Secretary of State

Functional Analysis
&
Records Disposition Authority

Revision
Approved by the
State Records Commission
October 27, 2021

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Functional and Organizational Analysis of the Secretary of State

Sources of Information

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- Constitutions of Alabama (1819, 1861, 1865, 1868, 1875, and 1901)
- Code of Alabama 1852 Part 2, Title 2, Chapter 3, § 1474
- Code of Alabama 1923 § 6975
- Code of Alabama 1975 Title 7, Chapter 9A; Title 8, Chapters 26 through 26B; Title 10; Title 17; Title 36, Chapters 2, 5, 14, 20, and 25A
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Historical Context

The history of the Secretary of State's Office predates the establishment of the state of Alabama. The Northwest Ordinance of 1787, which served as a model for the government of the Mississippi Territory (including the present-day state of Alabama), provided for the appointment of a territorial secretary. The secretary's duties were "to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department, and [to] transmit authentic copies of such acts and proceedings, every six months, to the Secretary of Congress."[1]

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[1] *An Ordinance for the government of the Territory of the United States northwest of the River Ohio*, July 13, 1787, accessed September 28, 2020, https://www.ourdocuments.gov/doc.php?flash=false&doc=8&page=transcript; U.S. Library of Congress, *An Act for an amicable settlement of limits with the state of Georgia, and authorizing the*

When the U.S. Congress created the Alabama Territory in 1817, it provided that "the President of the United States shall have power to appoint a...secretary for the said Alabama [T]erritory,"[2] subject to the advice and consent of the U.S. Senate. Alabama's territorial secretary had the same rights and responsibilities as the secretary of the Mississippi Territory.

In 1819, the constitution which formed Alabama's state government provided for a Secretary of State to be appointed jointly by both houses of the Legislature. The 1819 Constitution empowered the Secretary of State to "keep a fair register of all official acts and proceedings of the Governor." The Secretary of State was also responsible for attesting to the Governor's signature on official documents and for accepting election returns.[3]

The Secretary of State served a two-year term from 1819 until 1901, when the Constitution of 1901 increased the term to four years. The Legislature selected the Secretary of State until 1868, but since that time the Secretary has been elected by popular vote.

The role of the Secretary of State has significantly expanded over the last two hundred years of Alabama's history. As of October 2021, the Secretary of State's Office has more than one thousand different specific duties outlined in statute.[4] More information on some of the Secretary of State's key duties is provided below.

Executive Duties

The Secretary of State serves as the personal notary public to the Governor. Many executive records (such as executive orders and states of emergency) are signed by both the Governor and the Secretary of State. The Secretary of State witnesses the Governor's signature of these documents and affixes the Great Seal of Alabama upon them.[5] The Secretary also serves as custodian of the Great Seal of Alabama.[6]

Notaries public are appointed by county probate judges, but the Secretary of State maintains records, transmitted to the Secretary of State by the probate judges, related to all notaries public appointed and commissioned in the state of Alabama. Probate offices "report to the Secretary of State the name, county of residence, date of issuance, and date of expiration of the commission of each notary public appointed and commissioned."[7] The Secretary of State is empowered to

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establishment of a government in the Mississippi territory, 1798, 5th Cong., 2nd sess., Ch. 27, accessed October 18, 2021, http://memory.loc.gov/cgi-bin/ampage?collId=llsl&fileName=001/llsl001.db&recNum=672.

[2] U.S. Library of Congress. *An Act to establish a separate territorial government for the eastern part of the Mississippi Territory*, 1817, 14th Cong., 2nd sess., Ch. 60, accessed September 28, 2020, http://memory.loc.gov/cgibin/ampage?collId=llsl&file Name=003/ llsl003.db&recNum=412.

[3] *Constitution of Alabama*, August 2, 1819, accessed October 18, 2021, https://digital.archives.alabama.gov/digital/collection/constitutions/id/41.

[4] Secretary of State website, accessed October 29, 2020, https://www.sos.alabama.gov/sos-office.

[5] Code of Alabama 1975 § 36-14-1.

[6] Technically, the Secretary is the custodian of the sealing device which is used to impress the Great Seal of Alabama upon executive records. Seals have been used to authenticate public documents since antiquity. See Mitchell et al.

[7] Code of Alabama 1975 § 36-20-70.

directly appoint civil law notaries and to promulgate rules and regulations governing the record keeping practices of civil law notaries.[8]

***Explanatory Note: A notary public, also called a common law notary, is responsible for positively identifying document signers, taking signer acknowledgments, administering oaths and affirmations and executing jurats. A civil law notary, on the other hand, is authorized to prepare legal documents, authenticate transactions, and advise participants in certain legal matters. Civil law notaries have specialized legal training, while notaries public are ministerial officers who are not required to have studied law.*[9]

Election Administration

The Secretary of State is "the chief elections official in [Alabama] and shall provide uniform guidance for election activities."[10] The Secretary of State promulgates rules and regulations for various election processes, including absentee voting and provisional voting.[11] The Secretary administers federal and statewide elections in collaboration with various local government agencies including, but not limited to, circuit clerks' offices, boards of registrars, county probate offices, and county sheriffs' offices.[12]

***Explanatory Note: The election cycle consists of several elections, the first of which is a primary election, defined as "an election to select candidates to run for public office." The selected candidates will represent the political parties in the general election. The results of the primary election may necessitate the occurrence of a runoff election. A runoff election is an additional election that occurs when no candidate received a majority of votes in the primary election. Finally, a general election is "a final election for a political office with a limited list of candidates."*[13]

The Secretary of State is involved in all steps of the election cycle. Prior to any federal or statewide election (primary, runoff, or general), the political parties[14] whose candidates will appear on the ballot are required to certify their lists of candidates. The Secretary of State then certifies the parties' certification. A certificate of recertification may be produced if the party needs to recertify a candidate due to legal circumstances that arise. An amended certification, on the other hand, is produced if the original certificate becomes inaccurate due to changes in circumstance. This could occur if a candidate drops out of the election or passes away, or if there was a party or candidate error in the first certification submission. Once the office has certified

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[8] Code of Alabama 1975 § 36-20-51 *et seq.*

[9] National Notary Association Staff, "Common Law Versus Civil Law Notaries," *National Notary Association*, November 28, 2011, accessed October 29, 2020, https://www.nationalnotary.org/notary-bulletin/blog/2011/11/common-civil-law-notaries.

[10] Code of Alabama 1975 § 17-1-3.

[11] Code of Alabama 1975 § 17-10-22 and § 17-10A-2, respectively.

[12] Probate judges are the chief election officials for countywide elections in Alabama. Within cities, the mayor and city clerk are the chief election officials.

[13] USAGov, "Definitions of Common Voting and Election Terms," *U.S. General Services Administration Technology Transformation Service*, accessed October 30, 2020, https://www.usa.gov/voting-and-election-definitions.

[14] According to the Code of Alabama 1975 § 17-13-40, a political party is "an assemblage or organization of electors which… casts more than 20 percent of the entire vote cast in any county."

the certifications, then a vendor will print sample ballots. Sample ballots are printed prior to any election (primary, general, or runoff).[15]

Prior to a general federal or statewide election, the Secretary of State certifies independent candidates not associated with a political party, as well as third-party candidates. In order to appear on the ballot in a general election, an independent candidate must obtain a certain number of voter signatures. The number of voter signatures is identified by calculating a certain percentage of electors that voted in the last gubernatorial election for that electoral district. The specific percentage of electors depends upon the type of election which will take place.

After a primary federal or statewide election, the political parties will receive documentation of the results from both the Secretary of State and the probate courts in the counties where the election took place. The political parties use this documentation to produce certificates of results and certificates of candidates to appear in the general election (or the primary runoff election if applicable).[16]

After a general federal or statewide election, the probate courts in the counties where the election took place will send documentation of the results to the Secretary of State. The Secretary of State Elections Division receives this documentation and compiles the election results. General election results are not declared to be official until canvassing is completed. In Alabama, "all returns of elections required by law to be sent to the Secretary of State must, within 22 days after an election, be opened, counted, and certified in the presence of the Governor, Secretary of State, and Attorney General."[17] These three officials comprise the State Canvassing Board.

The right to vote has been extended to many additional groups of voters since the drafting of the U.S. Constitution. The 15th Amendment, ratified in 1870, prohibited the government from denying a citizen the right to vote on the basis of "race, color, or previous condition of servitude."[18] The 19th Amendment, ratified in 1920, prohibited the government from denying a citizen the right to vote on the basis of sex.

Alabama's 1901 Constitution restricted suffrage to men who could pass literacy and property qualifications and pay an annual poll tax.[19] Many of these qualifications would later be forbidden under federal law; for instance, the court ruled in *Guinn v. United States* (1913) that literacy tests violated the 15th Amendment, and the 24th Amendment to the U.S. Constitution, ratified in 1964, prohibited the levying of poll taxes.[20]

Suffrage would continue to be restricted in Alabama and other southern states for more than half of the twentieth century. The Voting Rights Act of 1965 empowered the federal government to enforce provisions of the 15th Amendment. The Act's provisions resulted in federal election

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[15] Clay S. Helms (Deputy Chief of Staff and Director of Elections, Secretary of State's Office), interview by the Alabama Department of Archives and History Records Management Section, November 5, 2019, Montgomery, AL.
[16] Helms, interview.
[17] Code of Alabama 1975 § 17-12-17.
[18] U.S. Const. Amend. XV.
[19] Alabama Constitution of 1901, accessed October 18, 2021, https://digital.archives.alabama.gov/digital/collection/constitutions/id/112.
[20] U.S. Const. Amend. XXIV.

oversight in the states of Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia (as well as portions of California, Florida, Michigan, New York, North Carolina, and South Dakota). Most of these jurisdictions became subject to federal oversight through application of the Act's coverage formula, which determined which jurisdictions required federal preclearance for election law changes unless they were subject to a separate court order. This provision remained in effect until the U.S. Supreme Court ruled it to be unconstitutional in *Shelby County v. Holder* (2013).[21]

The Secretary of State provides, maintains, and administers "a nondiscriminatory, single, uniform, official, centralized, interactive computerized statewide voter registration list."[22] The Secretary employs a Supervisor of Voter Registration who is responsible for liaising between the Secretary of State and county boards of registrars on implementation of voter registration laws. The Secretary and the Supervisor of Voter Registration work closely with the State Voter Registration Advisory Board to ensure that the values of "honesty, fairness, and integrity in lists of qualified voters, the voter registration process, and the election process in the State of Alabama" are upheld.[23]

Alabama Act 88-873, currently codified as the Code of Alabama 1975 § 17-5-1 *et seq.* and also called the Fair Campaign Practices Act, requires candidates for office, political action committees, and elected officials to submit periodic reports to the Secretary of State. These filings primarily document campaign contributions and expenditures and are available for public inspection through the Secretary of State's website.[24]

The office is responsible for creating and maintaining the meeting files of the Alabama Electronic Voting Committee. The Committee examines and certifies electronic vote counting systems in a statutorily prescribed manner, which includes publicly examining systems, interviewing prospective vendors, reporting on systems, and certifying systems for usage in Alabama.[25]

Alabama Act 2011-673, currently codified as the Code of Alabama 1975 § 17-9-30, updated voter identification requirements during elections, requiring that voters must provide valid photo identification in order to vote. The Secretary of State issues "Alabama Photo Voter Identification Cards" at no cost to voters who lack other forms of photo identification. Cards contain the voter's full legal name, date of birth, address, eye color, gender, height, and weight, and remain valid for "as long as the person resides at that same address and remains qualified to vote."[26] The office operates a Photo Voter ID Mobile Unit which endeavors to visit all sixty-seven counties at least once annually.

