

SB # 520

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



ENROLLED

SENATE BILL NO. 520

(By Senator Wooton, et al)



PASSED March 10, 1994

In Effect 90 days from Passage

E N R O L L E D

Senate Bill No. 520

(BY SENATORS WOOTON, WAGNER, HOLLIDAY, GRUBB,
DITTMAR, MACNAUGHTAN AND CLAYPOLE)

[Passed March 10, 1994; in effect ninety days from passage.]

AN ACT to amend and reenact article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the registration of voters; providing for a permanent and uniform system of registration; setting forth eligibility requirements; authorizing the secretary of state to supervise voter registration procedures, practices and the maintenance of records to coordinate the state implementation of the "National Voter Registration Act of 1993" and to promulgate rules applicable thereto; designating the clerk of the county commission as the chief registration authority of the respective counties; setting forth certain duties and authority of county commission; requiring secretary of state to prescribe forms for registration and providing contents thereof; establishing a statewide bidding procedure for mail registration forms; setting forth the time limits for registration prior to election; providing for registration at the office of the clerk of the county commission; authorizing the establishment of registration outreach services; providing for the appointment of temporary and volunteer registrars to perform such services; prescribing procedures for registration by mail; prescribing procedures for registration in conjunc-

tion with motor vehicle driver licensing services; providing for the combined voter registration and driving licensing fund and authorized uses thereof; designating certain agencies to provide voter registration services; requiring such agencies to appoint supervisors to administer registration programs; requiring secretary of state to prescribe appropriate form for agency registration; prohibiting certain activities; requiring confidentiality; prescribing procedures for registration at agencies; prescribing procedures for registration at marriage license offices; setting forth duties of clerk upon receipt of registration application; establishing verification procedure and notice of disposition; mandating the denial of certain applications and prescribing an appeal procedure upon such denial; providing for the establishment and maintenance of certain registration records and files by the clerk of the county commission; providing for maintenance of active and inactive files in precinct record books and county alphabetical registration files; when municipal precinct books may be maintained; requiring municipalities to file boundary information with clerks; establishing a state uniform voter data system for the electronic storage of registration records; establishing procedures for the entry and transfer of voter information into the data system; authorizing the correction of voter records and establishing procedures therefor; requiring clerks to cancel the registrations of deceased and ineligible voters; providing a systematic purging program for removal of ineligible voters from active files in manual and electronic data systems; when confirmation notices to be mailed; setting forth procedures to be followed by clerk after mailing of confirmation notices; providing for the challenge of a registration; when clerk to cancel registration or remove challenge; providing for the custody of registration records and voter registration data files; when records may be destroyed; requiring records be made available for public inspection; providing for the purchase of voter lists for noncommercial use; requiring the confidentiality of certain information; establishing procedure for voting after registration or change of

address within the county; providing for the unlawful registration or rejection of a voter and for the unlawful registration or application by any person; setting forth criminal penalties; criminalizing willful neglect of duty by registration officers and providing a criminal penalty therefor; making it a crime to wrongfully alter or destroy records, to withhold information, to provide certain false information or to allow unlawful registration and providing criminal penalties therefor; and establishing effective dates.

Be it enacted by the Legislature of West Virginia:

That article two, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-1. Permanent voter registration law; uniform system of voter registration.

1 (a) This article, providing a permanent and uniform
2 system for the registration of the voters of the state of
3 West Virginia, may be cited as the “Permanent Voter
4 Registration Law”.

5 (b) A permanent voter registration system is hereby
6 established which shall be uniform in its requirements
7 throughout the state and all of its subdivisions. No voter
8 so registered shall be required to register again for any
9 election while continuing to reside within the same
10 county, unless the voter’s registration is canceled as
11 provided in this article.

12 (c) A person who is not eligible or not duly registered
13 to vote shall not be permitted to vote at any election in
14 any subdivision of the state, except that such a voter may
15 cast a “provisional” or “challenged” ballot as provided
16 in this chapter if the voter’s eligibility or registration is
17 in question, and such “provisional” or “challenged”
18 ballot may be counted only if a positive determination of
19 the voter’s eligibility and proper registration can be
20 ascertained.

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

1 (a) Any person who possesses the constitutional
2 qualifications for voting may register to vote. Such a
3 person shall be a citizen of the United States and a legal
4 resident of West Virginia and of the county where he or
5 she is applying to register, shall be at least eighteen
6 years of age, except that a person who is at least
7 seventeen years of age and who will be eighteen years of
8 age by the time of the next ensuing general election may
9 also be permitted to register, and shall not be otherwise
10 legally disqualified: *Provided*, That a registered voter
11 who has not reached eighteen years of age may vote both
12 partisan and nonpartisan ballots in a state, county or
13 municipal primary election, but is not eligible to vote in
14 a municipal general election or special election.

15 (b) Any person who has been convicted of a felony,
16 treason or bribery in an election, under either state or
17 federal law, is disqualified and shall not be eligible to
18 register or to continue to be registered to vote during the
19 term of any sentence for such conviction, including any
20 period of incarceration, probation or parole related
21 thereto. Any person who has been determined to be
22 mentally incompetent by a court of competent jurisdic-
23 tion is disqualified and shall not be eligible to register or
24 to continue to be registered to vote for as long as that
25 determination remains in effect.

§3-2-3. State authority relating to voter registration; chief election officer.

1 (a) The secretary of state, as chief election official of
2 the state as provided in section six, article one-a of this
3 chapter, shall have general supervision of the voter
4 registration procedures and practices and the mainte-
5 nance of voter registration records in the state, and shall
6 have authority to require reports and investigate
7 violations to insure the proper conduct of voter registra-
8 tion throughout the state and all of its subdivisions.

9 (b) The secretary of state is hereby designated as the

10 chief election official responsible for the coordination of
11 this state's responsibilities under the "National Voter
12 Registration Act of 1993" (42 U.S.C. 1973gg). The
13 secretary of state shall have general supervision of voter
14 registration procedures and practices at agencies and
15 locations providing services as required by the provi-
16 sions of this article and shall have the authority to
17 propose procedural, interpretive and legislative rules for
18 promulgation in accordance with the provisions of
19 chapter twenty-nine-a of this code, for application for
20 registration, transmission of applications, reporting and
21 maintenance of records required by the provisions of this
22 article, and for the development, implementation and
23 application of other provisions of this article.

**§3-2-4. Authority and responsibility of the clerk of the county
commission and of the county commission
relating to voter registration.**

1 (a) Subject to the authority of the secretary of state,
2 the clerk of the county commission shall be the chief
3 registration authority in each respective county and all
4 subdivisions therein, and shall supervise their deputies,
5 employees and registrars in the performance of their
6 respective duties.

7 (b) The county commission of each county shall
8 allocate sufficient resources for the proper and efficient
9 performance of duties relating to voter registration as
10 required by law, and shall provide for temporary clerical
11 assistance necessary for systematic purging procedures
12 or other duties of short duration required by the
13 provisions of this article.

14 (c) The county commission shall have authority on its
15 own motion to summon and examine any person
16 concerning the registration of voters, to investigate any
17 irregularities in registration, to summon and examine
18 witnesses, to require the production of any relevant
19 books and papers and to conduct hearings on any
20 matters relating to the registration of voters.

21 (d) The clerk of the county commission shall be
22 responsible for the administration of voter registration
23 within the county and shall establish procedures and
24 practices which insure the full implementation of the
25 requirements of federal and state laws and rules relating
26 to voter registration, and which insure nondiscrimina-
27 tory practices.

**§3-2-5. Forms for application for registration; information
required and requested; types of application
forms; notices.**

1 (a) (1) All state forms for application for voter
2 registration shall be prescribed by the secretary of state
3 and shall conform with the requirements of the
4 "National Voter Registration Act of 1993" (42 U.S.C.
5 1973gg) and the requirements of the provisions of this
6 article. Separate application forms may be prescribed for
7 voter registration conducted by the clerk of the county
8 commission, registration by mail, registration in
9 conjunction with an application for motor vehicle
10 driver's license and registration at designated agencies.
11 These forms may consist of one or more parts, may be
12 combined with other forms for use in registration by
13 designated agencies or in conjunction with driver
14 licensing, and may be revised and reissued as required
15 by the secretary of state to provide for the efficient
16 administration of voter registration. After the first day
17 of January, one thousand nine hundred ninety-five, all
18 state forms issued for the purpose of voter registration
19 shall be those prescribed pursuant to the provisions of this
20 article, and no form used or issued for voter registration
21 pursuant to laws in effect before that date shall be
22 provided to any person for the purpose of registration.

23 (2) Notwithstanding any provisions of subdivision (1)
24 of this subsection to the contrary, the federal postcard
25 application for voter registration issued pursuant to the
26 "Uniformed and Overseas Citizens Absentee Voting Act
27 of 1986" (42 U.S.C. 1973 et seq.), and the mail voter
28 registration application form prescribed by the Federal

29 Election Commission pursuant to the “National Voter
30 Registration Act of 1993” (42 U.S.C. 1973gg) shall be
31 accepted as a valid form of application for registration
32 pursuant to the provisions of this article.

33 (b) Each application form for registration shall include:

34 (1) A statement specifying the eligibility requirements
35 for registration and an attestation that the applicant
36 meets each eligibility requirement;

37 (2) Any specific notice or notices required for a specific
38 type or use of application by the “National Voter
39 Registration Act of 1993” (42 U.S.C. 1973gg);

40 (3) A notice that a voter may be permitted to vote the
41 partisan primary election ballot of a political party only
42 if the voter has designated that political party on the
43 application for registration, unless the political party has
44 determined otherwise; and

45 (4) Any other instructions or information essential to
46 complete the application process.

47 (c) Each application form shall require that the
48 following be provided by the applicant, under oath, and
49 any application which does not contain each of the
50 following shall be considered incomplete:

51 (1) The applicant’s legal name, including the first
52 name, middle or maiden name and last name;

53 (2) The month, day and year of the applicant’s birth;

54 (3) The applicant’s gender; and

55 (4) The applicant’s residence address, including the
56 number and street or route and city and county of
57 residence except:

58 (A) In the case of a person eligible to register under the
59 provisions of the “Uniformed and Overseas Citizens
60 Absentee Voting Act”, (42 U.S.C. 1973ff), the address at
61 which he or she last resided before leaving the United
62 States or entering the uniformed services, or if a

63 dependent child of such a person, the address at which
64 his or her parent last resided; and

65 (B) In the case of a homeless person having no fixed
66 residence address who nevertheless resides and remains
67 regularly within the county, the address of a shelter,
68 assistance center or family member with whom he or she
69 has regular contact, or other specific location approved
70 by the clerk of the county commission for the purposes
71 of establishing a voting residence;

72 (5) The applicant's signature, under penalty of perjury,
73 as provided in section thirty-six of this article, to the
74 attestation of eligibility to register to vote and to the
75 truth of the information given; and

76 (6) The date the application is signed.

77 (d) The applicant shall be requested to provide the
78 following information, but no application shall be
79 rejected for lack of this information:

80 (1) An indication whether the application is for a new
81 registration, change of address, change of name or
82 change of party affiliation;

83 (2) The applicant's choice of political party affiliation,
84 if any, or an indication of no affiliation: *Provided*, That
85 any applicant who does not enter any choice of political
86 party affiliation shall be listed as having no party
87 affiliation on the voting record;

88 (3) The applicant's home mailing address, if different
89 than the residence address;

90 (4) The applicant's social security number;

91 (5) The applicant's telephone number; and

92 (6) The address at which the applicant was last
93 registered to vote, if any, for the purpose of canceling or
94 transferring the previous registration.

