a voter:

1 ~~(a)~~(1) Upon the voter's death as verified by:

2 ~~(1)~~(A) A death certificate from the Registrar of Vital
3 Statistics or a notice from the Secretary of State that a
4 comparison of the records of the registrar with the county voter
5 registration records show the person to be deceased;

6 ~~(2)~~(B) The publication of an obituary or other writing clearly
7 identifying the deceased person by name, residence and age
8 corresponding to the voter record; or

9 ~~(3)~~(C) An affidavit signed by the parent, legal guardian,
10 child, sibling or spouse of the voter giving the name and birth
11 date of the voter, and date and place of death;

12 ~~(b)~~(2) Upon receipt of an official notice from a state or
13 federal court that the person has been convicted of a felony, of
14 treason or bribery in an election; ~~in which event, the clerk shall~~
15 ~~enter a notation on the voter record of the date upon which the~~
16 ~~term of any sentence for such conviction will cease, unless sooner~~
17 ~~vacated by court action or pardon;~~

18 ~~(c)~~(3) Upon receipt of a notice from the appropriate court of
19 competent jurisdiction of a determination of a voter's mental
20 incompetence;

21 ~~(d)~~(4) Upon receipt from the voter ~~registration~~ of a written
22 request to cancel the voter's registration, upon confirmation by
23 the voter of a change of address to an address outside the county,
24 upon notice from a voter registrar of another jurisdiction outside
25 the county or state of the receipt of an application for voter
26 registration in that jurisdiction, or upon notice from the
27 Secretary of State that a voter registration application was
28 accepted in another county of the state subsequent to the last

1 registration date in the first county, as determined from a
2 comparison of voter records; or

3 ~~(e)(5)~~ Upon failure to respond and produce evidence of
4 continued eligibility to register following the challenge of the
5 voter's registration pursuant to the provisions of section twenty-
6 eight of this article. ~~or~~

7 ~~(f) As required under the provisions of section twenty seven~~
8 ~~of this article.~~

9 **§3-2-25. Systematic purging program for removal of ineligible**
10 **voters from active voter registration records files;**
11 **comparison of data records; confirmation notices;**
12 **public inspection list. for counties with state**
13 **approved uniform voter data system; modified program**
14 **for counties using other digitized record storage**
15 **systems.**

16 (a) ~~In any county maintaining active voter registration files~~
17 ~~in the state uniform voter data system, as defined in section~~
18 ~~twenty of this article, The systematic purging program provided for~~
19 in this section shall begin no earlier than October 1 of each odd-
20 numbered year and shall be completed no later than February 1 of
21 the following year. The clerk of the county commission shall
22 transmit or mail ~~on data disk to the Secretary of State a copy of~~
23 ~~the digitized records contained in the active voter registration~~
24 ~~file as of October 1, to be received by the Secretary of State no~~
25 ~~later than October 15, . to the Secretary of State a certification~~
26 ~~that the systematic purging program has been completed and all~~
27 ~~voters identified as no longer eligible to vote have been canceled~~
28 ~~in the statewide voter registration database in accordance with the~~

1 law no later than February 15 in the year in which the purging
2 program is completed.

3 (b) ~~Upon receipt of the voter records in data format,~~ The
4 Secretary of State shall provide for the comparison of data records
5 of all ~~participating~~ counties. The Secretary of State shall, based
6 on the comparison, prepare a ~~data file or printed~~ list for each
7 county which shall include the voter registration record for each
8 voter shown on that county's list who appears to have registered or
9 to have updated a voter registration in another county at a
10 subsequent date. The resulting ~~files and/or~~ lists shall be
11 returned to the appropriate county and the clerk of the county
12 commission shall proceed with the confirmation procedure for those
13 voters as prescribed in section twenty-six of this article.

14 (c) The Secretary of State may provide for the comparison of
15 data records of ~~participating~~ counties with the data records of the
16 Division of Motor Vehicles, the registrar of vital statistics and
17 with the data records of any other state agency which maintains
18 records of residents of the state, if the procedure is practical
19 and the agency agrees to participate. Any resulting information
20 regarding potentially ineligible voters shall be returned to the
21 appropriate county and the clerk of the county commission shall
22 proceed with the confirmation procedure as prescribed in section
23 twenty-six of this article.