The Alabama Legislature established the Fair Ballot Commission in April 2014 with the passage of Alabama Act 2014-399, the Alabama Informed Voter Act, codified as the Code of Alabama

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[21] U.S. Department of Justice Civil Rights Division, "About the Division – Voting Section," U.S. Department of Justice, 2020, https://www.justice.gov/crt/voting-section.
[22] Code of Alabama 1975 § 17-4-33.
[23] Code of Alabama 1975 § 17-4-34 through § 17-4-35.
[24] Code of Alabama 1975 § 17-5-8.1 through § 17-5-10.
[25] Code of Alabama 1975 § 17-7-23.
[26] Code of Alabama 1975 § 17-9-30.

1975 § 17-6-80, *et seq.* The Commission is charged to "provide to the public a fair and accurate explanation of what a vote for and what a vote against a statewide ballot measure represents."[27] The Secretary of State has a seat on the Commission, and ballot statements approved by the Fair Ballot Commission are conspicuously published on the Secretary of State's website.

The office also administers several federal programs related to election administration. In 2002, the U.S. Congress passed the Help America Vote Act (HAVA), which is intended "to establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections... [and] to establish minimum election administration standards for States and units of local government."[28]

The Secretary of State is the primary liaison between the federal government and the state of Alabama for the implementation of HAVA, as well as for the implementation of the National Voter Registration Act of 1993.[29] More specifically, the office is the designated administrator of the state's HAVA funds. Between 2003 and 2021, Alabama received approximately $58 million in HAVA funds. Prior to the implementation of HAVA, each of Alabama's sixty-seven counties used a different system to register its voters. HAVA funds have been utilized on improvements including, but not limited to, polling place renovation to comply with the Americans with Disabilities Act (ADA) and the purchase of cybersecurity systems and risk-mitigation products for the improvement of election security.

The U.S. Congress passed the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) in 1986. UOCAVA's provisions apply to U.S. citizens who are active members of the Uniformed Services, the Merchant Marine, and the commissioned corps of the Public Health Service and the National Oceanic and Atmospheric Administration. The Act also applies to these individuals' eligible family members, as well as other U.S. citizens residing outside the United States.[30] UOCAVA provides the legal basis for these citizens' absentee voting rights in federal elections.

The U.S. Congress expanded UOCAVA's provisions in 2009 with its passage of the Military and Overseas Voter Empowerment (MOVE) Act. Among other provisions, the MOVE Act requires states to transmit validly requested absentee ballots to UOCAVA voters no later than 45 days before a federal election unless the state has been granted an undue hardship waiver.[31] The Secretary of State works with absentee election managers throughout Alabama to ensure that elections comply with the provisions of UOCAVA and the MOVE Act.

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[27] Code of Alabama 1975 § 17-6-81.
[28] "Help America Vote Act of 2002," Pub L. No. 107-252.
[29] Code of Alabama 1975 § 17-4-60.
[30] Federal Voting Assistance Program, "The Uniformed and Overseas Citizens Absentee Voting Act Overview," *U.S. Department of Defense*, accessed October 29, 2020, https://www.fvap.gov/info/laws/uocava.
[31] U.S. Department of Justice Office of Public Affairs, "Fact Sheet: Move Act." *U.S. Department of Justice*, October 27, 2010, https://www.justice.gov/opa/pr/fact-sheet-move-act.

Land Records

In March 1817, President James Monroe appointed John Coffee to be the Surveyor General of the northern Mississippi Territory, which included what is now Alabama.[32] After Alabama became a state, Coffee transferred his papers from the Land Office in Huntsville to the Secretary of State's Office in Montgomery.[33] The Secretary of State has retained responsibility for the Surveyor General's papers since then, and the Code of Alabama 1852 § 56 formally gave the Secretary of State the duty "to keep all books, maps, and other papers appertaining to the survey of any lands belonging to the state." The Secretary of State maintains county-by-county tract books broken down by township, range, section, and quarter section. Original government survey notes and township plats are also kept by the office.

***Explanatory Note: Tract books are government ledgers used to record transactions of surveyed public lands.[34] Public land surveys are recorded in the form of a grid system which uses township, range, section, and quarter section as units of measure.[35]*

These duties have been further clarified in subsequent editions of the Code of Alabama. As of 2021, the Secretary of State makes the original land records accessible through an electronic document portal on its website. The paper land records are maintained by the Alabama Department of Archives and History.

***Explanatory Note: The Secretary of State acts as custodian for the original land survey records, created in the early 1800s, that subdivided land into parcels for sale to the public. Once a section of land transferred from public to private ownership, the land could be subdivided, sold, and resold. County probate offices are responsible for keeping records of these transactions.[36] In 1945, the Alabama Department of Conservation and Natural Resources became responsible for leasing, selling, and maintaining records on land that is owned by the state.*

Legislative Records

According to the Code of Alabama 1852 § 96, the Secretary of State's office must maintain copies of legislative acts and resolutions "for the use of the executive offices, and the two houses of the general assembly." The office is also responsible for distributing copies of the laws to a variety of government agencies, including, but not limited to, the other constitutional offices,

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[32] Herbert J. Lewis, "John Coffee," *Encyclopedia of Alabama*, July 20, 2020, http://www.encyclopediaofalabama.org/article/h-3041.
[33] U.S. Department of the Interior, General Land Office, *Manual of Surveying Instructions for the Survey of the Public Lands of the United States and Private Land Claims*, January 1, 1902, https://www.ntc.blm.gov/krc/uploads/538/1902_ Manual_S_I.pdf.
[34] U.S. Department of the Interior, General Land Office, "General Land Office Records," accessed November 17, 2020, https://glorecords.blm.gov/.
[35] Miriam Helen Hill, "Physical Geography I: Atmospheric Patterns and Processes and Physical Geography Laboratory I Class Homepage," *Jacksonville State University*, 2020, http://www.jsu.edu/dept/geography/mhill/phygeogone/phypagef.html.
[36] Code of Alabama 1975 § 12-13-1.

supreme and circuit court judges, county probate judges, legislators, and county sheriffs' offices. These duties have been further clarified in subsequent legislation.

Business Entity Filings

The Secretary of State has record keeping responsibilities pertaining to corporations. Legal entities that functioned as corporations have existed in Europe for centuries. Corporations became increasingly common during the colonial era, as European governments chartered entities like the Hudson's Bay Company to spearhead their overseas expansion.[37]

***Explanatory Note: A corporation is a legal entity which is created by individuals, stockholders, or shareholders, but which operates independently from its founders. Corporations have many of the same legal rights as people; they may enter into contracts, sue and be sued, own assets, and borrow money from financial institutions.*[38]

Beginning in the 1820s, proponents of Jacksonian Democracy began to criticize the perceived exclusivity of this framework, which seemed to accord unequal privileges to state-authorized corporations. Martin Van Buren and other politicians advocated for "general incorporation laws," which would permit anyone to create a corporation so long as they fulfilled the specific criteria outlined in statute.[39] The oldest continuously operating corporation in Alabama dates from this period. Now headquartered in Birmingham, the jewelry store Bromberg's was founded by Frederick Bromberg in Mobile in 1836.[40]

In Alabama, general incorporation laws are first described in the Code of Alabama 1852 Part 2 Title 2. The statute outlines specific criteria for the formation, operation, and dissolution of corporations in various industries, including banking, road construction, and manufacturing. Articles of incorporation "must be recorded in the office of the judge of probate of the county or counties in which such business is to be carried on."[41] Subsequent revisions to the Code of Alabama expanded upon these regulations and generalized them to govern additional industries.

Alabama's corporation law is periodically revised in accordance with the evolution of corporate law on a national scale. For example, Alabama Act 94-245 addressed limited liability corporations (LLCs) for the first time. In 1999, the Alabama Law Institute embarked upon a study of all business entity types with a goal of resolving inconsistencies in the legislation. The Institute's findings led to the passage of Alabama Act 2009-513, which repealed the Code of Alabama 1975 Title 10 and replaced it with an updated Alabama Business and Nonprofit Entities Code (Title 10A). Most recently, Alabama Act 2019-94 updated the Alabama Business and Nonprofit Entity Code to conform with the American Bar Association's Model Business

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[37] Phillip I. Blumberg, *The Multinational Challenge to Corporation Law: The Search for a New Corporate Personality* (Oxford, England: Oxford University Press, 1993), 22.

[38] Corporate Finance Institute, "What is a Corporation?" *CFI Education, Inc.*, 2015, https://corporatefinanceinstitute.com/resources/knowledge/ finance/what-is-corporation-overview/.

[39] Susan Pace. Hamill, "From Special Privilege to General Utility: A Continuation of Willard Hurst's Study of Corporations," *American University Law Review* 49 no. 1 (1999): 99-101, https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1281&context=aulr.

[40] Bromberg's, "About Bromberg's," Bromberg's, https://brombergs.com/about-brombergs/.

[41] Code of Alabama 1852 Part 2 Title 2 Chapter 3 § 1474.

Corporation Act's 2017 revision. Among other changes, the 2019 act facilitated the Secretary of State's implementation of a centralized, electronic filing system for corporate instruments.[42]

Historically, the Secretary of State's role in the incorporation process was to receive and maintain business filings from county probate offices. With the Legislature's passage of Alabama Act 2020-73, however, all business filings are filed directly with the Secretary of State after the effective date of January 1, 2021.

Uniform Commercial Code Filings

The 10th Amendment of the U.S. Constitution guarantees the rights of states to enact unique laws. A variety of legal issues transcend state lines, however, necessitating the adoption of a predictable, uniform set of laws across the country.

Uniform acts are collaboratively written model laws intended to facilitate the enactment of similar laws by separate states. The Uniform Commercial Code (UCC) is one of several such uniform acts, first published in 1951 by the Uniform Law Commission with the goal of harmonizing the laws governing sales and other commercial transactions. As the Commission explains on its website, "because the UCC has been universally adopted, businesses can enter into contracts with confidence that the terms will be enforced in the same way by the courts of every American jurisdiction."[43] The UCC serves a number of purposes and applies to most commercial transactions. Articles address the following subjects: sales of goods, leases of goods, promissory notes and checks, bank deposits, check collection processes, funds transfers, letters of credit, auctions and liquidations of assets, storage of goods, securities, financial assets, and secured transactions.[44]

Alabama adopted the Uniform Commercial Code in 1967 with the Legislature's passage of Alabama Act 1967-549. The law has been periodically revised in accordance with recommendations from the Uniform Law Commission. For example, in 2001, the Legislature updated the statutory language surrounding secured transactions. Alabama Act 2004-524 added provisions related to electronic signatures in accordance with the federal Electronic Signatures in Global and National Commerce Act.[45]

The Secretary of State's main role within the UCC framework is to maintain UCC filings, which are used to perfect (reserve) the secured interest of the secured party in personal property collateral. UCC filings are liens placed on certain personal property, such as equipment, accounts receivable, etc., that normally cannot be titled or deeded, such as automobiles, aircrafts, boats, and real estate. The Secretary of State has been responsible for maintaining UCC filings since the law's initial passage, but its record keeping practices have evolved in the intervening years from a manual filing system into a computer-automated electronic filing system.

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[42] Alabama Law Institute, "Report to the Alabama Legislature and Institute Membership 2018-2019," *Legislative Services Agency*, February 2019, http://lsa.state.al.us/PDF/ALI/Docs/annual_report_2018.pdf.
[43] Uniform Law Commission, "Uniform Commercial Code Summary," *The National Conference of Commissioners on Uniform State Laws*, accessed November 3, 2020, https://www.uniformlaws.org/acts/ucc.
[44] Uniform Law Commission, "Uniform Commercial Code Summary."
[45] Pub L. 106-229, "Electronic Signatures in Global and National Commerce Act."