95 (e) The secretary of state shall prescribe the printing
96 specifications of each type of voter registration applica-

97 tion and the voter registration application portion of any
98 form which is part of a combined agency form.

99 (f) Application forms prescribed in this section may
100 refer to various public officials by title or official
101 position, but in no case may the actual name of any
102 officeholder be printed on the voter registration
103 application or on any portion of a combined application
104 form.

105 (g) No later than the first day of July of each odd
106 numbered year, the secretary of state shall submit the
107 specifications of the voter registration application by
108 mail for statewide bidding for a contract period
109 beginning the first day of September of each odd
110 numbered year and continuing for two calendar years.
111 The successful bidder shall produce and supply the
112 required mail voter registration forms at the contract
113 price to all purchasers of the form for the period of the
114 contract.

§3-2-6. Time of registration application before an election.

1 (a) Voter registration for an election shall close on the
2 thirtieth day before the election, or on the first day
3 thereafter which is not a Saturday, Sunday or legal
4 holiday.

5 (b) An application for voter registration, transfer of
6 registration, change of name or change of political party
7 affiliation submitted by an eligible voter by the close of
8 voter registration shall be effective for any subsequent
9 primary, general or special election if the following
10 conditions are met:

11 (1) The application contains the required information
12 as set forth in subsection (c), section five of this article:
13 *Provided*, That incomplete applications for registration
14 containing information which are submitted within the
15 required time may be corrected within four days after
16 the close of registration if the applicant provides the
17 required information; and

18 (2) The application is received by the appropriate clerk
19 of the county commission no later than the hour of the
20 close of registration or is otherwise submitted by the
21 following deadlines:

22 (A) If mailed, the application shall be addressed to the
23 appropriate clerk of the county commission and
24 postmarked by the postal service no later than the date
25 of the close of registration: *Provided*, That if the
26 postmark is missing or illegible, the application shall be
27 presumed to have been mailed no later than the close of
28 registration if it is received by the appropriate clerk of
29 the county commission no later than the third day
30 following the close of registration;

31 (B) If accepted by a designated agency or motor vehicle
32 licensing office, the application shall be received by that
33 agency or office no later than the close of registration;

34 (C) If accepted through a registration outreach
35 program, the application shall be received by the clerk,
36 deputy clerk or registrar no later than the close of
37 registration; and

38 (3) The verification notice required by the provisions of
39 section sixteen of this article mailed to the voter at the
40 residence indicated on the application is not returned as
41 undeliverable.

**§3-2-7. Hours and days of registration in the office of the
clerk of the county commission; in person
application for voter registration; identification
required.**

1 (a) The clerk of the county commission shall provide
2 voter registration services at all times when the office of
3 the clerk is open for regular business. In addition, the
4 office of the clerk shall remain open for voter registra-
5 tion from 9:00 a.m. until 8:00 p.m. on the Friday and
6 Monday, and from 9:00 a.m. until 5:00 p.m. on the
7 Saturday, prior to the close of registration for statewide
8 primary and general elections.

9 (b) Any eligible voter who desires to apply for voter
10 registration in person at the office of the clerk of the
11 county commission shall complete a voter registration
12 application on the prescribed form and shall sign the
13 oath required on that application in the presence of the
14 clerk of the county commission or his or her deputy. The
15 applicant shall then present valid identification and
16 proof of age, except that the clerk may waive the proof
17 of age requirement if the applicant is clearly over the age
18 of eighteen.

19 (c) The clerk shall attempt to establish whether the
20 residence address given is within the boundaries of an
21 incorporated municipality and, if so, make the proper
22 entry required for municipal residents to be properly
23 identified for municipal voter registration purposes.

24 (d) Upon receipt of the completed registration
25 application, the clerk shall either:

26 (1) Provide a notice of procedure for verification and
27 notice of disposition of the application and immediately
28 begin the verification process prescribed by the
29 provisions of section sixteen of this article; or

30 (2) Upon presentation of a current driver's license or
31 state issued identification card containing the residence
32 address as it appears on the voter registration applica-
33 tion, issue the receipt of registration.

**§3-2-8. Registration outreach services by the clerk of the
county commission; challenge of voter's
registration.**

1 (a) Registration outreach services, including applica-
2 tion for registration, change of address, name or party
3 affiliation and correction or cancellation of registration,
4 may be provided at locations outside the office of said
5 clerk of the county commission by the clerk, one or more
6 of his or her deputy clerks, or by temporary registrars or
7 volunteer registrars appointed in accordance with the
8 provisions of section nine of this article.

9 (b) (1) The clerk of the county commission may
10 establish temporary registration offices to provide voter
11 registration services to residents of the county. The clerk
12 shall file a list of the scheduled times and locations of
13 any temporary registration offices with the county
14 commission at least fourteen days prior to opening the
15 temporary office and shall solicit public service
16 advertising of the location and times for any temporary
17 registration office on radio, television and newspapers
18 serving that county.

19 (2) The clerk of the county commission shall establish
20 an approved program of voter registration services for
21 eligible high school students at each high school within
22 the county and shall conduct that program of voter
23 registration at an appropriate time during each school
24 year, but no later than forty-five days before a statewide
25 primary election held during a school year. The secretary
26 of state shall issue guidelines for approval of programs
27 of voter registration for eligible students, and all such
28 programs shall include opportunities for students to
29 register in person and present identification at the high
30 school where the student is enrolled. Official school
31 records shall be accepted as identification and proof of
32 age for eligible students.

33 (c) When the boundaries of precincts are altered
34 requiring the transfer of a portion of the voters of one
35 precinct to another precinct, the clerk of the county
36 commission or temporary registrars appointed for the
37 purpose may conduct door-to-door registration services
38 in the areas affected by the boundary changes and may
39 register, alter or transfer the registration of voters found
40 to reside in those areas. Upon a determination that a
41 voter who previously registered in the area canvassed no
42 longer resides at that address, except for those persons
43 who are qualified to maintain a legal residence at the
44 address, the clerk of the county commission shall
45 challenge the registration of the voter in accordance with
46 the provisions of section twenty-eight of this article.

47 (d) The procedures required upon receipt of an
48 application for registration as prescribed in subsection
49 (b), section seven of this article shall also be performed
50 by the authorized persons conducting the registration
51 outreach services.

**§3-2-9. Appointment of temporary and volunteer registrars
for registration outreach services.**

1 (a) Temporary registrars and volunteer registrars may
2 be appointed to perform registration outreach services as
3 provided in section eight of this article. Whenever
4 registration outreach services are conducted by tempo-
5 rary registrars or volunteer registrars, two persons of
6 opposite political parties shall serve together. All
7 temporary registrars and volunteer registrars shall be
8 trained by the clerk of the county commission before
9 beginning their duties and shall thereafter be supervised
10 by said clerk.

11 (b) Temporary registrars and volunteer registrars shall
12 have the same eligibility qualifications as required of
13 election officials and shall be subject to suspension by
14 the same procedures as prescribed for election officials
15 as provided in section twenty-eight, article one of this
16 chapter. Eligibility may be suspended for the following
17 reasons:

18 (1) Failure to appear at the required time and place or
19 to perform the duties of a registrar as required by law;

20 (2) Alteration or destruction of a voter registration
21 application;

22 (3) Improper influence of the choice of party affiliation
23 of a voter, or other improper interference or intimidation
24 relating to the voter's decision to register or not to
25 register to vote; or

26 (4) Being under the influence of alcohol or drugs, or
27 having anything wagered or bet on an election.

28 (c) Each temporary or volunteer registrar, before
29 beginning the duties of the office, shall take an oath to

30 perform the duties of the office according to law and the
31 oath shall be filed with the clerk of the county commis-
32 sion.

33 (d) (1) The county commission may appoint temporary
34 registrars to conduct registration as provided in section
35 eight of this article. An equal number of such registrars
36 shall be selected from the two major political parties.
37 The county commission shall notify each county
38 executive committee, in writing, specifying the number
39 of registrars to be appointed, the general schedule of
40 registration activities to be performed, and the date by
41 which the nominations must be received, which date
42 shall be not less than twenty-eight days following the
43 date of the notice. Each executive committee, by
44 majority vote of the committee, may nominate the
45 number of persons needed to serve as registrars and shall
46 submit the nominations in writing to the county
47 commission by the date specified in the notice. The clerk
48 of the county commission shall notify those persons so
49 nominated and appointed. If any person declines to serve
50 or fails to appear, the clerk of the county commission
51 shall fill the vacancy with a qualified person of the same
52 political party.

53 (2) Temporary registrars shall be compensated at a rate
54 not less than the federal minimum wage and may be
55 reimbursed for mileage traveled between the county
56 courthouse and any temporary registration site.

57 (e) The clerk of the county commission may appoint
58 volunteer registrars to conduct registration outreach
59 services as provided in section eight of this article.
60 Volunteer registrars shall serve without compensation.
61 At least fourteen days before beginning any registration
62 outreach service to be conducted by volunteer registrars,
63 the clerk shall notify the county commission in writing
64 listing the proposed schedule for all registration
65 outreach activities and the name and party affiliation of
66 each volunteer registrar appointed.

§3-2-10. Application for registration by mail.

1 (a) Any qualified person may apply to register, change,
2 transfer or correct his or her voter registration by mail.
3 Application shall be made on a prescribed form as
4 provided by section five of this article, and the voter
5 shall not be required to pay postage to mail the com-
6 pleted application.

7 (b) To the extent possible with funds allocated
8 annually for such purpose, the secretary of state shall
9 make state mail registration forms available for
10 distribution through governmental and private entities
11 and organized voter registration programs. The secretary
12 of state shall make a record of all requests by entities or
13 organizations for ten or more forms with a description of
14 the dates and locations in which the proposed registra-
15 tion drive is to be conducted. The secretary of state may
16 limit the distribution to a reasonable amount per group.

17 (c) The clerk of the county commission shall provide up
18 to four mail registration forms to any resident of the
19 county upon request. To the extent possible with funds
20 allocated annually for the purpose, the clerk of the
21 county commission shall make state mail registration
22 forms available for distribution through organized voter
23 registration programs within the county. The clerk of the
24 county commission shall make a record of all requests by
25 entities or organizations for ten or more forms with a
26 description of the dates and locations in which the
27 proposed registration drive is to be conducted. The clerk
28 may limit the distribution to a reasonable amount per
29 group.

30 (d) The applicant shall provide all required informa-
31 tion and only after completing the information, sign the
32 prescribed applicant's oath under penalty of perjury, as
33 provided in section thirty-six of this article. No person
34 may alter or add any entry or make any mark which
35 would alter any material information on the voter
36 registration application after the applicant has signed
37 the oath: *Provided*, That the clerk of the county
38 commission may correct any entry upon the request of

39 the applicant provided the request is properly docu-
40 mented and the correction is dated and initialed by the
41 clerk.

42 (e) Completed applications shall be mailed or delivered
43 to the clerk of the county commission of the county in
44 which the voter resides. If a clerk receives a completed
45 mail application form from a voter whose residence
46 address is located in another county, the clerk shall
47 forward that application within three days to the clerk
48 of the county commission of the county of the applicant's
49 residence.

50 (f) Upon receipt of the application for registration by
51 the appropriate clerk of the county commission, the clerk
52 shall:

53 (1) Attempt to establish whether the residence address
54 given is within the boundaries of an incorporated
55 municipality and, if so, make the proper entry required
56 for municipal residents to be properly identified for
57 municipal voter registration purposes; and

58 (2) Immediately begin the verification process required
59 by the provisions of section sixteen of this article.