24 (d) The records of all ~~of the voters of all participating~~
25 ~~counties~~ not identified pursuant to the procedures set forth in
26 subsections (b) and (c) of this section shall be combined for
27 comparison with United States Postal Service change of address
28 information, as described in section 8(c)(A) of the National Voter

1 Registration Act of 1993 (42 U. S. C. §1973gg, et seq.). The
2 Secretary of State shall contract with an authorized vendor of the
3 United States Postal Service to perform the comparison. ~~Not less~~
4 ~~than thirty percent nor more than fifty percent of~~ The cost of the
5 change of address comparison procedure shall be paid for from the
6 combined voter registration and licensing fund established in
7 section twelve of this article and ~~participating counties shall~~
8 ~~reimburse the fund for the balance of the cost prorated on a per~~
9 ~~voter basis~~ the cost of the confirmation notices, labels and
10 postage shall be paid for by the counties.

11 (e) The Secretary of State shall return to each county the
12 identified matches of the county voter registration records and the
13 postal service change of address records.

14 (1) When the change of address information indicates the voter
15 has moved to a new address within the county, the clerk of the
16 county commission shall enter the new address on the voter record
17 ~~in the active registration file~~ and assign the proper precinct.

18 (2) The clerk of the county commission shall then mail to each
19 voter who appears to have moved from the residence address shown on
20 the registration records a confirmation notice pursuant to section
21 twenty-six of this article and of section 8(d)(2) of the National
22 Voter Registration Act of 1993 (42 U. S. C. §1973gg, et seq.). The
23 notice shall be mailed, no later than December 31, to the new
24 address provided by the postal service records or to the old
25 address if a new address is not available.

26 (f) The clerk of the county commission shall ~~prepare a list~~
27 ~~containing~~ indicate in the statewide voter registration database
28 the name and address of each voter to whom a confirmation notice

1 was mailed and the date on which the notice was mailed. ~~The list~~
2 ~~shall be titled "Systematic Purging Program Notices" and shall~~
3 ~~include the name of the county and the date of the preparation of~~
4 ~~the list and shall be arranged in alphabetical order within~~
5 ~~precincts or for the entire county.~~

6 (g) Upon receipt of any response or returned mailing sent
7 pursuant to the provisions of subsection (e) of this section, the
8 clerk shall immediately enter the date and type of response
9 received ~~on~~ in the ~~list of voters prepared pursuant to the~~
10 ~~provisions of this section~~ statewide voter registration database
11 and shall then proceed in accordance with the provisions of section
12 twenty-six of this article.

13 (h) For purposes of complying with the record keeping and
14 public inspection requirements of the National Voter Registration
15 Act of 1993 (42 U. S. C. §1973gg, et seq.), and with the provisions
16 of section twenty-seven of this article, the public inspection
17 lists shall be maintained either in printed form kept in a binder
18 prepared for such purpose and available for public inspection
19 during regular business hours at the office of the clerk of the
20 county commission or in read-only data format available for public
21 inspection on computer terminals set aside and available for
22 regular use by the general public. Information concerning whether
23 or not each person has responded to the notice shall be entered
24 ~~onto the list~~ into the statewide voter registration database upon
25 receipt and shall be available for public inspection as of the date
26 the information is received.

27 (i) Any voter to whom a confirmation notice was mailed
28 pursuant to the provisions of subsection (e) of this section who

1 fails to respond to the notice or to update his or her voter
2 registration address by February 1 immediately following the
3 completion of the program, shall be designated inactive ~~and placed~~
4 ~~within the inactive voter registration file, as defined in section~~
5 ~~nineteen of this article.~~ in the statewide voter registration
6 database. Any voter designated inactive shall be required to
7 affirm his or her current residence address, on a form prescribed
8 by the Secretary of State, upon appearing at the polls to vote.