Trademark, Trade Name, and Service Mark Filings

The Secretary of State also serves as a custodian for records pertaining to trademarks, trade names, and service marks. The first trademarks appeared in medieval Europe, where craftspeople used them to distinguish their authentic products from those produced by counterfeiters.[46] In the mid-nineteenth century, France and the United Kingdom were the first nations to enact comprehensive trademark laws.

***Explanatory Note: A trademark is a word, phrase, symbol, or design that identifies goods and distinguishes the source of the goods of one party from those of others. A trade name is an official name under which an individual or organization conducts business. A service mark is a type of trademark that distinguishes the source of services rather than the source of goods.*[47]

The U.S. Congress created the first federal trademark system in 1870. The U.S. Supreme Court ruled the system unconstitutional that same year, concluding that although Congress had the right to regulate trademarks, the system's basis on the Copyright Clause was inherently unconstitutional. Congress subsequently enacted the Trademark Act of 1881, using the Commerce Clause as its basis. The 1905 revision of this Act, together with the Lanham Trademark Act of 1946, provides a framework for federal trademark registration into the present day.[48] Service marks, a relatively more recent concept, are also addressed in the Lanham Act.

Alabama Act 1890-319 provided for the optional registration of marks on containers used in the manufacture, bottling, or selling of beverages. The act required that all applicants must file their marks with both the local probate office and the Secretary of State. The right to exclusive use of a trademark was granted in the Code of Alabama in 1923, and trademarks have been accepted under common law provisions since 1928.

Agency Organization

The Secretary of State is elected by popular vote during the same election cycle as the Governor and other Constitutional Officers. To be eligible for this position, a person must be at least twenty-five years of age, a citizen of the United States for at least seven years, and a resident of Alabama for at least five years immediately preceding the election. The Secretary of State serves a four-year term, is eligible for one successive term, and may be removed by impeachment. If the office becomes vacant due to death, resignation, or removal by impeachment, the Governor appoints a Secretary of State to hold office until the next election.

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[46] Gary Richardson, "Brand Names Before the Industrial Revolution," *National Bureau of Economic Research Working Paper Series*, Working Paper No. 13930, April 2008, https://www.nber.org/system/files/working_papers/w13930/w13930.pdf.

[47] U.S. Patent and Trademark Office, "Trademark, Patent, or Copyright?" U.S. Department of Commerce, September 25, 2020, https://www.uspto.gov/trademarks-getting-started/trademark-basics/trademark-patent-or-copyright.

[48] U.S. Patent and Trademark Office, *U.S. Trademark Law: Federal Statutes*, U.S. Department of Commerce, November 25, 2013, https://www.uspto.gov/sites/default/files/trademarks/law/ Trademark_Statutes.pdf.

As of October 2021, the office is organized into the Business Entities; Elections; Executive; Finance; Government Support, Authentications, and Trademarks; Information Systems; and Uniform Commercial Code (UCC) divisions.

The Executive Division currently includes the Deputy Secretary of State and Chief of Staff, General Counsel, Legislative Liaison(s), and Director of Governmental Affairs. This division plans and directs the administrative, operational, and financial operations of all the divisions in the Secretary of State's Office. The division is also responsible for maintaining the database of all commissioned notaries public and civil law notaries.

The Finance Division develops budget requests, operational plans, and budget revisions for both the Office and the Alabama Athlete Agents Commission (AAAC).[49] The division keeps accurate financial records on all financial transactions and organizes these materials for regular audits. Furthermore, the division assists with the preparation and administration of rental leases/renewals, purchase/delivery orders, and professional service contracts; orders supplies and equipment; prepares bid specifications for consumable orders; issues orders; and verifies deliveries.

The Information Systems Division is responsible for supporting and maintaining the technical infrastructure for the office staff and the information technology systems. This encompasses supporting all web-based election activities and business filing processes. Staff in this division are also responsible for supporting county voter registrars as they access the statewide voter registration system.

Staff members of the Elections Division oversee voter registration, photo identification for voting purposes, voter fraud detection, absentee voting, and campaign finance compliance in the State of Alabama. The division manages the statewide voter registration and election management system, the online voter registration system, and the Alabama Fair Campaign Practices Act campaign finance reporting system. Furthermore, the division certifies and maintains all official election and voter registration records, including the results of elections, and provides uniform guidance on election procedures to constituents, voters, candidates, political parties, and elected officials throughout the state. The division provides assistance and administrative support to election-related boards, commissions, committees, and task forces including, but not limited, to the Alabama Electronic Voting Committee, the State Canvassing Board, and the Voter Registration Advisory Board.

The Business Entities Division records domestic entity filings (formed in the State of Alabama) and foreign entity registrations (formed outside the State of Alabama) to the public record. The division reserves business entity names and provides both certified and non-certified copies of documents and Certificates of Existence to the public. The division provides the electronic means to obtain name reservation certificates, certificates of existence, certified or non-certified copies of documents, formations, dissolutions, and registration filings.

[49] Records of the Alabama Athlete Agents Commission are governed by a separate Records Disposition Authority (RDA), approved by the State Records Commission at its October 2020 meeting.

The Uniform Commercial Code Section serves as the central recording office for the portion of the Uniform Commercial Code known as "secured transactions." Staff members handle filing, processing, and verification of new financial statements, as well as termination, assignment, release, or amendment of previously filed financial statements applying to business transactions involving credit. Each UCC filing is validated, and the data is entered and scanned into the Secretary of State's central computer system.

Staff with the Government Support, Authentications, and Trademarks Division authenticate documents for use in foreign nations. The division is responsible for registering trademarks, trade names, and service marks, as well as creating a statewide database in accordance with state and federal guidelines. The division issues public officer commission certificates to recipients in accordance with state law, issues certificates of service to judges relative to their retirement benefits for the Administrative Office of Courts, and registers oaths of office for various state and county officials, both elected and appointed.

Government Support, Authentications, and Trademarks Division staff members also "procure the acts and resolutions of the legislature, of which distribution is directed, to be half bound and lettered."[50] All original copies of registers, bills, resolutions, journals, enrolled acts, and roll calls are filed with the office on the adjournment of each legislative session by the Legislature. The Division also distributes copies of the Code of Alabama to various recipients. Additionally, the Government Support, Authentications, and Trademarks Division provides day-to-day administrative support to the Alabama Athlete Agents Commission.

Agency Function and Subfunctions

The Secretary of State's Office is a constitutional office responsible for the custody and use of the Great Seal of Alabama and for other duties concerning public records. The Secretary also acts as Alabama's chief elections official. As such, it is one of the agencies responsible for performing the Administrative Support Operations and Stewardship functions of Alabama government as described in the "Functional Analysis of Alabama Government."

In performance of its mandated function, the Secretary of State's Office may engage in the following subfunctions.

- **Authenticating.** The Secretary of State serves as the personal notary public to the Governor. This means that many executive records (such as proclamations, executive orders, and requests for extradition) are signed by both the Governor and the Secretary of State. The Secretary of State witnesses the Governor's signature of these documents and affixes the Great Seal of Alabama upon them. The Secretary also serves as custodian of the Great Seal of Alabama.[51]

  In a similar vein, the Secretary of State is responsible for authenticating Alabama public documents which will be used in foreign countries. The type of authentication required

[50] Code of Alabama 1975 § 36-14-1.
[51] Code of Alabama 1975 § 36-14-1.

depends on the country in which the document will be used. If the foreign country is party to the Hague Convention Abolishing the Requirement of Legalisation [sic] for Foreign Public Documents (1961), then an Apostille will be affixed to the document. If the foreign country in which the document will be used is not party to the Hague Convention, then a Certification will be affixed to the document.

***Explanatory Note: An Apostille is an authentication format which has been mutually agreed upon by the members of the Hague Convention Abolishing the Requirement of Legalisation [sic] for Foreign Public Documents. Participants signed the treaty on October 5, 1961, and the treaty entered into force on January 14, 1965.*[52]

- **Administering Elections.** The Secretary of State is involved in all steps of the election cycle. Prior to any federal, state, or statewide election (primary, runoff, or general), the political parties[53] whose candidates will appear on the ballot are required to certify their lists of candidates. The Secretary of State then certifies the parties' certification. Prior to a general federal, state, or statewide election, the Secretary of State certifies independent candidates not associated with a political party, as well as third-party candidates.[54]

  After a primary federal, state, or statewide election, the political parties will receive documentation of the results from the probate courts in the counties where the election took place. The political parties use this documentation to produce certificates of results and certificates of candidates to appear in the general election (or the primary runoff election if applicable). After a general federal, state, or statewide election, the probate courts in the counties where the election took place will send documentation of the results to the Secretary of State. General election results are not declared to be official until canvassing is completed. In Alabama, "all returns of elections required by law to be sent to the Secretary of State must, within 22 days after an election, be opened, counted, and certified in the presence of the Governor, Secretary of State, and Attorney General."[55] These three officials comprise the State Canvassing Board.

  The Secretary of State provides, maintains, and administers "a nondiscriminatory, single, uniform, official, centralized, interactive computerized statewide voter registration list."[56] The Secretary employs a Supervisor of Voter Registration who is responsible for liaising between the Secretary of State and county boards of registrars on implementation of voter registration laws. The Secretary and the Supervisor of Voter Registration work closely with the State Voter Registration Advisory Board to ensure that the values of "honesty,

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[52] U.S. Department of State Bureau of Consular Affairs, "Authenticate Your Document: Apostille Requirements," U.S. Department of State, 2020, https://travel.state.gov/content/travel/en/records-and-authentications/authenticate-your-document/apostille-requirements.html.

[53] According to the Code of Alabama 1975 § 17-13-40, a political party is "an assemblage or organization of electors which… casts more than 20 percent of the entire vote cast in any county."

[54] Clay S. Helms (Deputy Chief of Staff and Director of Elections, Secretary of State's Office), interview by the Alabama Department of Archives and History Records Management Section, November 5, 2019, Montgomery, AL.

[55] Code of Alabama 1975 § 17-12-17.

[56] Code of Alabama 1975 § 17-4-33.

fairness, and integrity in lists of qualified voters, the voter registration process, and the election process in the State of Alabama" are upheld.[57]

The office is responsible for creating and maintaining the meeting files of the Alabama Electronic Voting Committee. The Committee examines and certifies electronic vote counting systems in a statutorily prescribed manner, which includes publicly examining systems, interviewing prospective vendors, reporting on systems, and certifying systems for usage in Alabama.[58]

Alabama Act 2011-673, currently codified as the Code of Alabama 1975 § 17-9-30, updated voter identification requirements during elections, requiring that voters must provide valid photo identification in order to vote. The Secretary of State issues "Alabama Photo Voter Identification Cards" at no cost to voters who lack other forms of photo identification. The office operates a Photo Voter ID Mobile Unit which endeavors to visit all sixty-seven counties at least once annually.

The Alabama Legislature established the Fair Ballot Commission in April 2014 with the passage of Alabama Act 2014-399, the Alabama Informed Voter Act, codified as the Code of Alabama 1975 § 17-6-80, *et seq.* The Commission is charged to "provide to the public a fair and accurate explanation of what a vote for and what a vote against a statewide ballot measure represents."[59] The Secretary of State has a seat on the Commission, and ballot statements approved by the Fair Ballot Commission are conspicuously published on the Secretary of State's website.