60 (g) Any person who registers by mail pursuant to this
61 section shall be required to make his or her first vote in
62 person at the polls or in person at the office of the clerk
63 of the circuit court to vote an absentee ballot in order to
64 make the registration valid: *Provided*, That any person
65 who has applied for an absentee ballot pursuant to the
66 provisions of subdivision (1), subsection (d), section one,
67 article three of this chapter or paragraph (B), subdivision
68 (2) of said subsection or subdivision (3) of said subsection
69 or of subsection (e) of said section shall not have his or
70 her ballot in that election challenged for failure to
71 appear in person or for failure to present identification.

72 (h) Any person required by this section to make his or
73 her first vote in person shall present valid identification
74 and proof of age to the clerks at the poll or at the office
75 of the clerk of the circuit court or the clerk of the county

76 commission of the county in which he or she is registered
77 before casting the first ballot.

78 (i) Any person who submits a state mail voter registra-
79 tion application to the clerk of the county commission in
80 the county in which he or she is currently registered for
81 the purpose of entering a change of address within the
82 county, making a change of party affiliation or recording
83 a change of legal name shall not be required to make his
84 or her first vote in person or to present identification or
85 proof of age.

§3-2-11. Registration in conjunction with driver licensing.

1 (a) Beginning on the first day of January, one thousand
2 nine hundred ninety-five, the division of motor vehicles
3 and the department of public safety, or such other
4 division or department as may be established by law to
5 perform motor vehicle driver licensing services, shall
6 provide each qualified voter, as an integral and simulta-
7 neous part of every process of application for the
8 issuance, renewal or change of address of any motor
9 vehicle driver's license or official identification card,
10 pursuant to the provisions of article two, chapter
11 seventeen-b of this code, a voter registration application
12 form as prescribed in section five of this article.

13 (b) Any person who fails to sign the voter registration
14 application or who fails to return the voter registration
15 application to a driver licensing facility or to an
16 appropriate voter registration office shall be deemed to
17 have declined to register. Information regarding any
18 person's failure to sign the voter registration application
19 shall be confidential and shall not be used for any
20 purpose other than to determine voter registration.

21 (c) Any qualified voter who submits the application for
22 registration pursuant to the provisions of subsection (a)
23 of this section in person at a driver licensing facility at
24 the time of applying for, obtaining, renewing or
25 transferring his or her driver's license or official
26 identification card and who presents identification and

27 proof of age at that time shall not be required to make
28 his or her first vote in person or to again present
29 identification in order to make that registration valid.

30 (d) Any qualified voter who submits by mail or by
31 delivery by a third party an application for registration
32 on the form used in conjunction with driver licensing
33 shall be required to make his or her first vote in person
34 and present identification as required for other mail
35 registration in accordance with the provisions of
36 subsection (g), section ten of this article: *Provided*, That
37 if the applicant has been previously registered in the
38 jurisdiction and the application is for a change of
39 address, change of name, change of political party
40 affiliation or other correction, the presentation of
41 identification and first vote in person shall not be
42 required.

43 (e) Any application for voter registration submitted
44 pursuant to the provisions of this section shall be
45 considered as updating any previous voter registration
46 by the applicant and shall authorize the cancellation of
47 registration in any other county or state in which the
48 applicant was previously registered.

49 (f) Any change of address from one residence to
50 another within the same county which is submitted for
51 driver licensing purposes in accordance with applicable
52 law shall also serve as a notice of change of address for
53 voter registration purposes unless the individual
54 indicates on the form that the change of address is not
55 for voter registration purposes.

56 (g) Completed applications for voter registration or
57 change of address for voting purposes received by any
58 office providing driver licensing services shall be
59 forwarded to the secretary of state within five days of
60 receipt. The secretary of state shall remove and file any
61 forms which have not been signed by the applicant and
62 shall forward completed, signed applications to the clerk
63 of the appropriate county commission within five days of
64 receipt.

65 (h) Voter registration application forms containing
66 voter information which are returned to a driver
67 licensing office unsigned shall be collected and
68 maintained for two years according to procedural rules
69 promulgated by the secretary of state.

§3-2-12. Combined voter registration and driver licensing fund.

1 (a) Fifty cents of each license fee collected pursuant to
2 the provisions of section one, article three, chapter
3 seventeen of this code shall be paid into the state
4 treasury to the credit of a special revenue fund to be
5 known as the "Combined Voter Registration and Driver
6 Licensing Fund". The moneys so credited to such fund
7 may be used by the secretary of state for the following
8 purposes:

9 (1) Printing and distribution of combined driver
10 licensing or other agency applications and voter
11 registration forms, or for the printing of voter registra-
12 tion forms to be used in conjunction with driver
13 licensing or other agency applications;

14 (2) Printing and distribution of mail voter registration
15 forms for purposes of this article;

16 (3) Supplies, postage and mailing costs for correspon-
17 dence relating to voter registration for agency registra-
18 tion sites and for the return of completed voter registra-
19 tion forms to the appropriate state or county election
20 official;

21 (4) Reimbursement of postage and mailing costs
22 incurred by clerks of the county commissions for sending
23 a verification mailing, confirmation of registration or
24 other mailings directly resulting from an application to
25 register, change or update a voter's registration through
26 a driver licensing or other agency;

27 (5) Reimbursement to state funded agencies designated
28 to provide voter registration services under this chapter
29 for personnel costs associated with the time apportioned

30 to voter registration services and assistance;

31 (6) The purchase, printing and distribution of public
32 information and other necessary materials or equipment
33 to be used in conjunction with voter registration services
34 provided by state funded agencies designated pursuant
35 to the provisions of this article;

36 (7) The development of a statewide program of uniform
37 voter registration computerization for use by each
38 county registration office and the secretary of state,
39 purchase of uniform voter registration software,
40 payment of software installation costs and reimburse-
41 ment to the county commissions of not more than fifty
42 percent of the cost per voter for data entry or data
43 conversion from a previous voter registration software
44 program;

45 (8) Payment of up to fifty percent of the costs of
46 conducting a joint program with participating counties
47 to identify ineligible voters by using the United States
48 postal service information as provided in section
49 twenty-five of this article: *Provided*, That such assis-
50 tance shall be available only to counties which maintain
51 voter registration lists on the statewide uniform voter
52 data system; and

53 (9) Payment or reimbursement of other costs associated
54 with implementation of the requirements of the
55 "National Voter Registration Act of 1993" (42 U.S.C.
56 1973gg): *Provided*, That revenue received by the fund in
57 any fiscal year shall first be allocated to the purposes set
58 forth in subdivisions (1) through (8) of this subsection.

59 (b) The secretary of state shall promulgate rules
60 pursuant to the provisions of chapter twenty-nine-a of
61 this code to provide for the administration of the fund
62 established in subsection (a) of this section.

**§3-2-13. Agencies to provide voter registration services;
designation of responsible employees; forms;
prohibitions; confidentiality.**

1 (a) For the purposes of this article, “agency” means a
2 department, division or office of state or local govern-
3 ment, or a program supported by state funds, which is
4 designated under this section to provide voter registra-
5 tion services, but does not include departments, divisions
6 or offices required by other sections of this article to
7 provide voter registration services.

8 (b) Beginning on the first day of January, one thousand
9 nine hundred ninety-five, the following agencies shall
10 provide voter registration services pursuant to the
11 provisions of this article:

12 (1) Those state agencies which administer or provide
13 services under the food stamp program, the “Aid to
14 Families with Dependent Children” (AFDC) program,
15 the “Women, Infants and Children” (WIC) program and
16 the medicaid program;

17 (2) Those state funded agencies primarily engaged in
18 providing services to persons with disabilities;

19 (3) County marriage license offices; and

20 (4) Armed services recruitment offices, as required by
21 federal law.

22 (c) No later than the first day of October, one thousand
23 nine hundred ninety-four, the secretary of state shall, in
24 conjunction with a designated representative of each of
25 the appropriate state agencies, review those programs
26 and offices established and operating with state funds
27 which administer or provide public assistance or services
28 to persons with disabilities, and shall promulgate an
29 emergency rule pursuant to the provisions of chapter
30 twenty-nine-a of this code designating the specific
31 programs and offices required to provide voter registra-
32 tion services in order to comply with the requirements of
33 this section and the requirements of the “National Voter
34 Registration Act of 1993” (42 U.S.C. 1973gg). The offices
35 and programs so designated shall begin providing voter
36 registration services on the first day of January, one
37 thousand nine hundred ninety-five.

38 (d) No later than the first day of July, one thousand
39 nine hundred ninety-six, and each even-numbered year
40 thereafter, the secretary of state shall, in conjunction
41 with the designated representatives of the appropriate
42 state agencies, perform the review as required by the
43 provisions of subsection (c) of this section and the
44 secretary of state shall promulgate a legislative rule
45 pursuant to the provisions of chapter twenty-nine-a of
46 this code designating the specific agencies required to
47 provide voter registration services beginning on the first
48 day of July of the following year.

49 (e) Each state agency required to provide services
50 pursuant to the provisions of this article shall designate
51 a current employee of that agency to serve as a state
52 supervisor to administer voter registration services
53 required in all programs under their jurisdiction. Each
54 state supervisor shall be responsible for coordination
55 with the secretary of state, overall operation of the
56 program in conjunction with services within the agency,
57 designation and supervision of local coordinators and for
58 the review of any complaints filed against employees
59 relating to voter registration as provided in this chapter.

60 (f) The state supervisor shall designate a current
61 employee as a local coordinator for voter registration
62 services for each office or program delivery center who
63 shall be responsible for the proper conduct of voter
64 registration services, timely return of completed voter
65 registration applications, proper handling of declinations
66 and reporting requirements. Notice of the designation of
67 these persons shall be made upon request of the
68 secretary of state, and within five days following any
69 change of such designation.

70 (g) The registration application forms used for agency
71 registration shall be issued pursuant to the provisions of
72 section five of this article.

73 (h) The secretary of state, in conjunction with those
74 agencies designated to provide voter registration services
75 pursuant to the provision of this section, shall prescribe

76 the form or portion of the appropriate agency form
77 required by the provisions of Section 7(a)(6)(B) of the
78 “National Voter Registration Act of 1993” (42 U.S.C.
79 1973gg), containing the required notices and providing
80 boxes for the applicant to check to indicate whether the
81 applicant would like to register or decline to register to
82 vote. Such form or portion of form is designated the
83 “declination form”.

84 (i) A person who provides voter registration services
85 shall not:

86 (1) Seek to influence an applicant’s political preference
87 or party registration;

88 (2) Display to any applicant any political preference or
89 party allegiance;

90 (3) Make any statement to an applicant or take any
91 action the purpose or effect of which is to discourage the
92 applicant from registering to vote; or

93 (4) Make any statement to an applicant or take any
94 action the purpose or effect of which is to lead the
95 applicant to believe that a decision to register or not to
96 register has any bearing on the availability of services or
97 benefits.

98 (j) No information relating to the identity of a voter
99 registration agency through which any particular voter
100 is registered or to a declination to register to vote in
101 connection with an application made at any designated
102 agency, may be used for any purpose other than voter
103 registration.

§3-2-14. Registration procedures at agencies.

1 (a) For the purpose of this section, “applicant” means
2 a person who applies in person, whether at an agency
3 office or other site of direct contact with an agency
4 employee responsible for accepting applications, seeking
5 services or assistance for himself or herself or for a
6 member of his or her immediate family.

7 (b) No later than the first day of December, one
8 thousand nine hundred ninety-four, the secretary of
9 state shall promulgate procedural rules governing the
10 duties and training of agency employees responsible for
11 providing voter registration services, including the
12 distribution, handling, transmittal and retention of voter
13 registration applications and other forms used in
14 conjunction with agency registration, and any reporting
15 necessary to comply with the "National Voter Registra-
16 tion Act of 1993" (42 U.S.C. 1973gg).