9 ~~(j) A county which uses a digitized data system for voter~~
10 ~~registration other than the state uniform voter data system shall~~
11 ~~conduct the systematic purging program for removal of ineligible~~
12 ~~voters from active voter registration files by contracting directly~~
13 ~~with an authorized vendor of the United States postal service for~~
14 ~~change of address information, at county expense, for the~~
15 ~~identification of potentially ineligible voters, and upon receipt~~
16 ~~of the list of matches, shall perform the steps required by the~~
17 ~~provisions of subsections (e) through (i) of this section within~~
18 ~~the same time limits and procedures required for those counties~~
19 ~~participating in the state approved system.~~

20 ~~(k)~~ (j) In addition to the preceding purging procedures, all
21 counties using the change of address information of the United
22 States Postal Service shall also, once each four years during the
23 period established for systematic purging in the year following a
24 presidential election year, conduct the same procedure by mailing
25 a confirmation notice to those persons not identified as
26 potentially ineligible through the change of address comparison
27 procedure but who have not updated their voter registration records
28 and have not voted in any election during the preceding four

1 calendar years. The purpose of this additional systematic
2 confirmation procedure shall be to identify those voters who may
3 have moved without filing a forwarding address, moved with a
4 forwarding address under another name, died in a another county or
5 state so that the certificate of death was not returned to the
6 clerk of the county commission, or who otherwise have become
7 ineligible.

8 **§3-2-29. Custody of original registration records and voter**
9 **registration data files.**

10 (a) All original registration records ~~and voter registration~~
11 ~~data files~~ in paper format shall remain in the custody of the
12 county commission, by its clerk, or, electronically, in the
13 statewide voter registration database and shall not be removed
14 except for use in an election or by the order of a court of record
15 or in compliance with a subpoena duces tecum issued by the
16 Secretary of State pursuant to the provisions of section six,
17 article one-a of this chapter.

18 (b) All original voter registration records shall be retained
19 for a minimum of five years following the last recorded activity
20 relating to the record, except that any application which
21 duplicates and does not alter an existing registration shall be
22 retained for a minimum of two years following its receipt. The
23 Secretary of State shall promulgate rules pursuant to the
24 provisions of chapter twenty-nine-a of this code for the specific
25 retention times and procedures required for original voter
26 registration records.

27 (c) Prior to the destruction of original voter registration
28 applications or registration cards of voters whose registration has

1 been canceled at least five years previously, the clerk of the
2 county commission shall notify the Secretary of State of the
3 intention to destroy those records. If the Secretary of State
4 determines, within ninety days of the receipt of the notice, that
5 those records are of sufficient historical value that microfilm or
6 other permanent data storage is desirable, the Secretary of State
7 may require that the records be delivered to a specified location
8 for processing at state expense.

9 (d) ~~When a county maintains in digitized data format the~~
10 ~~Active, inactive, pending, rejected and canceled registration~~
11 ~~files, a data format copy of each of the files~~ records shall be
12 maintained as a permanent record, as follows:

13 (1) Individual canceled registration records shall be
14 maintained in ~~a regularly accessible data file~~ the statewide voter
15 registration database for a period of at least ~~three~~ five years
16 following cancellation. Upon the expiration of ~~three~~ five years,
17 those individual records may be removed from the ~~regularly~~
18 ~~accessible canceled registration file and stored on tape or disk~~
19 ~~The records removed may be added to a single file containing~~
20 ~~previously canceled registration records for permanent storage, and~~
21 ~~the tape or disk shall be clearly labeled.~~ statewide voter
22 registration database and disposed of in accordance with the
23 appropriate document retention policy.

24 (2) Rejected registration ~~record files~~ records shall be
25 maintained in the same manner as provided for canceled registration
26 ~~files~~ records.

27 (3) ~~At least once each calendar year, during the month of~~
28 ~~February, a data format copy of the active registration file,~~

~~1 inactive registration file and pending application file shall be
2 made containing all records maintained in those files as of the
3 date of the copy. The copy shall be stored on tape or disk and
4 shall be clearly labeled with the types of files and the date the
5 copy was made."~~

Adopted

Rejected