The office also administers several federal programs related to election administration. In 2002, the U.S. Congress passed the Help America Vote Act (HAVA), which is intended "to establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections… [and] to establish minimum election administration standards for States and units of local government."[60]

The Secretary of State is the primary state official for federal contact for the implementation of HAVA, as well as for the implementation of the National Voter Registration Act of 1993.[61] More specifically, the office is the designated administrator of the state's HAVA funds. Counties have utilized HAVA funds for improvements including, but not limited to, polling place renovation to comply with the Americans with Disabilities Act (ADA) and election security purchasing (such as cybersecurity and/or risk mitigation products).

The U.S. Congress passed the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) in 1986. UOCAVA's provisions apply to U.S. citizens who are active

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[57] Code of Alabama 1975 § 17-4-34 through § 17-4-35.
[58] Code of Alabama 1975 § 17-7-23.
[59] Code of Alabama 1975 § 17-6-81.
[60] "Help America Vote Act of 2002," Pub L. No. 107-252.
[61] Code of Alabama 1975 § 17-4-60.

members of the Uniformed Services, the Merchant Marine, and the commissioned corps of the Public Health Service and the National Oceanic and Atmospheric Administration. The Act also applies to these individuals' eligible family members, as well as other U.S. citizens residing outside the United States.[62] UOCAVA provides the legal basis for these citizens' absentee voting rights for federal elections.

- **Receiving, Filing, and Maintaining Records.** The Secretary of State receives, files, and maintains several types of records, enumerated below:

  Campaign Finance Records: Alabama Act 88-873, currently codified as the Code of Alabama 1975 § 17-5-1 *et seq.* and also called the Fair Campaign Practices Act, requires candidates for office, political action committees, and elected officials to submit periodic reports to the Secretary of State. These filings primarily document campaign contributions and expenditures and are available for public inspection through the Secretary of State's website.[63]

  Land Records: As of 2021, the Secretary of State's land recordkeeping responsibilities are enumerated in the Code of Alabama 1975 § 36-14-1. The statute charges the Secretary to "keep in his or her office the books, maps, and field notes of the late surveyor general of the United States for this state which are public archives of the state." The Secretary of State makes these records accessible through an electronic document portal on its website. The original land records are maintained by the Alabama Department of Archives and History.

  ***Explanatory Note: The Secretary of State acts as custodian for the original land survey records, created in the early 1800s, that subdivided land into parcels for sale to the public. Once a section of land transferred from public to private ownership, the land could be subdivided, sold, and resold. County probate offices are responsible for keeping records of these transactions.[64] In 1945, the Alabama Department of Conservation and Natural Resources became responsible for leasing, selling, and maintaining records on land that is still owned by the state.*

  Legislative Records: As of 2021, the Secretary of State's recordkeeping responsibilities are enumerated in the Code of Alabama 1975 § 36-14-1. Among other duties, the Secretary of State must "procure the acts and resolutions of the Legislature," and transmit copies to a list of other state and local government agencies.[65] Alabama Act 2019-414 specifies, however, that "in lieu of binding and distributing copies of each volume of acts and resolutions… [they] may be stored in electronic format and distributed by electronic means" so long as written notice is provided to all recipients.

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[62] Federal Voting Assistance Program, "The Uniformed and Overseas Citizens Absentee Voting Act Overview," *U.S. Department of Defense*, accessed October 29, 2020, https://www.fvap.gov/info/laws/uocava.
[63] Code of Alabama 1975 § 17-5-8.1 through § 17-5-10.
[64] Code of Alabama 1975 § 12-13-1.
[65] Code of Alabama 1975 § 36-14-1.

Notary Records: Notaries public are appointed by county probate judges, but the Secretary of State maintains records related to all notaries public appointed and commissioned in the state of Alabama. Probate offices "report to the Secretary of State the name, county of residence, date of issuance, and date of expiration of the commission of each notary public appointed and commissioned."[66] The Secretary of State is empowered to directly appoint civil law notaries and to promulgate rules and regulations governing the record keeping practices of civil law notaries.[67]

Bonds, Commissions, and Oaths of Office: Many public officials are required to submit bonds and oaths of office and to receive commission certificates prior to assuming their duties. The Secretary of State issues commission certificates upon receipt of oaths and bonds of office. These certificates are executed by the Governor, attested by the Secretary of State, and affixed with the Great Seal of Alabama.

***Explanatory Note: An oath of office is an affirmation by a person who has been elected to public office that he or she will faithfully execute their duties in accordance with the law. A bond of office is a financial instrument by which a public official undertakes to pay a fixed sum of money if he or she does not faithfully execute their duties.[68] In Alabama, a commission certificate is a document issued by the Secretary of State upon receipt of oaths and bonds of office as appropriate.*

Open Meeting Records: The Code of Alabama 1975 § 36-25A-3, also called the Alabama Open Meetings Act, authorizes the Secretary of State to promulgate and implement rules and regulations necessary for the uniform receipt and posting of notices of meetings. Government bodies with statewide jurisdiction must register with the Secretary of State's Office in order to submit their meeting notices. All meeting notices are posted on the website of the Secretary of State's Office, and any person electing to receive these notices may register with the Secretary of State's Office for direct notification.

Statutory Filings: Many state and local government agencies are required to submit documentation to the Secretary of State as part of their own statutory obligations. For instance, if a municipality elects to abolish its municipal court, it must transmit a certified copy of the ordinance abolishing the court to the Secretary of State.[69] The specific filings which the Secretary of State's office can expect to receive varies according to agencies' statutory obligations, which may change with the passage of new legislation. The Secretary of State retains any filings received in this manner in perpetuity and makes them available to the public.

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[66] Code of Alabama 1975 § 36-20-70.
[67] Code of Alabama 1975 § 36-20-51 *et seq.*
[68] Jeffrey S. Price, Dennis E. McDonnell, and Rebecca B. Howald, "The Public Officials Bond – A Statutory Obligation Requiring 'Faithful Performance,' 'Fidelity,' and Flexibility," prepared for the Tennessee Advisory Commission on Intergovernmental Relations, *Tennessee State Government,* October 2013, https://www.tn.gov/content/dam/tn/tacir/commission-meetings/2013-october/2013-10Tab%204AttachA.pdf.
[69] Code of Alabama 1975 § 12-14-17.

- **Registering.** The Secretary of State registers the following entities:

  Business Entities: The Secretary of State receives and maintains business filings. As of 2021, the Secretary of State maintains filings for all manner of business entities that qualify to do business in Alabama. These include For-Profit Corporations, Non-Profit Corporations, Limited Liability Companies, Limited Partnerships, Limited Liability Partnerships, and Limited Liability Limited Partnerships. Business entities may be either domestic (originating within Alabama) or foreign (originating in other states or foreign countries). The Secretary of State receives approximately 500 requests a day to provide information on the 250,000 business entity filings it maintains.

  Trademark, Trade Name, and Service Mark Filings: Alabama Act 80-166 charged the Secretary of State with the responsibility to register trademarks and service marks at the state level. Alabama Act 88-924 additionally gave the Secretary of State the responsibility for registering trade names. Trademarks and service marks can be registered at the federal level, the state level, or both. Federally registered marks qualify for more robust legal protections, but in order to qualify for federal registration, a mark must be demonstrably used in international or interstate commerce. State registered marks are appropriate for entities that primarily transact business in a single state.[70]

  Trade names cannot be registered at the federal level under the provisions of the Lanham Act.[71] The only exception to this rule is that businesses may federally register their trade name as a trademark if the name is being used to identify goods and services and is also sufficiently distinctive. (For example, the term "MoonPie" can refer to either the confection or the business that produces the confection.)

  Uniform Commercial Code (UCC) Filings: The Secretary of State has been responsible for maintaining UCC filings since the law's initial passage, but its record keeping practices have evolved in the intervening years from a manual filing system into a computer-automated electronic filing system.

- **Administering Internal Operations.** A significant portion of the agency's work includes general administrative, financial, and personnel activities performed to support the programmatic areas of the agency, including:

  Managing the Agency: Activities include internal office management activities common to most government agencies such as corresponding and communicating, scheduling, meeting, documenting policy and procedures, reporting, litigating, legislating (drafting, tracking), publicizing and providing information, managing records, and managing information systems and technology.

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[70] Eric C. Turnbull, "What's the Difference between State and Federal Trademarks?" *O'Reilly Rancilio P.C., Attorneys at Law*, May 13, 2016. https://www.orlaw.com/business/2016/05/13/whats-difference-state-federal-trademarks/.

[71] Justia, "Trade Names," *Justia*, April 2018, https://www.justia.com/intellectual-property/trademarks/trade-name/.

Managing Finances: Activities include budgeting (preparing and reviewing budget package, submitting the budget package to the Department of Finance, documenting amendments and performance of the budget); purchasing (requisitioning and purchasing supplies and equipment, receipting and invoicing for goods, and authorizing payment for products received); accounting for the expenditure, encumbrance, disbursement, and reconciliation of funds within the agency's budget through a uniform system of accounting and reporting; contracting with companies or individuals; and assisting in the audit process.

Managing Human Resources: Activities include recruiting and hiring eligible individuals to fill positions within the agency; providing compensation to employees; providing benefits to employees such as leave, health insurance, unemployment compensation, worker's compensation, injury compensation, retirement, and death benefits; supervising employees by evaluating performance, granting leave, and monitoring the accumulation of leave; training employees; and investigating and disciplining.

Managing Properties, Facilities, and Resources: Activities include inventorying and accounting for non-consumable property and reporting property information to the appropriate authority; leasing and/or renting offices or facilities; providing security for property managed by the agency; insuring property; and assigning, inspecting and maintaining agency property.

Records Appraisal of the Secretary of State

The following is a discussion of the three major categories of records created and/or maintained by the Secretary of State: Temporary Records, Permanent Records, and Records No Longer Created.

***Explanatory Note: This Records Disposition Authority (RDA) addresses records created and maintained by the Alabama Secretary of State and is approved by the State Records Commission. For records created and maintained by local government agencies, please see their respective RDAs as approved by the Local Government Records Commission. For records created and maintained by circuit clerks' offices, please see the Alabama Unified Judicial System's Records Retention Schedule as approved by the Administrative Office of the Courts and the Supreme Court of Alabama.*[72]

Temporary Records

Temporary records should be held for what is considered to be their active life and disposed of once all their fiscal, legal, and administrative requirements have been met. Some of the temporary records created by the Secretary of State are discussed below:

- **Public Document Authentication Files.** The Secretary of State is responsible for authenticating Alabama public documents (such as birth certificates, marriage certificates, and powers of attorney) which will be used in foreign countries. The type of authentication required depends on the country in which the document will be used. If the foreign country is party to the Hague Convention, then an Apostille will be affixed to the document. If the foreign country in which the document will be used is not party to the Hague Convention, then a Certification will be affixed to the document. Staff with the Government Support, Authentications, and Trademarks Division receive applications for public document authentication. The office maintains these applications and tracks fees associated with the applications via receipts. After a document is authenticated, the document is returned to the requestor. The office does not retain a copy of the authenticated document but does retain a copy of the application form. Since fees associated with the applications may be audited, these records should be retained for one year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

- **Election Administration Board, Commission, Committee, and Task Force Working Files.** The Secretary of State creates and maintains the meeting files for several governing bodies whose work pertains to election administration. These include, but are not limited to, the State Canvassing Board,[73] the Electronic Voting Committee,[74] the Fair Ballot

[72] Administrative Office of the Courts, "Alabama Unified Judicial System's Records Retention Schedule," *Alabama Unified Judicial System*, April 7, 2009, https://archives.alabama.gov/officials/rdas/ local/trial_courts_rda.pdf.
[73] Code of Alabama 1975 Title 17 Chapter 12.
[74] Code of Alabama 1975 Title 17 Chapter 7.