17 (c) Beginning on the first day of January, one thousand
18 nine hundred ninety-five, or on the first day of July of
19 any subsequent odd-numbered year after which an
20 agency has been designated, each agency designated
21 under the provisions of section thirteen of this article
22 shall:

23 (1) Distribute with each application for service or
24 assistance, and with each recertification, renewal or
25 change of address form relating to that service or
26 assistance, the declination form prescribed in subsection
27 (h), section thirteen of this article, and a voter registra-
28 tion application issued for the purposes of agency
29 registration pursuant to the provisions of section five of
30 this article;

31 (2) Provide to each applicant who does not decline to
32 register to vote the same degree of assistance in voter
33 registration as is provided for the completion of the
34 agency's other forms, unless the applicant refuses
35 assistance;

36 (3) Accept completed voter registration applications
37 and forward those applications to the secretary of state
38 within five days of receipt;

39 (4) Accept declination forms and retain or forward
40 those forms in a manner prescribed by procedural rules
41 promulgated by the secretary of state;

42 (5) Provide, on the request of an applicant or person
43 assisting an applicant, a reasonable number of mail

44 application forms for use by other eligible persons
45 residing with the applicant; and

46 (6) Make any reports as may be required.

47 (d) Any applicant who checks “no” or fails to check
48 “yes” or “no” on the declination form shall be deemed to
49 have declined to register; and any applicant who checks
50 “yes” on the declination form, but fails or refuses to sign
51 the voter registration application or fails to return the
52 voter registration application to an agency or to an
53 appropriate voter registration office shall be deemed to
54 have declined to register.

55 (e) Upon receipt of registration forms from an agency,
56 the secretary of state shall remove and file any forms
57 which have not been signed by the applicant and shall
58 forward completed, signed applications to the clerk of
59 the appropriate county commission within five days of
60 receipt.

61 (f) Any qualified voter who submits the application for
62 registration pursuant to the provisions of this section in
63 person at an agency or to an agency employee providing
64 services at another location, and who presents identifica-
65 tion and proof of age at that time or has previously
66 presented identification and proof of age to the same
67 agency, shall not be required to make his or her first vote
68 in person or to again present identification in order to
69 make that registration valid.

70 (g) Any qualified voter who submits by mail or by
71 delivery by a third party an application for registration
72 on the form used in conjunction with agency registration
73 shall be required to make his or her first vote in person
74 and to present identification as required for other mail
75 registration in accordance with the provisions of
76 subsection (g), section ten of this article.

77 (h) Voter registration application forms which are
78 returned to an agency unmarked shall be collected for
79 reuse according to procedures prescribed by the
80 secretary of state.

§3-2-15. Special procedures relating to agency registration at marriage license offices.

1 When a qualified voter appears in person to apply for
2 a marriage license, the applicant shall be presented a
3 voter registration application. If the applicant does not
4 intend to change his or her legal name or residence
5 address upon marriage, the applicant may immediately
6 apply to register or to update a previous registration, in
7 accordance with the procedures prescribed in section
8 fourteen of this article, except that the completed
9 applications shall be forwarded directly to the registra-
10 tion office of the clerk of the county commission if the
11 residence given is within the same county. If the
12 applicant does intend to change his or her legal name or
13 residence address upon marriage, and desires to register
14 to vote, the applicant shall instead be given a mail
15 registration card for use after the change of name or
16 address has occurred.

**§3-2-16. Procedures upon receipt of application for registra-
tion by the clerk of the county commission;
verification procedure and notice of disposition
of application for registration.**

1 (a) Upon receipt of an application for voter registra-
2 tion, the clerk of the county commission shall determine
3 whether the application is complete, whether the
4 applicant appears to be eligible to register to vote within
5 the county and whether the applicant is currently
6 registered within the county. If the application is
7 incomplete or the applicant appears not to be eligible,
8 the clerk shall take the appropriate action as prescribed
9 in section seventeen of this article.

10 (b) If the application received is complete and appears
11 to be from an eligible person who has not previously
12 been registered within the county, or has not been
13 included within the active voter registration files as
14 defined in section eighteen of this article within the
15 preceding calendar year and does not present a driver's
16 license containing the residence address pursuant to the

17 provisions of subdivision (2), subsection (d), section
18 seven of this article, the clerk of the county commission
19 shall conduct the following verification procedure:

20 (1) The clerk shall issue or mail, by first-class
21 nonforwardable return requested, a verification notice
22 addressed to the applicant at the residence and mailing
23 address given on the application, except that the mailing
24 address shall not be included on the notice if it appears
25 to identify a distinctly different location from the
26 residence address, such as a business address, another
27 residence or a different city or town, unless the voter has
28 registered as a uniformed services, overseas or homeless
29 voter and provided a local residence address pursuant to
30 the provisions of subdivision (4), subsection (c), section
31 five of this article.

32 (2) The verification notice shall state the purpose of the
33 procedure, the fact that no further action is required of
34 the applicant, and the fact that a notice of the disposi-
35 tion of the registration application will be mailed after
36 the ten day return period has expired.

37 (3) If the verification notice is not returned as
38 undeliverable within ten days, the application for
39 registration shall be accepted and entered into the active
40 voter registration files and a registration receipt mailed
41 designating the voter's assigned precinct.

42 (4) If the verification notice is returned undeliverable
43 within ten days, the clerk shall compare the address
44 given on the voter registration application with the
45 address used on the envelope and, if there is any
46 discrepancy, shall send a second verification notice to
47 the correct address. If there is no discrepancy, the
48 application for registration shall be denied and the
49 notice of denial prescribed in section seventeen of this
50 article shall be mailed.

51 (5) If the verification notice is returned undeliverable
52 after the registration has been accepted, the clerk shall
53 initiate the confirmation procedure prescribed in section

54 twenty-six of this article.

55 (c) If the application received is complete and appears
56 to be from an eligible person who is currently registered
57 within the county, or has been included within the active
58 voter registration files as defined in section eighteen of
59 this article within the preceding calendar year, the clerk
60 of the county commission shall send, by first-class
61 nonforwardable return requested mail, a registration
62 receipt or other notice of the disposition of the applica-
63 tion; and

64 (1) If the application is for a change of name, change of
65 address, change of political party affiliation, reinstatement
66 or other correction of the previous voter registration,
67 the clerk shall include a new voter registration
68 receipt;

69 (2) If the application does not make any change in the
70 previous voter registration, the clerk shall notify the
71 registrant that the voter is not required to reregister or
72 update the registration as long as he or she lives at the
73 same address and has the same legal name; or

74 (3) If the notice of disposition is returned undeliverable
75 after the registration has been accepted, the clerk shall
76 initiate the confirmation procedure prescribed in section
77 twenty-six of this article.

78 (d) If the application contains information indicating
79 the address at which the applicant was previously
80 registered to vote in another county or state, the clerk of
81 the county commission shall give notice to the clerk or
82 registrar of that jurisdiction for the purpose of canceling
83 the previous registration.

§3-2-17. Denial of registration application; notice; appeal to clerk of the county commission, decision; appeal to county commission, hearing, decision; appeal to circuit court.

1 (a) If the clerk of the county commission finds that any
2 of the following is true, based on the application or

3 official documentation of ineligibility, the clerk shall
4 deny the application for voter registration:

5 (1) The applicant, at the time the application is
6 received, is not eligible to register in the county and state
7 pursuant to the provisions of section two of this article;

8 (2) The applicant has submitted an application which
9 is incomplete, pursuant to the provisions of subsection
10 (c), section five of this article; or

11 (3) The verification notice as required in section
12 sixteen of this article is returned as undeliverable at the
13 address given by the voter.

14 (b) When the clerk of the county commission deter-
15 mines that the application must be denied, the clerk
16 shall send, by first class forwardable return requested
17 mail, a notice that the application for registration was
18 denied and the reasons therefor.

19 (1) If the reason for denial is an incomplete application,
20 the clerk shall inform the voter of the right to reapply
21 and shall enclose a mail voter registration form for the
22 purpose.

23 (2) If the reason for denial is return of the verification
24 notice as undeliverable at the address given, the clerk
25 shall inform the voter of the right to present proof of
26 residence in order to validate the registration.

27 (3) If the reason for denial is ineligibility, the notice
28 shall include a statement of eligibility requirements for
29 voter registration and of the applicant's right to appeal
30 the denial.

31 (c) An applicant whose application for registration is
32 denied by the clerk of the county commission because of
33 ineligibility or for failure to submit proof of residence
34 may make a written request for a reconsideration by the
35 clerk, and may present information relating to his or her
36 eligibility. The clerk shall review the request for
37 consideration, and shall issue a decision in writing
38 within fourteen days of the receipt of the request.

39 (d) If the application is denied upon reconsideration
40 pursuant to the provisions of subsection (c) of this
41 section, the applicant may make a written request for a
42 hearing before the county commission. The county
43 commission shall schedule and conduct the hearing
44 within thirty days of receipt of the request and shall
45 issue a decision, in writing, within fifteen days of the
46 hearing.

47 (e) An applicant may appeal the decision of the county
48 commission to the circuit court. The circuit court shall
49 only consider the record before the county commission,
50 as authenticated by the clerk of the county commission.
51 The circuit court may affirm the order of the county
52 commission, whether the order be affirmative or
53 negative; but if it deems such order not to be reasonably
54 justified by the evidence considered, it may reverse such
55 orders of the county commission in whole or in part as it
56 deems just and right; and if it deems the evidence
57 considered by the county commission in reaching its
58 decision insufficient, it may remand the proceedings to
59 the county commission for further hearing. Any such
60 order or orders of the circuit court shall be certified to
61 the county commission.

62 (f) Any party to such appeal, may, within thirty days
63 after the date of a final order by the circuit court, apply
64 for an appeal to the supreme court of appeals, which may
65 grant or refuse such appeal at its discretion. The
66 supreme court of appeals shall have jurisdiction to hear
67 and determine the appeal upon the record before the
68 circuit court, and to enter such order as it may find that
69 the circuit court should have entered.

70 (g) It shall be the duty of the circuit court and the
71 supreme court of appeals, in order to expedite registra-
72 tion and election procedures, to hold such sessions as
73 may be necessary to determine any cases involving the
74 registration of voters. Judges of the circuit court and the
75 supreme court of appeals in vacation shall have the same
76 power as that prescribed in this section for their

77 respective courts.

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

1 (a) For the purposes of this article:

2 (1) “Original voter registration record” means all
3 records submitted or entered in writing for voter
4 registration purposes, including:

5 (A) Any original application or notice submitted by any
6 person for registration or reinstatement, change of
7 address, change of name, change of party affiliation,
8 correction of records, cancellation, confirmation of voter
9 information or other request or notice for voter registra-
10 tion purposes; and

11 (B) Any original entry made on any voter’s registration
12 record at the polling place, or made or received by the
13 clerk of the county commission relating to any voter’s
14 registration, such as records of voting, presentation of
15 identification and proof of age, challenge of registration,
16 notice of death or obituary notice, notice of disqualifying
17 conviction or ruling of mental incompetence or other
18 original document which may affect the status of any
19 person’s voter registration.

20 (2) “Active voter registration files” means the files of
21 registration records, whether maintained on paper forms
22 or in digitized data format, containing the names,
23 addresses, birth dates and other required information for
24 all persons within a county who are registered to vote
25 and whose registration has not been designated as
26 “inactive” or “canceled” pursuant to the provisions of
27 this article.