Commission,[75] and the State Voter Registration Advisory Board.[76] The Secretary may also convene committees or task forces to study specific election-related issues, as in the case of the Absentee Ballot Advisory Task Force. These records should be retained for one year after audit to facilitate lookback by staff.

- **Itemized and Signed Statements Documenting the Supply of Absentee Election Materials.** Pursuant to the Code of Alabama 1975 § 17-11-19, any person, firm, or entity supplying absentee affidavit envelopes, absentee ballots, or other absentee election materials to any county/municipality in connection with any election must provide an itemized and signed statement to the Secretary of State's Office showing a description and the quantity of each item shipped. In the case of elections with a federal office on the ballot, these records should be retained for twenty-two months after the election in accordance with the provisions of 52 U.S.C. § 20701. In the case of elections with no federal office on the ballot, these records should be retained for six months after the election in accordance with the provisions of the Code of Alabama 1975 § 17-12-7.

- **Election Administration Complaint Files.** The public can submit complaints to the Secretary of State pertaining to several areas of election administration. The Alabama Administrative Code Chapter 820-2-5 outlines the procedure to complain about violations of the Help America Vote Act of 2002 (HAVA). The Secretary also receives complaints about matters including, but not limited to, campaign finance violations (per the provisions of the Fair Campaign Practices Act), election fraud, and voter fraud. When the Secretary of State receives complaints, staff pass the complaint information along to an investigator (as of 2021, the investigator is the General Counsel). The investigator investigates the complaint and decides whether it should be closed without action, handled by the Secretary of State, or passed on to a law enforcement agency (like a district attorney's office). The scope of this series includes records of specific complaints submitted via formal complaint processes but does not include routine, nonspecific correspondence. These records should be retained for twenty-two months after receipt of the complaint in accordance with the provisions of 52 U.S.C. § 20701.

- **Ballot Access Petitions Submitted by Independent Candidates or Political Parties.** The Secretary of State directly certifies independent candidates not associated with a political party, as well as third-party candidates, for state-level, statewide, or federal office. (Petitions for candidates that are seeking municipal or county-level offices are submitted to the probate judges in their respective counties.) In order to appear on the ballot during the general election, independent or third-party candidates must submit a ballot access petition with the required number of signatures from voters in the district. The required number of signatures corresponds to 3% of electors who cast ballots in the district during the last gubernatorial election.[77]

  When the Secretary of State receives a ballot access petition, they give a receipt to the submitter and verify the signatures as belonging to registered voters in the correct district.

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[75] Code of Alabama 1975 § 17-6-80 to § 17-6-81.
[76] Code of Alabama 1975 § 17-4-30 to § 17-4-39.
[77] Code of Alabama 1975 § 17-6-22.

The Secretary notifies candidates that they have been granted ballot access by sending an official letter. (Copies of these official letters are appraised as permanent records falling under the record series "Election Files," described in more detail below.) The office then retains the petition and signatures for twenty-two months after the election in accordance with the provisions of 52 U.S.C. § 20701.

- **Statewide Voter Registration Database.** The Code of Alabama 1975 § 17-4-33 requires the Secretary of State to maintain "a nondiscriminatory, single, uniform, official, centralized, interactive computerized statewide voter registration list." Local boards of registrars can directly enter registered voter information into the statewide database and can also purge names from the active voter list. Information in the database includes, but is not limited to, the following fields: name, home address, home telephone number, and election history reflecting the past ten elections in which the voter successfully cast a ballot.

  As provided in the Code of Alabama 1975 § 17-4-38, the Secretary of State provides access to the voter list upon payment of a reasonable fee. Proceeds from the sale of the voter list are retained by the Secretary of State in the Voter Registration Fund. The personal information of certain registered voters is excluded from these voting lists. For instance, the Code of Alabama 1975 § 17-4-33 requires that the personal information of registered voters who are victims of domestic violence is excluded.

  The database is a living record that is constantly changing, so database entry fields are to be retained until updated. Information from the database is captured in the permanent record series "Annual Exports of Statewide Voter Registration Database," which is described below.

- **Records of Appointment as Notaries Public and Civil Law Notaries.** Notaries public are appointed by county probate judges, but the Secretary of State maintains records related to all notaries public appointed and commissioned in the state of Alabama. Probate offices "report to the Secretary of State the name, county of residence, date of issuance, and date of expiration of the commission of each notary public appointed and commissioned." The Secretary of State is empowered to directly appoint civil law notaries. The Secretary of State's Office maintains a single database which contains records of all notary public and civil law notary appointments in the state. Records of appointment as notaries public should be maintained for useful life to ensure their availability for internal use until no longer referenced. Records of appointment as civil law notaries are to be retained for ten years after the end of the fiscal year in which the appointment expires.

- **Records of Oaths, Commissions, and Bonds.** Some elected officials in Alabama are required to submit copies of their oaths and bonds of office to the Secretary of State. Specifically, the Code of Alabama 1975 § 36-4-2 states that oaths of office taken by the Governor, judges of the Supreme Court, judges of the Court of Civil Appeals, judges of the Court of Criminal Appeals, circuit court judges, the State Auditor, the State Treasurer, the Attorney General, and district attorneys must be filed in the office of the

Secretary of State. The Code of Alabama 1975 § 36-5-1 states that the "official bond of every state official, agent or employee, except the bond of the Secretary of State, must be filed in the office of the Secretary of State." The Secretary's own oath and bond of office are filed in the office of the State Auditor.

The Secretary issues commission certificates to some elected officials, which are affixed with the Great Seal of Alabama and signed by the Governor and the Secretary of State. The Secretary of State must also receive a commission certificate, which is affixed with the Great Seal of Alabama but is only signed by the Governor. As of October 2021, the officials which must obtain commission certificates include judges, the Attorney General, district attorneys, the Secretary of State, the State Auditor, the State Treasurer, the Commissioner of Agriculture and Industries, the Commissioner of Conservation and Natural Resources, the Public Service Commissioners, the Director of the Department of Revenue, the Director of the Department of Finance, the Commissioner of Corrections, the Director of the Department of Labor, the Director of the State Department of Human Resources, the Clerk of the Supreme Court, clerks of the circuit courts, sheriffs, tax assessors, tax collectors, county treasurers, county commissioners, and constables.[78]

Most oaths and bonds of office received by the Secretary of State are duplicate copies. In most cases, elected officials submit the original oaths and bonds to the probate judges in their respective counties. However, a few elected officials, such as the Constitutional Officers, submit their original oaths and bonds of office to the Secretary of State.

This record series includes original oaths and bonds of office, copies of oaths and bonds of office, copies of commission certificates, submission forms, and documentation of the payment of filing fees. These records should be retained for thirty years after the term of office is expired, because they are often referenced for purposes relating to retirement.

- **Administrative Working Database of Oaths, Commissions, and Bonds.** Staff with the Government Support, Authentications, and Trademarks Division maintain a working database to track the oaths, commissions, and bonds that they process. These records should be maintained for useful life to ensure their availability for internal use until no longer referenced.

- **Notices of Meetings Posted by Agencies.** Pursuant to the Code of Alabama 1975 § 36-25A-3, "Any governmental body with statewide jurisdiction shall submit notice of its meeting to the Secretary of State." The Secretary of State posts the notice on the internet for at least seven calendar days prior to the day of the meeting. The Secretary of State fulfills this responsibility by hosting the Alabama Open Meetings Act portal at www.openmeetings.alabama.gov. Notices of meetings posted on the Alabama Open Meetings Act portal include the following information: agency that posted the notice, meeting date, meeting time, meeting location, telephone number, meeting type, date and time of notice submission, and meeting details (such as agendas). These notices should be maintained for five years to ensure their availability for internal use and public access.

[78] Code of Alabama 1975 § 36-2-6.

- **Domestic For-Profit and Non-Profit Entity Records (Copies).** The Secretary of State is the centralized filing location for all business entity documentation in Alabama. Members of the public may submit this documentation using paper or electronic means. In the case of electronic filings, users complete the forms online and the Secretary of State's database automatically populates with their data entries. Information from the database is captured in the permanent record series "Business Entity Database," which is described below.

  In the case of paper filings, staff enter the business entity information into the Business Entity Database. Staff scan the paper filings and scan them to the corporation's entry in the database. The paper filings are boxed and sent to an offsite storage facility. These records should be retained until the scanned images are verified. The verification process ensures that the scan is of sufficient quality and that all pertinent data has been accurately uploaded.

- **Foreign Entity Records.** The Secretary of State maintains business records for both domestic and foreign entities; in this context, "foreign" refers to records originating outside the state of Alabama. Members of the public may submit this documentation using paper or electronic means. In the case of electronic filings, users complete the forms online and the Secretary of State's database automatically populates with their data entries. Information from the database is captured in the permanent record series "Business Entity Database," which is described below.

  In the case of paper filings, staff enter the business entity information into the Business Entity Database. Staff scan the paper filings and scan them to the corporation's entry in the database. The paper filings are boxed and sent to an offsite storage facility. These records should be retained until the scanned images are verified. The verification process ensures that the scan is of sufficient quality and that all pertinent data has been accurately uploaded.

- **Name Reservation Requests and Renewals.** The Code of Alabama 1975 Title 10A requires domestic and foreign corporations (corporations that are not based in Alabama) to register their legal names with the Secretary of State. This registration does not allow foreign corporations to conduct business transactions in Alabama. Name reservations are valid for one year from the date the application is accepted for filing, or until the date that the applicant files a written notice of withdrawal of the reservation, whichever is earlier.[79]

- **Rejections of Attempted Business Entity Filing Statements.** Business entity filing statements will be rejected if they are not filled out in the proper manner. Reasons for rejecting a filing statement include, but are not limited to, the inclusion of an incomplete mailing address, the presence of illegible handwriting, and the failure to submit the required filing fee. Rejections of attempted filing statements are retained for four years to facilitate lookback by staff.

[79] Code of Alabama 1975 § 10A-1-5.14.

- **Trademark, Trade Name, and Service Mark Registration Files (applications, copies of certificates of registration, and supporting documents).** The Code of Alabama 1975 § 8-12-6 *et seq.* requires applicants to apply and register with the Secretary of State for their trademark, trade name, or service mark. Formal registration began in 1980, but trademarks have been accepted informally since 1928. This series is composed of trademark, trade name, and service mark registration applications submitted by members of the public to the Government Support, Authentications, and Trademarks Division. Records in the series include completed paper applications, original specimens, copies of certificates of registration issued to applicants, and other related supporting documents. All registered trademarks, trade names, and service marks are effective for five years and must be renewed if the mark/name is still in use. To that end, these files should be retained for three years after the end of the fiscal year in which the registration expired.

- **Trademark, Trade Name, and Service Mark Database.** The Code of Alabama 1975 § 8-12-6 *et seq.* requires applicants to apply and register with the Secretary of State for their trademark, trade name, or service mark. Staff with the Government Support, Authentications, and Trademarks Division input all trademark, trade name, and service mark registration filings into a database. The database contains scans of the original paperwork (including applications, copies of certificates of registration, and supporting documents). Database fields include, but are not necessarily limited to, ID number, applicant name, and description of mark. Whenever there is a change, the database is updated to reflect the current information. The database is a living record that is constantly changing, so database entry fields are to be retained until updated. Information from the database is captured in the permanent record series "Annual Exports of Trademark, Trade Name, and Service Mark Database," which is described below.

- **National UCC Initial Financing Statements.** Within the framework of the Uniform Commercial Code (UCC), an initial financing statement is a legal notice filed by creditors to declare the right to seize the assets of debtors who default on loans.[80] These statements are submitted using Form UCC-1, which the International Association of Commercial Administrators (IACA) publishes and maintains. Form UCC-1 can be supplemented by appending other UCC forms including, but not limited to, Form UCC-1AD (Financing Statement Addendum) and Form UCC-1AP (Financing Statement Additional Party). The Code of Alabama 1975 § 7-9A-522 requires the Secretary of State to maintain filed financing statements "for at least one year after the effectiveness of the financing statement has lapsed."

  The duration of a financing statement's effectiveness varies depending upon the statement's subject. For instance, financing statements for businesses, business in-lieu, and agricultural liens should be retained for one year after their five-year effectiveness period has elapsed. Financing statements for manufactured homes should be retained for one year after their thirty-year effectiveness period has elapsed. Financing statements for transmitting utilities should be retained indefinitely unless terminated by the secured

[80] Andrew Bloomenthal, "UCC-1 Statement," *Investopedia*, June 1, 2020, https://www.investopedia.com/terms/u/ucc-1-statement.asp.

party; if terminated, the statements should be retained for one year after termination was filed.[81]

- **UCC Initial Financing Statements for Farm Products (Form UCC-1F).** The Code of Alabama 1975 § 7-9A-102 defines "farm products" as goods produced as part of a farming operation including, but not limited to, crops, aquatic goods, livestock, supplies, and unmanufactured products of crops or livestock.

  Farm products receive special protections under federal law according to the provisions of 7 U.S.C. § 1631, which prevents purchasers of farm products from being financially penalized if the seller took out a lien on the products.[82] Alabama complies with these regulations through the usage of Form UCC-1F, which the Secretary of State publishes and maintains. Form UCC-1F can be supplemented by appending other UCC forms including Form UCC-2F (Farm Products Addendum), which the Secretary of State also publishes and maintains. The Code of Alabama 1975 § 7-9A-522 requires the Secretary of State to maintain filed financing statements "for at least one year after the effectiveness of the financing statement has lapsed." Financing statements for farm products should be retained for one year after their five-year effectiveness period has elapsed.

- **National UCC Financing Statements of Continuation, Termination, Assignment, or Amendment.** Within the framework of the Uniform Commercial Code (UCC), a financing statement can be continued, terminated, assigned, or amended. In this context, continuation means that the effectiveness of the initial financing statement extends beyond the date which is five years after the date of its filing. Termination means that a debtor has satisfied all obligations to a lender, concluding the financial transaction between the parties. Assignment means that the secured party is transferring some or all rights to another party. Amendment is a general term that encompasses continuations, terminations, assignments and other forms of transfer.[83]

  These statements are submitted using Form UCC-3, which the International Association of Commercial Administrators (IACA) publishes and maintains. Form UCC-3 can be supplemented by appending other UCC forms including, but not limited to, Form UCC-3AD (Financing Statement Addendum) and Form UCC-3AP (Financing Statement Additional Party). The Code of Alabama 1975 § 7-9A-522 requires the Secretary of State to maintain filed financing statements "for at least one year after the effectiveness of the financing statement has lapsed." Financing statements of continuation, termination, assignment, or amendment (UCC-3s) are indexed with their corresponding initial financing statements (UCC-1s) in the central registry system. The durations of financing

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[81] Code of Alabama 1975 § 7-9A-515.

[82] A lien is a security interest or legal right obtained by a creditor to a debtor's property. Liens generally stay in effect until the underlying obligation to the creditor is satisfied. If the underlying obligation is not satisfied, the creditor may be able to take possession of the debtor's property. See Legal Information Institute, 2020.

[83] Thomson Reuters Practical Law, "Glossary – UCC-3 Financing Statement," Thomson Reuters, 2020, https://content.next.westlaw.com/1-382-3886?transitionType=Default&contextData=(sc.Default)&__lrTS=20190907093849007&firstPage=true.

statements' effectiveness are outlined in the Code of Alabama 1975 Code of Alabama 1975 § 7-9A-515 and described above.

- **UCC Financing Statements of Continuation, Termination, Assignment, or Amendment for Farm Products (Form UCC-3F).** Like other financing statements, statements pertaining to farm products can be continued, terminated, assigned, or amended. Alabama complies with these regulations through the usage of Form UCC-3F, which the Secretary of State publishes and maintains. Form UCC-3F can be supplemented by appending other UCC forms including Form UCC-2F (Farm Products Addendum), which the Secretary of State also publishes and maintains. The Code of Alabama 1975 § 7-9A-522 requires the Secretary of State to maintain filed financing statements "for at least one year after the effectiveness of the financing statement has lapsed." Financing statements of continuation, termination, assignment, or amendment (UCC-3Fs) are indexed with their corresponding initial financing statements (UCC-1Fs) in the central registry system. The durations of financing statements' effectiveness are outlined in the Code of Alabama 1975 Code of Alabama 1975 § 7-9A-515 and described above.

- **National UCC Information Statements (Form UCC-5).** Within the framework of the Uniform Commercial Code (UCC), a debtor or secured party can submit an informational filing about a specific UCC initial financing statement. These informational statements are submitted using Form UCC-5, which the International Association of Commercial Administrators (IACA) publishes and maintains. Information statements can indicate that a UCC initial financing statement is inaccurate, was wrongfully filed, or was filed by a person not entitled to do so. Information statements have no legal effect on the financing statement and are for informational purposes only. They should be retained for one year after their 5-year effectiveness period has elapsed.

- **National UCC Information Request Forms (Form UCC-11).** Since Uniform Commercial Code (UCC) filings are a matter of public record, anyone can request that the Secretary of State search its database for filings that pertain to a specific debtor. These requests are submitted using Form UCC-11, which the International Association of Commercial Administrators (IACA) publishes and maintains. Information requests are retained for one year after audit. Although information requests are not audited, the financial transactions associated with these requests are subject to audit.

- **Farm Products Central Registry Registration Form (Form UCC-20).** Merchants, buyers, and sellers can purchase the Farm Products Central Registry, which can be used to check a lien status against commodities presented to a business for sale or purchase. The registry can be purchased in full (in the form of a master list) or in part (by requesting information on specific farm product codes). Farm products central registry registration forms are retained for one year after audit because, although information requests are not audited, the financial transactions associated with these requests are subject to audit.

- **Filing Statements of Notice, Release, Amendment, or Continuation for State and Federal Tax Liens.** The Alabama Department of Revenue may file a state tax lien in response to nonpayment of state taxes. Similarly, the Internal Revenue Service may file a federal tax lien in response to nonpayment of federal taxes. Tax liens fall outside the framework of the Uniform Commercial Code (UCC), but due to the similarities between UCC filings and tax lien filings, both filings are handled by the same office in most jurisdictions.

  In Alabama, the Secretary of State indexes and maintains federal tax liens alongside its UCC filings. The Code of Alabama 1975 § 7-9A-522 requires the Secretary of State to maintain filed financing statements "for at least one year after the effectiveness of the financing statement has lapsed." Tax liens should be retained for one year after their ten-year effectiveness period has elapsed as provided in the Internal Revenue Manual 5.17.2.2.2.[84]

- **Rejections of Attempted UCC Filing Statements.** UCC filing statements will be rejected if they are not filled out in the proper manner. Reasons for rejecting a filing statement include, but are not limited to, the inclusion of an incomplete mailing address, the presence of illegible handwriting, and the failure to submit the required filing fee. Rejections of attempted filing statements are retained for four years to facilitate lookback by staff.

- **Register of Administrative Rules.** According to the Code of Alabama 1975 § 41-22-6 through § 41-22-7, agencies must compile and maintain "an official register of regulations which shall be compiled, indexed, published in loose-leaf form, and kept up to date." This "official register of regulations" is known as "The Secretary of State Code" and must be made available upon request to all persons. The register must be updated on an ongoing basis; as such, it is to be retained until superseded.

- **Administrative Rule Change Working Files.** The Code of Alabama 1975 Title 41 Chapter 22, known as the Alabama Administrative Procedure Act, details the steps which an agency must follow when updating its administrative rules. Working files are produced in the course of the proposal, adoption, amendment, and/or repeal of administrative rules. Records in this series may include, but are not limited to, the following: received public comments, economic impact statements, and business impact analyses. Working files should be retained for one year after adoption, amendment, repeal, or rejection of an administrative rule to facilitate review by staff when considering similar rules.

[84] Alabama law does not explicitly specify when state tax liens expire. The Code of Alabama 1975 § 40-29-21 provides that state tax liens should remain in effect until "the liability for the amount... is satisfied or becomes unenforceable by reason of lapse of time." The Secretary of State currently retains state and federal tax liens for equal amounts of time.

Permanent Records

The Archives Division has appraised the following records as permanent.

Authenticating

- **Registers of Proclamations.** The Secretary of State maintains registers of proclamations and original copies of proclamations issued by the Governor. The registers are kept in the format of red bound volumes. All proclamations are signed by both the Governor and the Secretary of State. The Secretary of State witnesses the Governor's signature of these documents and affixes the Great Seal of Alabama upon them. The registers of proclamations should be preserved as part of the core documentation of the Secretary of State's responsibilities. **(Bibliographic Title: Proclamation Registers)**

Administering Elections

- **Meeting Minutes, Agendas, and Packets.** The Secretary of State creates and maintains the meeting files for several governing bodies whose work pertains to election administration. These include, but are not limited to, the State Canvassing Board, the Electronic Voting Committee, the Fair Ballot Commission, and the State Voter Registration Advisory Board. The Secretary may also convene committees or task forces to study specific election-related issues, as in the case of the Absentee Ballot Advisory Task Force. This record series consists of meeting agendas, minutes, and other supporting documents of these deliberative bodies. These records are part of the core administrative documentation of the agency. **(Bibliographic Title: Meeting Files)**

- **Representational Final Versions of Informational and Promotional Election Administration Materials.** The Secretary of State creates a variety of publications to educate and inform candidates, voters, and poll workers about Alabama's electoral processes. For example, the office publishes its *Candidate Filing Guide* to assist political candidates in completing ethics filings as required by the Fair Campaign Practices Act (FCPA). Informational and promotional materials include, but are not limited to, advertisements, brochures, guides, handbooks, maps, posters, and press releases. These records document the office's outreach efforts relating to election administration. **(Bibliographic Title: Publicity Files)**

- **Election Files.** These files include, but are not limited to, certified candidate lists from political parties; ballot certifications issued by the Secretary of State; election results as certified by counties or political parties; election results as certified by the State Canvassing Board; absentee ballot statistics; party emblems; precinct recapitulation sheets for primary, general, and special elections; declarations and certifications of candidacy; records documenting election audits; and correspondence. This series should be preserved as it documents the Secretary of State's official duties in regard to administering and managing statewide and local elections. **(Bibliographic Title: Election Files)**

- **Representational Election Administration Training and Outreach Files.** The Secretary of State offers training to local election officials on their responsibilities; for instance, the office conducts annual training for local boards of registrars. The office also conducts outreach to local election officials; for instance, staff attend professional conferences (such as the Alabama Probate Judges Association annual meeting) to provide legislative updates. This record series includes representative samples of the materials distributed for training/outreach purposes including, but not limited to, the following documents: agendas, educational resources, handouts, and reference materials. Records documenting the work of the Photo Voter ID Mobile Unit is also included in this series. These records document the Secretary of State's efforts to assist local election officials in fulfilling their duties. **(Bibliographic Title: Election Administration Training and Outreach Files)**

- **Certification/Denial of Electronic Vote Counting System Records.** This series consists of documents relating to the certification (or denial of certification) of electronic voting device systems submitted by vendors. The office staff maintains this series permanently as documentation of the process of implementing the Electronic Reform Act. **(Bibliographic Title: Not Applicable) (Maintained by the Secretary of State)**

- **Help America Vote Act Implementation Records.** Between 2003 and 2021, Alabama received approximately $58 million in Help America Vote Act (HAVA) funds. Prior to the implementation of HAVA, each of Alabama's sixty-seven counties used a different system to register its voters. In 2007, the Secretary of State allocated approximately $7 million of HAVA funds to a regrant program. Counties could apply for and receive funds via the regrant program to make improvements including, but not limited to, polling place renovation to comply with the Americans with Disabilities Act (ADA) and election security purchasing (such as cybersecurity and/or risk mitigation products). The maximum allocation available to each county derived from the quantity of registered voters in the county.