28 (3) “Inactive voter registration files” means the files of
29 registration records, whether maintained on paper forms
30 or in digitized data format, containing the names,
31 addresses, birth dates and other required information for
32 all persons designated “inactive” pursuant to the

33 provisions of section twenty-seven of this article
34 following the return of the prescribed notices as
35 undeliverable at the address entered on the voter
36 registration. For the purposes of this chapter or of any
37 other provisions of this code relating to elections
38 conducted under the provisions of this chapter,
39 whenever a requirement is based on the number of
40 registered voters, including, but not limited to, the
41 number of ballots to be printed, the limitations on the
42 size of a precinct, or the number of petition signatures
43 required for election purposes, only those registrations
44 included on the active voter registration files shall be
45 counted and voter registrations included on the inactive
46 voter registration files, as defined in this subdivision,
47 shall not be counted.

48 (4) "Canceled voter registration files" means the files
49 containing all required information for all persons who
50 have been removed from the active and inactive voter
51 registration files and who are no longer registered to
52 vote within the county.

53 (5) "Pending application files" means the temporary
54 files containing all information submitted on a voter
55 registration application, pending the expiration of the
56 verification period.

57 (6) "Rejected application files" means the files
58 containing all information submitted on a voter
59 registration application which was rejected for reasons
60 as described in this article.

61 (b) Active voter registration files and inactive voter
62 registration files may be maintained in the same physical
63 location or database, providing the records are coded,
64 marked or arranged in such a way as to make the status
65 of the registration immediately obvious. Canceled voter
66 registration files, pending application files, and rejected
67 application files shall each be maintained in separate
68 physical locations or databases.

69 (c) The effective date of any action affecting any voter's

70 registration status shall be entered on the voter record in
71 the appropriate file, including the effective date of
72 registration, change of name, address or party affiliation
73 or correction of the record, effective date of transfer to
74 inactive status, return to active status or cancellation.
75 When any registration is designated inactive or is
76 canceled, the reason for the designation or cancellation
77 and any reference notation necessary to locate the
78 original documentation related to the change shall be
79 entered on the voter record.

80 (d) Within one hundred twenty days after each
81 primary, general, municipal or special election, the clerk
82 of the county commission shall, as evidenced by the
83 presence or absence of signatures on the pollbooks for
84 such election, correct any errors or omissions on the
85 voter registration records resulting from the poll clerks
86 erroneously checking or failing to check the registration
87 records as required by the provisions of section thirty-
88 four, article one of this chapter, or shall enter the voting
89 records into the state uniform data system if the precinct
90 books have been replaced with printed registration
91 books as provided in section twenty-one of this article.

**§3-2-19. Maintenance of active and inactive registration files
in precinct record books and county alphabetical
registration file.**

1 (a) Each county shall continue to maintain a record of
2 each active and inactive voter registration in precinct
3 registration books until the state uniform data system, is
4 adopted pursuant to the provisions of section twenty of
5 this article, fully implemented, and given final approval
6 by the secretary of state. The precinct registration books
7 shall be maintained as follows:

8 (1) Each active voter registration shall be entered in
9 the precinct book or books for the county precinct in
10 which the voter's residence is located and shall be filed
11 alphabetically by name, alphabetically within categories,
12 or by numerical street address, as determined by the
13 clerk of the county commission for the effective

14 administration of registration and elections. No active
15 voter registration record shall be removed from the
16 precinct registration books unless the registration is
17 lawfully transferred or canceled pursuant to the
18 provisions of this article.

19 (2) Each voter registration which is designated
20 "inactive" pursuant to the procedures prescribed in
21 section twenty-seven shall be retained in the precinct
22 book for the county precinct in which the voter's last
23 recorded residence address is located until the time
24 period expires for which a record must remain on the
25 inactive files. Every inactive registration shall be clearly
26 identified by a prominent tag or notation or arranged in
27 a separate section in the precinct book clearly denoting
28 the registration status. No inactive voter registration
29 record shall be removed from the precinct registration
30 books unless the registration is lawfully transferred or
31 canceled pursuant to the provisions of this article.

32 (b) For municipal elections, the registration records of
33 active and inactive voters shall be maintained as follows:

34 (1) County precinct books shall be used in municipal
35 elections when the county precinct boundaries and the
36 municipal precinct boundaries are the same and all
37 registrants of the precinct are entitled to vote in state,
38 county and municipal elections within the precinct or
39 when the registration records of municipal voters within
40 a county precinct are separated and maintained in a
41 separate municipal section or book for that county
42 precinct and can be used either alone or in combination
43 with other precinct books to make up a complete set of
44 registration records for the municipal election precinct.

45 (2) Separate municipal precinct books may be
46 maintained only in cases where municipal or ward
47 boundaries divide county precincts to the extent that it
48 is impractical to use county precinct books or separate
49 municipal sections of those precinct books.

50 (3) No registration record may be removed from a

51 municipal registration record unless the registration is
52 lawfully transferred or canceled pursuant to the
53 provisions of this article in both the county and the
54 municipal registration records.

55 (c) No later than the first day of January, one thousand
56 nine hundred ninety-five, and within thirty days
57 following the entry of any annexation order or change in
58 street names or numbers, the governing body of an
59 incorporated municipality shall file with the clerk of the
60 county commission a certified current official municipal
61 boundary map and a list of streets and ranges of street
62 numbers within the municipality to assist the clerk in
63 determining whether a voter's address is within the
64 boundaries of the municipality.

65 (d) Each county, so long as precinct registration books
66 are maintained, shall maintain a duplicate record of
67 every active and inactive voter registration in a county
68 alphabetical file. The alphabetical file may be main-
69 tained on individual paper forms, or, upon approval of
70 the secretary of state of a qualified data storage
71 program, may be maintained in digitized format. A
72 qualified data storage program shall be required to
73 contain the same information for each voter registration
74 as the precinct books, shall be subject to proper security
75 from unauthorized alteration and shall be regularly
76 duplicated to backup data storage to prevent accidental
77 destruction of the information on file.

**§3-2-20. Establishment of a state uniform voter data system
of digitized electronic storage of voter registra-
tion records.**

1 (a) For the purposes of this article, the term "state
2 uniform voter data system" means a uniform software
3 program and system of digitized electronic storage of
4 voter registration records.

5 (b) A state uniform voter data system shall be
6 established in the state to standardize voter registration
7 record storage in each county, to provide for the efficient

8 maintenance and correction of records, to provide for
9 effective compliance with the "National Voter Registra-
10 tion Act of 1993" (42 U.S.C. 1973gg), to simplify record
11 keeping, training and supervision, and to improve
12 information sharing and transfer capabilities.

13 (c) The state uniform voter data system shall include
14 uniform voter registration software, standard required
15 data elements, uniform security procedures and access
16 requirements, the capacity to interface with common
17 word processing and other software programs, the
18 capacity to be used on a variety of compatible computer
19 hardware and the capacity to transmit data to a central
20 state computer.

21 (d) The secretary of state, in consultation with the state
22 election commission and an advisory committee
23 appointed by the commission, shall develop a compre-
24 hensive plan for the selection and/or development of
25 appropriate voter registration software and for the
26 development and implementation of pilot programs in at
27 least six counties in the state no later than the thirty-
28 first day of December, one thousand nine hundred
29 ninety-five.

30 (1) The advisory committee shall include at least three
31 persons who serve as clerks of a county commission in
32 the state, two persons with expertise in computer
33 technology and two representatives of the general public.
34 No person serving on the advisory committee shall have
35 any previous or current employment with or significant
36 financial interest in any company which develops, offers
37 for sale or provides service for any particular voter
38 registration or election software, or which offers for sale
39 computer hardware.

40 (2) Following the development of a proposed compre-
41 hensive plan pursuant to this subsection, the secretary of
42 state and the advisory committee shall submit the plan
43 to the state election commission and shall make the plan
44 available for public inspection for at least thirty days
45 prior to requesting proposals or bids.

46 (3) The uniform software program licenses for the
47 counties shall be purchased with funds from the
48 combined voter registration and driver licensing fund
49 established in section twelve of this article.

50 (e) Full implementation of the uniform system within
51 each county of the state shall proceed as soon as
52 possible, subject to the extent of available funding and
53 the limitations of time periods immediately preceding
54 and following elections, and shall be completed in each
55 county no later than the first day of July, one thousand
56 nine hundred ninety-nine.

57 (f) Counties which adopt and implement the state
58 uniform voter data system shall be eligible for reim-
59 bursement pursuant to the provisions of subdivision (7),
60 subsection (a), section twelve of this article for the cost
61 of conversion of existing data or entry of the existing
62 voter records and for the cost of voter list maintenance
63 procedures conducted jointly with other participating
64 counties.

**§3-2-21. Maintenance of records in state uniform voter data
system in lieu of precinct record books.**

1 (a) The clerk of the county commission of each county,
2 upon installation of the state uniform voter data system,
3 shall prepare a "Voter Registration Data System Record"
4 book into which all required records of appointments of
5 authorized personnel, tests, repairs, program alterations
6 or upgrades and any other action by the clerk of the
7 county commission or by any other person under
8 supervision of the clerk affecting the programming or
9 records contained in the system, other than routine data
10 entry, alteration, use, transfer or transmission of records
11 shall be entered.

12 (b) The clerk of the county commission shall appoint
13 all personnel authorized to add, change or transfer voter
14 registration information within the state uniform voter
15 data system, and a record of each appointment and the
16 date of authorization shall be entered as provided in

17 subsection (a) of this section. The assignment and
18 confidential record of assigned system identification or
19 authorized user code for each person appointed shall be
20 as prescribed by the secretary of state.

21 (c) Voter registration records entered into and
22 maintained in the state uniform voter data system shall
23 include the information required for application for
24 voter registration, for maintenance of registration and
25 voting records, for conduct of elections and for statistical
26 purposes, as prescribed by the secretary of state.

27 (d) No person shall make any entry or alteration of any
28 voter record which is not specifically authorized by law.
29 Each entry or action affecting the status of a voter
30 registration shall be based on information in an original
31 voter registration record, as defined in section eighteen
32 of this article.

33 (e) The clerk of the county commission shall maintain,
34 within the data system, active and inactive voter
35 registration files, canceled voter registration files,
36 pending application files, and rejected application files,
37 all as defined in section eighteen of this article.

38 (f) Upon receipt of a completed voter registration
39 application, the clerk shall enter the information
40 provided on the application into the pending application
41 file and initiate the verification or notice of disposition
42 procedure as provided in section sixteen of this article.
43 Upon completion of the verification or notice of
44 disposition, the voter record shall be transferred to the
45 proper file.

46 (g) Upon receipt of an application or written confirma-
47 tion from the voter of a change of address within the
48 county, change of name, change of party affiliation or
49 other correction to a registration record in the active
50 voter registration file, the change shall be entered in the
51 record and the required notice of disposition mailed.

52 (h) Upon receipt of an application or written confirma-
53 tion from the voter of a change of address within the

54 county, change of name, change of party affiliation or
55 other correction to a registration record in the inactive
56 voter registration file, the change shall be entered in the
57 record, the required notice of disposition mailed and the
58 record transferred to the active registration file or
59 returned to active status, and the date of the transaction
60 shall be recorded.

61 (i) Upon receipt of a notice of death, a notice of
62 conviction or a notice of a determination of mental
63 incompetence, as provided for in section twenty-three of
64 this article, the date and reason for cancellation shall be
65 entered on the voter's record and the record shall be
66 transferred to the canceled voter registration file.

67 (j) Upon receipt from the voter of a request for
68 cancellation or notice of change of address to an address
69 outside the county pursuant to the provisions of section
70 twenty-two of this article, or as a result of a determina-
71 tion of ineligibility through a general program of
72 removing ineligible voters as authorized by the provi-
73 sions of this article, the date and reason for cancellation
74 shall be entered on the voter's record and the record
75 shall be transferred to the canceled voter registration
76 file.