  Prior to spending HAVA funds, county governments must receive preapproval from the Secretary of State. Local officials submit invoices or quotes for goods/services and are subsequently reimbursed.

  Records in this series include, but are not limited to, applications from the Secretary of State to the federal government requesting HAVA disbursements, regrant application packets, grant award correspondence, regrant award correspondence, reimbursement requests, financial logs, correspondence with the federal government (such as with the U.S. Election Assistance Commission), and correspondence with local governments. This series also includes records of the committee of twenty-three individuals who assisted the Secretary of State in developing a statewide HAVA implementation plan in the program's early years. These records should be retained as core implementation documentation of this act. **(Bibliographic Title: Help America Vote Act Implementation Records)**

- **Voter Identification Act Implementation Records.** Under Act 2011-673 of the Alabama Legislature (the Voter Identification Act, now codified as § 17-9-30 of the Code of Alabama), the Secretary of State's office creates photo ID cards in its office and sends out mobile units to various locations to create photo ID cards for voters who do not have other forms of photographic identification. To receive a photo ID card, voters must be able to provide a birth certificate, marriage license, or other form of identification that either has a photo of the voter or contains the voter's full legal name and date of birth. Because the cards have no expiration date and must be updated when a voter's address changes, the application forms and identification materials collected for them must also be considered permanent. The Secretary of State's office does not maintain a photo ID database, retaining only paper records after a photo ID card is returned by the vendor and issued to the voter. While permanent retention of the records is required by the office for administrative purposes, they duplicate information already available and lack research value that would warrant transfer to the Archives. **(Bibliographic Title: Not Applicable) (Maintained by the Secretary of State)**

- **Annual Exports of Statewide Voter Registration Database.** The Code of Alabama 1975 § 17-4-33 requires the Secretary of State to maintain "a nondiscriminatory, single, uniform, official, centralized, interactive computerized statewide voter registration list." Information in the database includes, but is not limited to, the following fields: name, home address, home telephone number, and election history reflecting the past ten elections in which the voter successfully cast a ballot. This database provides immediate access to the lists of registered voters for verification of voter eligibility. **(Bibliographic Title: Voter Registration Database)**

Receiving, Filing, and Maintaining Records

- **Fair Campaign Practices Act Filings and Reports.** This series is composed of various forms or reports filed by political committees and principal campaign committees to comply with provisions of the Fair Campaign Practices Act. Forms in this series include, but are not limited to, appointment of principal campaign committees (for candidates), statements of organization (for political committees), updates to committee information, and statements of dissolution. Reports in this series include, but are not limited to, pre-election reports disclosing campaign finance activity during an election cycle and annual reports disclosing campaign finance activities for a calendar year. As of October 2021, these filings are submitted electronically to the campaign finance database which is accessible at www.fcpa.alabamavotes.gov. This series also includes similar filings which were required under the repealed Corrupt Practices Act. These records have archival value in that they offer information regarding political supporters and campaign expenditures to researchers. Exports of the database's filings, reports, and associated data entries should be transmitted to the Alabama Department of Archives and History annually. **(Bibliographic Title: State Campaign Disclosure Report Files)**

- **Land Records.** The Secretary of State is required by law to keep various land records in office. These records provide continuing evidence of title, ownership, and conveyance of property and are used extensively to document the history of land in the state. The land

records that must be kept in the office include, but are not limited to, the following: land patents (these records document the transfer of tracts of land from the state and are recorded in the tract books by township and range), land field notes (these records are field notes of original survey of the state lands in Alabama), land plats (these plats provide a record of the original land survey of state lands in Alabama. They provide a cross reference to the field notes written by land surveyor), and tract books (these tract books are used to record transactions for land owned by the state. They can be used to identify land patents issued by the state for land purchases.) To make these records more easily accessible for the public, the office scanned these records and makes them available on the office's website. **(Bibliographic Title: Land Records)**

- **Bills and Resolutions.** The Legislature acts through the passage of bills, resolutions, and proposed constitutional amendments. Alabama's Constitution requires that all laws passed by the Legislature be in the form of a bill. Legislative resolutions are less formal than bills and are more flexible in their operation. Resolutions do not carry legal requirements that subject people to penalties or prosecutions, and are often non-binding opinions expressed by the Legislature or measures that regulate legislative-related activity. Resolutions are most often employed to either create committees and study groups, establish legislative rules, or to offer congratulations or condolences to certain individuals in light of extraordinary circumstances, events, or accomplishments. Proposed constitutional amendments may be passed by the Legislature as either a bill or a resolution, but must go before the people for a vote prior to ratification. The Secretary of State receives official copies of legislative acts for official recordation and publication, and then subsequently transmits the legislative records to the Alabama Department of Archives and History. Together with the other legislative records listed under this subfunction, these records are the most important files created by the Legislature and should be retained permanently as a result. **(Bibliographic Title: Bills and Resolutions)**

- **Engrossed Acts.** Engrossed acts are updated copies of acts that have not yet been passed by both chambers. Most proposed legislation undergoes significant changes during deliberation; for instance, amendments may be added, and sponsors may be added or removed. "Engrossing" refers to the process by which an act is updated, and the different versions are reconciled before the final vote. The Secretary of State receives official copies of legislative acts for official recordation and publication, and then subsequently transmits the legislative records to the Alabama Department of Archives and History. Together with the other legislative records listed under this subfunction, these records are the most important files created by the Legislature and should be retained permanently as a result. **(Bibliographic Title: Engrossed Acts)**

- **Enrolled Acts.** Enrolled acts are the final copies of acts which have passed both legislative chambers in identical form. Enrolled acts are printed on parchment paper, signed by legislative officials, and submitted to the Governor for signature, if applicable. Once the required parties sign the acts and the Legislature adjourns, the acts are assigned act numbers and bound in book form. The Secretary of State receives official copies of legislative acts for official recordation and publication, and then subsequently transmits the legislative records to the Alabama Department of Archives and History. Together

with the other legislative records listed under this subfunction, these records are the most important files created by the Legislature and should be retained permanently as a result. **(Bibliographic Title: Enrolled Acts)**

- **Legislative Acts Database.** The Code of Alabama 1975 § 36-14-11 specifies that legislative acts "may be stored in electronic format and distributed by electronic means." In accordance with these provisions, the Secretary of State maintains a publicly accessible online database where acts may be viewed. Information in the database includes, but is not limited to, the following fields: bill/resolution number, act number, session type, author(s), subject, description, date/time of approval, and date/time of receipt. Scanned images of the legislative acts may also be included. Exports of the database should be transmitted to the Alabama Department of Archives and History annually. **(Bibliographic Title: Legislative Acts Database)**

- **House and Senate Journals.** The House and Senate Journals detail the day-by-day proceedings of the Legislature. They allow researchers to study the activities of the Legislature in a given time period. In addition, they play a vital role in researching bills and trying to identify legislative intent. The House and Senate Journals usually contain multiple references to a single bill. Users can consult the index for each page on which a bill is mentioned to see when readings, committee assignments, and votes occurred. For bills and resolutions that do not become acts, the House and Senate Journals give vital details on their journey and where it stopped. The Secretary of State receives official copies of legislative acts for official recordation and publication, and then subsequently transmits the legislative records to the Alabama Department of Archives and History. Together with the other legislative records listed under this subfunction, these records are the most important files created by the Legislature and should be retained permanently as a result. **(Bibliographic Title: House Journals, Senate Journals)**

- **Legislative State Publications.** The Code of Alabama 1975 § 36-14-11 to § 36-14-13 outlines the Secretary of State's responsibility to make legislative records accessible to other government officials. For instance, the published Acts of Alabama contain the final form of a bill after it has made its way through both houses of the State Legislature and the Governor and become law. Researchers use the published Acts to identify laws in effect by year. The Secretary of State is also responsible for distributing the Code of Alabama and its supplements. The most recent Code of Alabama is from 1975, but yearly supplements and revised volumes are published to reflect changes to the law. The Codes typically list all Acts that relate to a given law, which allows researchers to work backwards through relevant Acts. Together with the other legislative records listed under this subfunction, these records are the most important files created by the Legislature and should be retained permanently as a result. **(Bibliographic Title: State Publications)**

- **Boards and Commissions Database.** Alabama Act 2006-630, currently codified as the Code of Alabama 1975 § 36-14-17, requires the Secretary of State to maintain a publicly accessible, centralized electronic display of appointees of state boards, commissions, and task forces. The Secretary of State fulfills this obligation by maintaining the website www.boards.alabama.gov, which includes contact information for each body, lists of

board and commission members, and notices of vacancies submitted by boards and commissions as required by statute. Exports of the database should be transmitted to the Alabama Department of Archives and History annually. **(Bibliographic Title: Boards and Commissions Database)**

- **Statutory Filings Database.** Many state and local government agencies are required to submit documentation to the Secretary of State as part of their own statutory obligations. For instance, if a municipality elects to abolish its municipal court, it must transmit a certified copy of the ordinance abolishing the court to the Secretary of State.[85] The specific filings which the Secretary of State's office can expect to receive varies according to agencies' statutory obligations, which may change with the passage of new legislation. The Secretary of State retains any filings received in this manner in perpetuity and makes them available to the public via a database. Database fields include entity, description, and date signed. Filings and associated metadata should be transmitted to the Alabama Department of Archives and History annually. **(Bibliographic Title: Statutory Filings Database)**

Registering

- **Business Entity Database.** The Secretary of State creates and maintains a database of all entities registered to do business in Alabama. As of 2021, types of business entities in the database include For-Profit Corporations, Non-Profit Corporations, Limited Liability Companies (LLCs), Limited Partnerships (LPs), Limited Liability Partnerships (LLPs), Limited Liability Limited Partnerships (LLLPs), General Partnerships, and Professional Associations. Business entities may be either domestic (originating within Alabama) or foreign (originating in other states or foreign countries). The Secretary of State may also create and maintain records of other types of business entities. For instance, the office maintains records pertaining to homeowners' associations (HOAs) as provided by the Code of Alabama § 35-20-1 *et seq.*

  Business Entities Division staff enter essential information (such as the entity's legal name and address, county of formation, date registered, capital amount, nature of business, and names of agent and incorporator) into the database and scan all filed documents into a digital image system. All for-profit domestic corporations must file their annual reports with the Department of Revenue, which transmits the data to the Secretary of State's Office for scanning into its digital image system. Database fields include, but are not necessarily limited to, the following fields: entity ID number, entity name, city, entity type, and status. Whenever there is a change, the database is updated to reflect the current information. Obsolete data is moved to another area in the database for storage but is never deleted from the system. While the database is available to the general public through the agency's website, copies of scanned images can only be purchased by paying a fee. This database serves not only the office, but also researchers, as the data may be used for specific research projects. Filings and associated metadata

[85] Code of Alabama 1975 § 12-14-17.

should be transmitted to the Alabama Department of Archives and History annually. **(Bibliographic Title: Business Entity Database)**