77 (k) At least once each month during a period pre-
78 scribed by the secretary of state, the clerk of the county
79 commission of each county utilizing the state uniform
80 voter data system shall transmit to the secretary of state,
81 by electronic transmission or by the mailing of one or
82 more data disks or other approved means, a copy of the
83 active, inactive and pending application files as of the
84 date of transmission, for the purpose of comparison
85 of those records to the voter registration records of other
86 counties in the state and for any other list maintenance
87 procedures authorized by the provisions of this article.

88 (l) The secretary of state shall promulgate legislative
89 rules pursuant to the provisions of chapter twenty-
90 nine-a of this code establishing procedures for the
91 elimination of separate precinct registration books as the

92 official active and inactive voter registration files and
93 for the use of the state uniform voter data system to
94 maintain all files, to produce voter lists for public
95 inspection and to produce precinct voter records for
96 election day use. Separate precinct registration books
97 shall be maintained pursuant to the provisions of section
98 nineteen of this article until all necessary provisions
99 required for the conduct of elections at the polling place
100 and for the implementation of the provisions of this
101 chapter have been made. When a county is authorized to
102 use the state uniform voter data system exclusively for
103 all prescribed files, the clerk of the county commission
104 shall transfer the original voter records contained in the
105 precinct registration books to alphabetical record
106 storage files which shall be retained in accordance with
107 the provisions of section twenty-nine of this article, and
108 any rules issued pursuant thereto.

§3-2-22. Correction of voter records.

- 1 (a) Any registered voter who moves from one residence
2 to another within the county may file a request for
3 change of address on the voter registration records by
4 completing and signing, under penalty of perjury, as
5 provided in section thirty-six of this article, and filing:
- 6 (1) A change of address form at the office of the clerk
7 of the county commission or through any of the voter
8 registration outreach services established pursuant to
9 the provisions of section eight of this article;
- 10 (2) A state or federal mail registration form;
- 11 (3) A change of address form for driver licensing
12 purposes;
- 13 (4) A change of address form for voter registration
14 purposes at any authorized voter registration agency;
- 15 (5) A confirmation of change of address form received
16 pursuant to the provisions of section twenty-four,
17 twenty-five, twenty-six or twenty-seven of this article;
18 or

19 (6) An affidavit of change of address at the polling
20 place of the precinct in which the new residence is
21 located on election day.

22 (b) Upon the receipt of any request for change of
23 address as provided in subsection (a) of this section, the
24 clerk shall enter the change, assign the proper county
25 precinct number and, if applicable, assign the proper
26 municipal precinct number, and issue an acknowledge-
27 ment notice or mail that notice to the voter at the new
28 address.

29 (c) When the clerk of the county commission receives
30 notice that a voter may have moved from one residence
31 to another within the county from the United States
32 postal service or through state programs to compare
33 voting registration records with records of other official
34 state or county agencies which receive, update and
35 utilize residence address information, the clerk shall
36 enter the change of address onto the voter registration
37 record and send the confirmation notice as prescribed in
38 section twenty-six of this article.

39 (d) Any registered voter who changes his or her legal
40 name through marriage or by order of the circuit court
41 may file a request for change of address on the voter
42 registration records by completing and signing, under
43 penalty of perjury, as provided in section thirty-six of
44 this article, and filing:

45 (1) Any voter registration application form authorized
46 by this article; or

47 (2) An affidavit of change of legal name at the polling
48 place on election day.

49 (e) Upon the receipt of any request for change of legal
50 name as provided in subsection (d) of this section, the
51 clerk shall enter the change and issue an acknowledge-
52 ment notice or mail the notice to the voter.

53 (f) Any registered voter who desires to change his or
54 her political party affiliation may do so by filing, no later

55 than the close of voter registration for an election, any
56 voter registration application form authorized by the
57 provisions of this article. Upon receipt of a request for
58 change of political party affiliation, the clerk shall enter
59 the change and issue an acknowledgement notice or mail
60 the notice to the voter.

61 (g) Any registered voter who finds an error in the
62 information on his or her voter registration record may
63 request a correction of the record by completing, signing
64 and filing any voter registration form authorized by the
65 provisions of this article, or an affidavit requesting such
66 correction at the polling place on election day: *Provided*,
67 That any voter who, in a primary election, alleges the
68 party affiliation entered on the voter registration record
69 at the polling place is incorrect and who desires to vote
70 the ballot of a political party for which he or she does
71 not appear to be eligible, may vote a challenged or
72 provisional ballot of the desired political party:
73 *Provided, however*, That the ballot may be counted in
74 the canvass only if the original voter registration record
75 contains a designation of such political party which has
76 been filed no later than the close of registration for the
77 primary election in issue.

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

1 The clerk of the county commission shall cancel the
2 registration of a voter:

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

4 (1) A death certificate from the registrar of vital
5 statistics or a notice from the secretary of state that a
6 comparison of the records of the registrar with the
7 county voter registration records show the person to be
8 deceased;

9 (2) The publication of an obituary clearly identifying
10 the deceased person by name, residence and age
11 corresponding to the voter record; or

12 (3) An affidavit signed by the parent, legal guardian,
13 child, sibling or spouse of the voter giving the name and
14 birth date of the voter, and date and place of death;

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

22 (c) Upon receipt of a notice from the appropriate court
23 of competent jurisdiction of a determination of a voter's
24 mental incompetence;

25 (d) Upon receipt from the voter registration of a
26 written request to cancel the voter's registration, upon
27 confirmation by the voter of a change of address to an
28 address outside the county, upon notice from a voter
29 registrar of another jurisdiction outside the county or
30 state of the receipt of an application for voter registra-
31 tion in that jurisdiction, or upon notice from the
32 secretary of state that a voter registration application
33 accepted in another county of the state subsequent to the
34 last registration date in the first county, as determined
35 from a comparison of voter records;

36 (e) Upon failure to respond and produce evidence of
37 continued eligibility to register following the challenge
38 of the voter's registration pursuant to the provisions of
39 section twenty-eight of this article; or

40 (f) As required under the provisions of section
41 twenty-seven of this article.

§3-2-24. Systematic purging program for removal of ineligible voters from active voter registration files using manual voter registration system.

1 (a) In any county maintaining active voter registration
2 files only in paper records in precinct registration books
3 and alphabetical files, as provided in section nineteen of

4 this article, the systematic purging program provided in
5 this section shall begin with the mailing of the first
6 notice no earlier than the first day of October and no
7 later than the first day of November of each odd
8 numbered year, and shall be completed no later than the
9 first day of February of the following year.

10 (b) The clerk of the county commission shall first send
11 to every voter whose registration is designated as active
12 and who has not updated his or her voter registration
13 record since the first day of January of the same year a
14 notice by first class mail, nonforwardable, address
15 correction requested, the form of which shall be
16 prescribed or approved by the secretary of state. The
17 notice shall be addressed to the voter's residence address
18 as it appears on the voter registration card. The clerk
19 shall group the mailings by precinct, alphabetical
20 grouping or zip code, and shall record the date on which
21 each grouping was mailed. Upon the receipt of any such
22 notices returned as undeliverable, the clerk shall arrange
23 them in alphabetical order within the selected grouping.

24 (c) Not less than fourteen nor more than twenty-eight
25 days following the mailing of the first notice to each
26 group, the clerk shall prepare a list containing the name
27 and address of each voter within the group for whom the
28 first notice was returned as undeliverable. The list shall
29 be titled "Systematic Purging Program Notices" and
30 shall include the name of the county, name of the mailing
31 group and the date of the preparation of the list.

32 (d) The clerk shall then mail to each voter whose name
33 appears on the lists prepared pursuant to subsection (c)
34 of this section a confirmation notice in accordance with
35 the provisions of section twenty-six of this article and of
36 Section 8(d)(2) of the "National Voter Registration Act of
37 1993" (42 U.S.C. 1973gg). All notices mailed to the voters
38 of a particular mailing group shall be mailed on the same
39 day and the date of the mailing of the notice shall be
40 entered on the list. All such notices shall be mailed no
41 later than the thirty-first day of December.

42 (e) Upon receipt of any response or returned mailing
43 sent pursuant to the provisions of subsection (d) of this
44 section, the clerk shall immediately enter the date and
45 type of response received on the list of voters prepared
46 pursuant to the provisions of this section and shall then
47 proceed in accordance with the provisions of section
48 twenty-six of this article. For purposes of complying
49 with the record-keeping and public inspection require-
50 ments of the "National Voter Registration Act of 1993"
51 (42 U.S.C. 1973gg), and with the provisions of section
52 twenty-seven of this article, the lists shall be kept in a
53 binder, prepared for such purpose, in the order in which
54 the mailing groups were first given notice, and the
55 binder shall be available for public inspection. Informa-
56 tion concerning whether or not each person has
57 responded to the notice shall be available for public
58 inspection as of the date the information is received.

59 (f) Any voter to whom a confirmation notice was
60 mailed pursuant to the provisions of subsection (d) of
61 this section who fails to respond to the notice or to
62 update his or her voter registration by the first day of
63 February immediately following the completion of the
64 program, shall be designated inactive by a clear mark or
65 tag, or placed within the inactive voter registration file,
66 as defined in section nineteen of this article.

§3-2-25. Systematic purging program for removal of ineligible voters from active voter registration files for counties with state approved uniform voter data system; modified program for counties using other digitized record storage systems.

1 (a) In any county maintaining active voter registration
2 files in the state uniform voter data system, as defined in
3 section twenty of this article, the systematic purging
4 program provided for in this section shall begin no
5 earlier than the first day of October of each odd
6 numbered year and shall be completed no later than the
7 first day of February of the following year. The clerk of
8 the county commission shall transmit or mail on data

9 disk to the secretary of state a copy of the digitized
10 records contained in the active voter registration file as
11 of the first day of October, to be received by the
12 secretary of state no later than the fifteenth day of
13 October.

14 (b) Upon receipt of the voter records in data format,
15 the secretary of state shall provide for the comparison of
16 data records of all participating counties. The secretary
17 of state shall, based on the comparison, prepare a data
18 file or printed list for each county which shall include
19 the voter registration record for each voter shown on
20 that county's list who appears to have registered or to
21 have updated a voter registration in another county at a
22 subsequent date. The resulting files and/or lists shall be
23 returned to the appropriate county and the clerk of the
24 county commission shall proceed with the confirmation
25 procedure for those voters as prescribed in section
26 twenty-six of this article.

27 (c) The secretary of state may provide for the compari-
28 son of data records of participating counties with the
29 data records of the division of motor vehicles, the
30 registrar of vital statistics and with the data records of
31 any other state agency which maintains records of
32 residents of the state, if the procedure is practical and
33 the agency agrees to participate. Any resulting informa-
34 tion regarding potentially ineligible voters shall be
35 returned to the appropriate county and the clerk of the
36 county commission shall proceed with the confirmation
37 procedure as prescribed in section twenty-six of this
38 article.

39 (d) The records of all of the voters of all participating
40 counties not identified pursuant to the procedures set
41 forth in subsections (b) and (c) of this section shall be
42 combined for comparison with United States postal
43 service change of address information, as described in
44 Section 8(c)(A) of the "National Voter Registration Act
45 of 1993" (42 U.S.C. 1973gg). The secretary of state shall
46 contract with an authorized vendor of the United States

47 postal service to perform the comparison. Not less than
48 thirty percent nor more than fifty percent of the cost of
49 the change of address comparison procedure shall be
50 paid for from the combined voter registration and
51 licensing fund established in section twelve of this
52 article and participating counties shall reimburse the
53 fund for the balance of the cost prorated on a per voter
54 basis.

55 (e) The secretary of state shall return to each county
56 the identified matches of the county voter registration
57 records and the postal service change of address records.

58 (1) When the change of address information indicates
59 the voter has moved to a new address within the county,
60 the clerk of the county commission shall enter the new
61 address on the voter record in the active registration file
62 and assign the proper precinct.

63 (2) The clerk of the county commission shall then mail
64 to each voter who appears to have moved from the
65 residence address shown on the registration records a
66 confirmation notice pursuant to section twenty-six of
67 this article and of section 8(d)(2) of the "National Voter
68 Registration Act of 1993" (42 U.S.C. 1973gg). The notice
69 shall be mailed, no later than the thirty-first day of
70 December, to the new address provided by the postal
71 service records or to the old address if a new address is
72 not available.

73 (f) The clerk of the county commission shall prepare a
74 list containing the name and address of each voter to
75 whom a confirmation notice was mailed and the date on
76 which the notice was mailed. The list shall be titled
77 "Systematic Purging Program Notices" and shall include
78 the name of the county and the date of the preparation
79 of the list and shall be arranged in alphabetical order
80 within precincts or for the entire county.

81 (g) Upon receipt of any response or returned mailing
82 sent pursuant to the provisions of subsection (e) of this
83 section, the clerk shall immediately enter the date and

84 type of response received on the list of voters prepared
85 pursuant to the provisions of this section and shall then
86 proceed in accordance with the provisions of section
87 twenty-six of this article.

88 (h) For purposes of complying with the record-keeping
89 and public inspection requirements of the "National
90 Voter Registration Act of 1993" (42 U.S.C. 1973gg), and
91 with the provisions of section twenty-seven of this
92 article, the lists shall be maintained either in printed
93 form kept in a binder prepared for such purpose and
94 available for public inspection or in read-only data
95 format available for public inspection on computer
96 terminals set aside and available for regular use by the
97 general public. Information concerning whether or not
98 each person has responded to the notice shall be entered
99 onto the list upon receipt and shall be available for
100 public inspection as of the date the information is
101 received.

102 (i) Any voter to whom a confirmation notice was
103 mailed pursuant to the provisions of subsection (e) of
104 this section who fails to respond to the notice or to
105 update his or her voter registration by the first day of
106 February immediately following the completion of the
107 program, shall be designated inactive and placed within
108 the inactive voter registration file, as defined in section
109 nineteen of this article. Any voter designated inactive
110 shall be required to affirm his or her current residence
111 address upon appearing at the polls to vote.

112 (j) A county which uses a digitized data system for
113 voter registration other than the state uniform voter data
114 system shall conduct the systematic purging program for
115 removal of ineligible voters from active voter registra-
116 tion files by contracting directly with an authorized
117 vendor of the United States postal service for change of
118 address information, at county expense, for the identifi-
119 cation of potentially ineligible voters, and upon receipt
120 of the list of matches, shall perform the steps required by
121 the provisions of subsections (e) through (i) of this

122 section within the same time limits and procedures
123 required for those counties participating in the state
124 approved system.

125 (k) In addition to the preceding purging procedures, all
126 counties using the change of address information of the
127 United States postal service shall also, once each four
128 years during the period established for systematic
129 purging in the year following a presidential election
130 year, conduct the same procedure by mailing a confirma-
131 tion notice to those persons not identified as potentially
132 ineligible through the change of address comparison
133 procedure but who have not updated their voter
134 registration records and have not voted in any election
135 during the preceding four calendar years. The purpose of
136 this additional systematic confirmation procedure shall
137 be to identify those voters who may have moved without
138 filing a forwarding address, moved with a forwarding
139 address under another name, died in a another county or
140 state so that the certificate of death was not returned to
141 the clerk of the county commission, or who otherwise
142 have become ineligible.

**§3-2-26. Confirmation notices for systematic purging pro-
gram.**

1 (a) For purposes of this article, a “confirmation notice”
2 means a specific notice sent to a registered voter when
3 that voter appears to have moved or to have become
4 ineligible to vote, based on:

5 (1) A mailing returned as undeliverable as provided in
6 sections sixteen, seventeen and twenty of this article; or

7 (2) Information obtained through a systematic purging
8 program as provided in sections twenty-four and
9 twenty-five of this article.

10 (b) A confirmation notice shall be sent by first class,
11 forwardable mail and shall include a pre-addressed,
12 postage prepaid or business reply return card on which
13 the registrant may state his or her current address,
14 together with a notice prescribed by the secretary of

15 state to meet the specific requirements of Section 8(d)(2)
16 of the "National Voter Registration Act of 1993" (42
17 U.S.C. 1973gg).

**§3-2-27. Procedure following sending of confirmation notices;
correction or cancellation of registrations upon
response; designation of inactive when no
response; cancellation of inactive voters;
records.**

1 (a) Upon receipt of a confirmation response card
2 mailed pursuant to the provisions of section twenty-six
3 of this article and returned completed and signed by the
4 voter, the clerk shall either:

5 (1) Update the voter registration by noting the
6 confirmation of the current address if no other changes
7 are requested or by entering any change of address
8 within the county, change of name or other correction
9 requested by the voter; or

10 (2) Cancel the voter's registration if the voter confirms
11 that he or she has moved out of the county.

12 (b) Upon receipt of the confirmation notice returned
13 undeliverable, the clerk may either:

14 (1) Send a second confirmation notice to the old
15 residence address if the first notice was sent to a new
16 address provided by the postal service; or

17 (2) Designate the registration as "inactive" or transfer
18 it to the inactive voter registration file, as defined in
19 section nineteen of this article.

20 (c) If no response to the confirmation notice is received
21 by the first day of February following the mailing of the
22 confirmation notice, the clerk shall designate the
23 registration as "inactive" or transfer it to the inactive
24 voter registration file as provided in section nineteen of
25 this article.

26 (d) An inactive voter registration shall be returned to
27 active status or transferred to the active voter registra-

28 tion file upon the voter's application to update the
29 registration or to vote in any election while they remain
30 on the inactive list.

31 (e) The clerk of the county commission shall cancel the
32 records of all voters on the inactive file who have not
33 responded to the confirmation notice, otherwise updated
34 their voter registrations or voted in any state, county or
35 municipal primary, general or special election held
36 within the county during a period beginning on the date
37 of the notice and ending on the day after the date of the
38 second general election for federal office which occurs
39 after the date of the notice.

§3-2-28. Challenges; notice; cancellation of registration.

1 (a) The registration of any registered voter may be
2 challenged by the clerk of the county commission, the
3 secretary of state, any registrar of the county, the
4 chairman of any political party committee or by any
5 voter who shall appear in person at the clerk's office.
6 The person challenging the registration shall complete a
7 form prescribed by the secretary of state giving the name
8 and address of the voter and the reason for challenge.
9 The challenge shall be filed as a matter of record in the
10 office of the clerk of the county commission.

11 (b) Upon the receipt of a challenge, the clerk of the
12 county commission shall mail a notice of challenge to the
13 registrant, setting forth that the voter's registration will
14 be canceled if the voter does not appear in person during
15 business hours at the clerk's office within a period of
16 thirty days from the mailing of the notice and present
17 evidence of his or her eligibility. The form of the notice
18 of challenge shall be prescribed by the secretary of state
19 and shall be mailed by certified mail, return receipt
20 requested.

21 (c) If the notice of challenge is returned as undeliver-
22 able at the registration address, or if the challenged
23 registrant does not appear and present evidence of
24 continued eligibility within the prescribed time, the

25 voter's registration shall be immediately canceled.
26 Returned mail or failure to appear shall be prima facie
27 evidence of the registrant's ineligibility. If the registrant
28 does timely appear and present evidence of his or her
29 eligibility, the clerk shall determine eligibility to be
30 registered as a voter as in any other case. If the reason
31 for ineligibility is that the voter does not reside at the
32 address on the registration and the voter presents
33 evidence of residence elsewhere in the county, the clerk
34 of the county commission shall accept a request for
35 change of address and remove the challenge.

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

1 (a) All original registration records and voter registra-
2 tion data files shall remain in the custody of the county
3 commission, by its clerk, and shall not be removed
4 except for use in an election or by the order of a court of
5 record or in compliance with a subpoena duces tecum
6 issued by the secretary of state pursuant to the provi-
7 sions of section six, article one-a of this chapter.

8 (b) All original voter registration records shall be
9 retained for a minimum of five years following the last
10 recorded activity relating to the record, except that, any
11 application which duplicates and does not alter an
12 existing registration shall be retained for a minimum of
13 two years following its receipt. The secretary of state
14 shall promulgate rules pursuant to the provisions of
15 chapter twenty-nine-a of this code for the specific
16 retention times and procedures required for original
17 voter registration records.

18 (c) Prior to the destruction of original voter registra-
19 tion applications or registration cards of voters whose
20 registration has been canceled at least five years
21 previously, the clerk of the county commission shall
22 notify the secretary of state of the intention to destroy
23 those records. If the secretary of state determines, within
24 ninety days of the receipt of the notice, that those
25 records are of sufficient historical value that microfilm

26 or other permanent data storage is desirable, the
27 secretary of state may require that the records be
28 delivered to a specified location for processing at state
29 expense.

30 (d) When a county maintains in digitized data format
31 the active, inactive, pending, rejected and canceled
32 registration files, a data format copy of each of the files
33 shall be maintained as a permanent record, as follows:

34 (1) Individual canceled registration records shall be
35 maintained in a regularly accessible data file for a period
36 of at least three years following cancellation. Upon the
37 expiration of three years, those individual records may
38 be removed from the regularly accessible canceled
39 registration file and stored on tape or disk. The records
40 removed may be added to a single file containing
41 previously canceled registration records for permanent
42 storage, and the tape or disk shall be clearly labeled.

43 (2) Rejected registration record files shall be main-
44 tained in the same manner as provided for canceled
45 registration files.

46 (3) At least once each calendar year, during the month
47 of February, a data format copy of the active registration
48 file, inactive registration file and pending application
49 file shall be made, containing all records maintained in
50 those files as of the date of the copy. The copy shall be
51 stored on tape or disk and shall be clearly labeled with
52 the types of files and the date the copy was made.

**§3-2-30. Public inspection of voter registration records in the
office of the clerk of the county commission;
providing voter lists for noncommercial use;
prohibition against resale of voter lists for
commercial use or profit.**

1 (a) The active, inactive, rejected and canceled voter
2 registration records shall be made available for public
3 inspection during office hours of the clerk of the county
4 commission in accordance with the provisions of chapter
5 twenty-nine-b of this code, as follows:

6 (1) When the active and inactive files are maintained
7 on precinct registration books, any person shall be
8 allowed to examine these files under the supervision of
9 the clerk and obtain copies of records, except when a
10 precinct book is in temporary use for updating and
11 preparing lists, or during the time the books are sealed
12 for use in an election. Other original voter registration
13 records, including canceled voter records, pending
14 applications, rejected applications, records of change
15 requests, reinstatements and other documents shall be
16 available for inspection upon specific request.

17 (2) When the active, inactive, rejected and canceled
18 voter files are maintained in data format, any person
19 shall be allowed to examine voter record information in
20 printed form or in a read-only data format on a
21 computer terminal set aside for public use, if available.
22 The data files available shall include all registration and
23 voting information maintained in the file, except that the
24 telephone number and social security number of any
25 voter shall not be available for inspection or copying in
26 any format.

27 (b) Printed lists of registered voters may be purchased
28 for noncommercial use from the clerk of the county
29 commission at a cost of one cent per name.

30 (1) In counties maintaining active and inactive files on
31 precinct registration books only, a separate list for each
32 of the two major political parties and for voters
33 registered independent or other affiliation shall be
34 prepared for each precinct. The lists shall be arranged in
35 alphabetical order or street order, as the books are
36 maintained, and shall include the name, residence
37 address and party affiliation of the voter, along with a
38 designation of inactive status where applicable. The lists
39 shall be prepared prior to the primary election, and the
40 clerk shall not be required to supplement or revise those
41 lists as registrations are added or canceled.

42 (2) In counties maintaining active and inactive files in
43 digitized data format, the clerk of the county commission

44 shall, upon request, prepare printed copies of the lists of
45 voters for each precinct. No list prepared under this
46 section may include the telephone number or social
47 security number of the registrant. The clerk shall
48 establish a written policy, which shall be posted within
49 public view, listing the options which may be requested
50 for selection and sorting criteria and available data
51 elements, which shall include at least the name,
52 residence address, political party affiliation and status,
53 and the format of the lists and the times at which lists
54 will be prepared. A copy of the policy shall be filed with
55 the secretary of state no later than the first day of
56 January, one thousand nine hundred ninety-five, and
57 within thirty days after any change in policy.

58 (c) In counties which maintain voter files in a digitized
59 data format, lists of registered voters may be obtained
60 for noncommercial purposes in data format on disk
61 provided and prepared by the clerk of the county
62 commission at a cost of one cent per name plus ten
63 dollars for each disk required. No data file prepared
64 under this subsection may include the telephone number
65 or social security number of the registrant.

66 (d) The fees received by the clerk of the county
67 commission shall be kept in a separate fund under the
68 supervision of the clerk for the purpose of defraying the
69 cost of the preparation of the voter lists. Any unex-
70 pended balance in the fund shall be transferred to the
71 general fund of the county commission.

72 (e) After the implementation of the state uniform voter
73 data system, the secretary of state may make voter lists
74 available for sale subject to the limitations as provided
75 in this section for counties, except that the cost shall be
76 one and one-half cents per name plus ten dollars for each
77 disk required. One cent per name for each voter from a
78 particular county on each list sold shall be reimbursed to
79 the appropriate county and one-half cent per name shall
80 be deposited to a special account for purpose of
81 defraying the cost of the preparation of the lists.

82 (f) No voter registration lists or data files containing
83 the names, addresses or other information relating to
84 voters derived from voter data files obtained pursuant to
85 the provisions of this article may be used for commercial
86 or charitable solicitations or advertising, sold or
87 reproduced for resale, or provided to any person at less
88 than the prescribed cost for any purpose other than
89 official use.

**§3-2-31. Rules pertaining to voting after registration or
change of address within the county.**

1 (a) A voter who designates a political affiliation with
2 a major party on a registration application filed at least
3 thirty days before the primary may vote the ballot of that
4 political party in the primary election. Political parties,
5 through the official action of their state executive
6 committees, shall be permitted to determine whether
7 unaffiliated voters or voters of other parties shall be
8 allowed to vote that party's primary election ballot upon
9 request.

10 (b) A voter whose registration record lists one
11 residence address but the voter has since moved to
12 another residence address within the precinct shall be
13 permitted to update the registration at the polling place
14 and vote without challenge for that reason.

15 (c) A voter whose registration record lists one residence
16 address but the voter has since moved to another
17 residence address in a different precinct in the same
18 county shall be permitted to update the registration at
19 the polling place serving the new precinct and shall be
20 permitted to vote a challenged or provisional ballot at
21 the new polling place. If the voter's registration is found
22 on the registration records within the county during the
23 canvass and no other challenge of eligibility was entered
24 on election day, the challenge shall be removed and the
25 ballot shall be counted.

26 (d) A voter whose registration record has been placed
27 on an inactive status or transferred to an inactive file

28 and who has not responded to a confirmation notice sent
 29 pursuant to the provisions of section twenty-four,
 30 twenty-five or twenty-six of this article and who offers
 31 to vote at the polling place where he or she is registered
 32 to vote shall be required to affirm his or her present
 33 residence address under penalty of perjury, as provided
 34 in section thirty-six of this article.

§3-2-32. Unlawful registration or rejection of voter; penalties.

1 (a) Any registrar or clerk of the county commission
 2 who knowingly registers or permits to be registered a
 3 person not lawfully entitled to be registered, or who
 4 knowingly refuses to register a person entitled to be
 5 registered, or who knowingly assists in preventing such
 6 person from being registered, or who inserts or inten-
 7 tionally permits to be inserted a name or other entry in
 8 any registration form or file, knowing or having reason
 9 to know that the entry should not be made, shall be
 10 guilty of a misdemeanor, and, upon conviction, shall be
 11 fined not more than one thousand dollars or confined in
 12 the county jail for not more than one year, or both, in the
 13 discretion of the court.

14 (b) Any person who registers or applies to be regis-
 15 tered, or persuades or assists another to be registered, or
 16 who applies for a change of residence address, knowing
 17 or having reason to know that he or she is not entitled to
 18 be registered or to have his or her residence address
 19 changed on the registration record, or any person who
 20 declares an address known not to be his or her legal
 21 residence or who impersonates another in an application
 22 for registration, shall be guilty of a misdemeanor, and,
 23 upon conviction, shall be fined not more than one
 24 thousand dollars or confined in the county jail for not
 25 more than one year, or both, in the discretion of the
 26 court.

§3-2-33. Neglect of duty by registration officers; penalties.

1 Any registrar or clerk of the county commission or his
 2 or her authorized deputies or any other persons upon

3 whom a duty is imposed pursuant to the provisions of
4 this article, or the rules, regulations or directions
5 promulgated or issued by the secretary of state as the
6 chief registration official of the state, who shall willfully
7 delay, neglect or refuse to perform such duty, shall be
8 guilty of a misdemeanor, and, upon conviction, shall be
9 fined not more than one thousand dollars or confined in
10 the county jail for not more than one year, or both, in the
11 discretion of the court.

§3-2-34. Alteration or destruction of records; penalties.

1 (a) Any person who wrongfully and intentionally
2 inserts or permits to be wrongfully inserted any name or
3 material entry on any registration form, file or any other
4 record in connection with registration, or who wrong-
5 fully alters or destroys an entry which has been duly
6 made, or who wrongfully takes and removes any such
7 registration form, or any other record authorized or
8 required in connection with registration from the
9 custody of any person having lawful charge thereof, shall
10 be guilty of a misdemeanor, and, upon conviction, shall
11 be fined not more than one thousand dollars or confined
12 in the county jail for not more than one year, or both, in
13 the discretion of the court.

14 (b) Any person, in the absence of specific authority
15 provided under the provisions of this article, destroys or
16 attempts to destroy any registration document or record,
17 or who removes or attempts to remove such registration
18 document or record, shall be guilty of a misdemeanor,
19 and, upon conviction, shall be fined not less than one
20 hundred dollars nor more than one thousand dollars or
21 confined in the county jail for not more than one year, or
22 both, in the discretion of the court.

§3-2-35. Withholding information; penalties.

1 Any person who neglects to or refuses to furnish to the
2 secretary of state, to the county commission, or to the
3 clerk of the county commission any information which
4 he or she is authorized to obtain in connection with

5 registration, or to exhibit any records, papers or docu-
6 ments herein authorized to be inspected by them, shall
7 be guilty of a misdemeanor, and, upon conviction there-
8 of, shall be fined not more than one thousand dollars, or
9 confined in the county jail for not more than one year, or
10 both, at the discretion of the court.

**§3-2-36. Crimes and offenses relating to applications for
registration or change of registration; penalties.**

1 (a) A person who willfully provides false information
2 concerning a material matter or thing on an application
3 for registration or change of registration, under oath,
4 affirmation or attestation, shall be deemed guilty of
5 perjury; one who induces or procures another person to
6 do so shall be deemed guilty of subordination of perjury.

7 (b) A person who knowingly offers any application for
8 registration or transfer of registration when the
9 applicant therein is not qualified to register or transfer
10 his registration, or any person who knowingly adminis-
11 ters an oath or affirmation to an applicant for registra-
12 tion or change of registration when the application
13 contains false information concerning a material matter
14 or thing, or any person who falsely represents that an
15 oath or affirmation was executed by an applicant for
16 registration or change of registration, shall be guilty of
17 a felony, and, upon conviction thereof, shall be impris-
18 oned in the penitentiary not less than one year nor more
19 than three years, or fined not less than five hundred
20 dollars nor more than five thousand dollars, or both
21 fined and imprisoned, or, in the discretion of the court,
22 be confined in the county jail for not more than one year,
23 or fined not less than five hundred dollars nor more than
24 five thousand dollars, or both fined and imprisoned.

§3-2-37. Effective date.

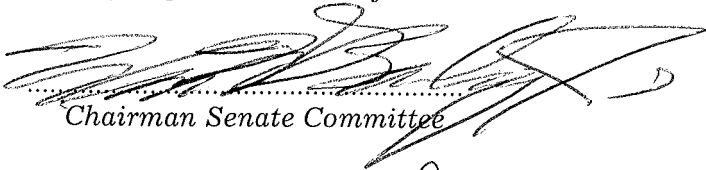
1 (a) Except as may otherwise be specifically provided in
2 this section, the provisions of this article shall take effect
3 on the first day of January, one thousand nine hundred
4 ninety-five. The provisions of this article relating to the

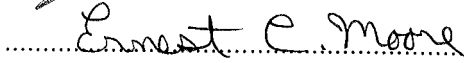
5 preparation for implementation of voter registration
6 programs and procedures under this article and under
7 the "National Voter Registration Act of 1993" (42 U.S.C.
8 1973gg), including sections three, five, twelve, thirteen of
9 this article and subsections (a) and (b), section fourteen
10 of this article and subdivision (4), subsection (b), section
11 nineteen of this article and section twenty of this article,
12 shall take effect upon the effective date of this article.

13 (b) All procedures and requirements established by the
14 previous enactment of this article, except the provisions
15 of subsection (d), section twenty-two of this article, shall
16 continue in effect until the thirty-first day of December,
17 one thousand nine hundred ninety-four inclusive, as if
18 article two of this chapter had not been amended.

and
OK

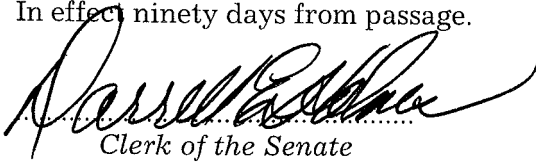
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

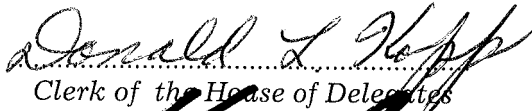

Chairman Senate Committee


Chairman House Committee

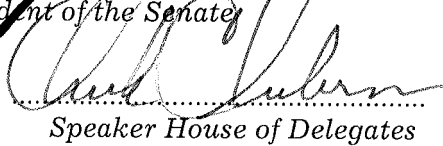
Originated in the Senate.

In effect ninety days from passage.

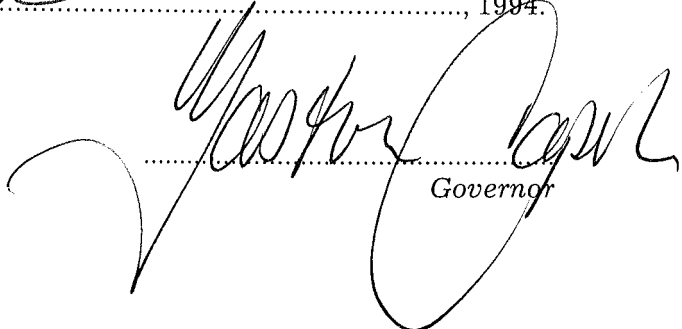

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within *is approved* this the *30th*
day of *May*, 1994.


Governor

PRESENTED TO THE

GOVERNOR

Date

3/25/94

Time

9:50 am