- **Annual Exports of Trademark, Trade Name, and Service Mark Database.** The Code of Alabama 1975 § 8-12-6 *et seq.* requires applicants to apply and register with the Secretary of State for their trademark, trade name, or service mark. Staff with the Government Support, Authentications, and Trademarks Division input all trademark, trade name, and service mark registration filings into a database. The database contains scans of the original paperwork (including applications, copies of certificates of registration, and supporting documents). Database fields include, but are not necessarily limited to, ID number, applicant name, and description of mark. Whenever there is a change, the database is updated to reflect the current information. While the database is available to the general public through the agency's website, copies of scanned images can only be purchased by paying a fee. This database serves not only the office, but also researchers, as the data may be used for specific research projects. Filings and associated metadata should be transmitted to the Archives annually. **(Bibliographic Title: Trademark, Trade Name, and Service Mark Database)**

Administering Internal Operations

- **Policies and Procedures Governing Core Functions and Services.** These records document the agency's role in promulgating policies governing critical operations. The scope of the series does not include policies concerning the administration of routine, internal operations. **(Bibliographic Title: Policies and Procedures)**

- **Certified Copies of the Administrative Rules.** The Alabama Administrative Code is a compilation of the rules of all state agencies covered by the Alabama Administrative Procedure Act. Each agency covered by the Act may propose and adopt revisions to its administrative rules. According to the Code of Alabama 1975 § 41-22-6, "each agency shall have an officer designated as its secretary and shall file in the office of the secretary of the agency a certified copy of each rule adopted [by the agency]." **(Bibliographic Title: Not Applicable) (Maintained by the Secretary of State)**

- **Administrative Files that Document Policy, Process, and Procedure.** These records include official correspondence of the office and document actions and positions of the agency, but do not include correspondence dealing with routine matters. These records include, but are not limited to, correspondence with state officials, legal/advisory correspondence, memoranda, subject files, and other correspondence. These records provide the core documentation of the activities of the Secretary of State as a constitutional officer. **(Bibliographical Title: Administrative Files)**

- **Annual and Other Periodic Reports.** These records include reports created by the agency that document its critical activities. Some agencies must submit an annual report to the Governor and/or the Legislature by statute. The frequency of report publications may vary (annual, biannual, quarterly, etc.). Interim reports that contain the same substantive information as a corresponding annual or other periodic report need not be

retained permanently. Where no agency annual report exists, or where the agency annual report does not adequately document activities of the agency, then division annual reports should be retained. **(Bibliographic Title: State Publications)**

- **Special Reports.** These records include reports created by the agency pertaining to a specific topic or subject area. Special reports may be prepared on an irregular schedule. Interim reports that contain the same substantive information as a corresponding special report need not be retained permanently. **(Bibliographic Title: State Publications)**

- **Informational and Promotional Materials.** These records are created to build public awareness about a variety of issues and department related activities. The publications help document the activities of the Secretary of State and how the office views these activities. **(Bibliographic Title: Publicity Files)**

- **Board, Commission, Committee, and Task Force Member Files – Biographical and Historical Information.** These records include biographical description and other historical data related to the members of boards, commissions, committees, and task forces associated with the Secretary of State. These records provide important documentation of these bodies' composition. **(Bibliographic Title: Biographical Files)**

- **Website and Social Media Page(s).** The office has a website at www.sos.alabama.gov and social media presences on Facebook and Twitter. Information on the website includes the agency history, Alabama Constitution, Acts of Alabama, Code of Alabama, election laws, administrative procedures, services of various divisions, press releases, forms, reports, and inquiry system. ADAH staff capture and preserves the agency's website and other social media sites via a service offered by the Internet Archive [Archive-It]. Any content behind password protected or login would not be captured by ADAH. Check with the ADAH website at www.archiveit.org/organizations/62 to ensure your agency and social media page(s) are captured and preserved. If your agency's website and social media page(s) are not being captured by the service, please contact the Archives Division at 334-242-4452 to get them included. **(Bibliographic Title: Website and Social Media Page[s])**

Records No Longer Created

The following records were created and/or maintained by the Secretary of State over time but are no longer created. In most cases these records were created for a purpose that no longer exists.

- **Unused Absentee Election Materials**. Prior to 2019, counties and municipalities returned unused absentee election materials, along with statements showing items not utilized in the election, to the Secretary of State. Alabama Act 2019-507, which took effect in August 2019, revised this procedure, specifying that unused absentee election materials should instead be returned to the sheriffs of their respective counties. All materials which the Secretary of State received before August 2019 are eligible to be destroyed as of this writing.

- **Provisional Balloting Files.** Provisional ballots are used when there is uncertainty about a voter's eligibility (for instance, because the voter's name does not appear on the voter roll). Provisional ballots are maintained separately from other ballots until after the election. Election officials then determine whether the voter was eligible to vote, and therefore whether the ballot is to be counted.[86]

  Prior to 2019, counties and municipalities sometimes returned provisional balloting materials to the Secretary of State. (These provisional balloting files were often maintained alongside unused absentee election materials, described above.) Alabama Act 2019-507 specified that unused absentee election materials should instead be returned to the sheriffs of their respective counties. Provisional balloting files will also be returned to sheriffs under this updated legislation. The Secretary of State will retain any provisional balloting files which it received before August 2019 for their required retentions. These records should be retained for twenty-two months in accordance with the provisions of 52 U.S.C. § 20701.

- **Records of Pistols Sold by Dealers.** The Secretary of State's Office previously received a triplicate copy of the record of every pistol sold by an Alabama dealer. The sheriff or chief of police also received a copy, and the third copy remained with the pistol dealer. Based on longer retentions of the local law enforcement and pistol dealer copies, the Secretary of State's Office maintained its copy for two years for reference purposes. Alabama Act 2015-341 "eliminate[d] certain record-keeping and administrative requirements relating to firearm sales," meaning that the Secretary of State no longer receives these triplicate copies. The Secretary of State previously consulted with the Alabama Sheriff's Association to develop the prescribed electronic form used for pistol permits, but Alabama Act 2021-246 removed this requirement for consultation.

- **Notices of Removal of Abandoned Vehicles.** Peace officers in Alabama previously submitted notices of removal of abandoned vehicles to the Secretary of State and the now-defunct Department of Public Safety. The Secretary of State retained its copies for four years. Alabama Act 2015-470 transferred this responsibility to the Alabama Law Enforcement Agency (ALEA), meaning that the Secretary of State no longer receives these notices.

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[86] National Conference of State Legislatures Elections Team, "Provisional Ballots," National Conference of State Legislatures, September 17, 2020, https://www.ncsl.org/ research/elections-and-campaigns/provisional-ballots.aspx.

Permanent Records List
Secretary of State

Authenticating

1. Registers of Proclamations

Administering Elections

1. Meeting Minutes, Agendas, and Packets
2. Representational Final Versions of Informational and Promotional Election Administration Materials
3. Election Files
4. Representational Election Administration Training and Outreach Files
5. Certification/Denial of Electronic Vote Counting System Records*
6. Help America Vote Act Implementation Records
7. Voter Identification Act Implementation Records*
8. Annual Exports of Statewide Voter Registration Database

Receiving, Filing, and Maintaining Records

1. Fair Campaign Practices Act Filings and Reports
2. Land Records
3. Bills and Resolutions
4. Engrossed Acts
5. Enrolled Acts
6. Legislative Acts Database
7. House and Senate Journals
8. Legislative State Publications
9. Boards and Commissions Database
10. Statutory Filings Database

Registering

1. Business Entity Database
2. Annual Exports of Trademark, Trade Name, and Service Mark Registration Database

Administering Internal Operations

1. Policies and Procedures Governing Core Functions and Services
2. Certified Copies of the Administrative Rules
3. Administrative Files that Document Policy, Process, and Procedure
4. Annual and Other Periodic Reports
5. Special Reports
6. Informational and Promotional Materials

7. Board, Commission, Committee, and Task Force Member Files – Biographical and Historical Information
8. Website and Social Media Page(s)

*indicates records that the Secretary of State determined should be retained permanently and that ADAH anticipates will remain in the care and custody of the creating agency. All other permanent records are to be transmitted to the ADAH once they are no longer in active use by the Secretary of State.

Secretary of State Records Disposition Authority

This Records Disposition Authority (RDA) is issued by the State Records Commission under the authority granted by the Code of Alabama 1975 § 41-13-5 and 41-13-20 through 21. It was compiled by the Archives Division, Alabama Department of Archives and History (ADAH), which serves as the Commission's staff, in cooperation with representatives of the Agency. The RDA lists records created and maintained by the Agency in carrying out their mandated functions and activities It identifies records which must be maintained permanently and ultimately transferred to the ADAH; establishes retention periods for temporary records; and provides the legal authority for the Agency to implement destruction of eligible records.

Alabama law requires public officials to create and maintain records that document the business of their offices. These records must be protected from "mutilation, loss, or destruction," so that they may be transferred to an official's successor in office and may be made available to members of the public. Records also must be kept in accordance with auditing standards approved by the Examiners of Public Accounts (Code of Alabama 1975 § 36-12-2, 36-12-4, and 41-5-23). For assistance in implementing this RDA, or for advice on records disposition or other records management concerns, contact the agency records manager or ADAH Archives Division at (334) 242-4452.

Explanation of Records Requirements

The RDA shall govern the disposition of all records, regardless of format, created by the agency from creation to dissolution. Please contact the staff of the Department of Archives and History before destroying any records created prior to 1940.

This RDA supersedes any previous records disposition schedules or RDAs governing the retention of the records created by the Agency. Copies of superseded schedules are no longer valid and may not be used for records disposition.

The RDA establishes retention and disposition instructions for records listed below, regardless of the medium on which those records may be kept. Electronic mail, for example, is a communications tool that may record permanent or temporary information. As for records in any other format, the retention periods for e-mail records are governed by the requirements of the subfunctions to which the records belong.

Certain other record-like materials are not actually regarded as official records and may be disposed of under this RDA. Such materials include (1) duplicate record copies that do not require official action, so long as the creating office maintains the original record for the period required; (2) catalogs, trade journals, and other publications received that require no action and do not document agency activities; (3) stocks of blank stationery, blank forms, or other surplus materials that are not subject to audit and have become obsolete; (4) transitory records, which are temporary records created for short-term, internal purposes, may include, but are not limited to, telephone call-back messages, drafts of ordinary documents not needed for their evidential value, copies of material sent for information purposes but not needed by the receiving office for future business, and internal communications about social activities; (5) honorary materials, plaques,

awards, presentations, certificates, and gifts received or maintained by the agency staff. They may be disposed of without documentation of destruction.

Records Disposition Requirements

This section of the RDA is arranged by subfunctions of the Agency and lists the groups of records created and/or maintained as a result of activities and transactions performed in carrying out these subfunctions. The Agency may submit requests to revise specific records disposition requirements to the State Records Commission for consideration at its regular biannual meetings.

Authenticating

REGISTERS OF PROCLAMATIONS
Disposition: PERMANENT RECORD.

Public Document Authentication Files
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Administering Elections

MEETING MINUTES, AGENDAS, AND PACKETS
Disposition: PERMANENT RECORD.

Election Administration Board, Commission, Committee, and Task Force Working Files
Disposition: Temporary Record. Retain 1 year after audit.

Itemized and Signed Statements Documenting the Supply of Absentee Election Materials

a. For Elections with a Federal Office on the Ballot
   Disposition: Temporary Record. Retain 22 months after the election.

b. For Elections with No Federal Office on the Ballot
   Disposition: Temporary Record. Retain 6 months after the election.

Election Administration Complaint Files
Disposition: Temporary Record. Retain 22 months after receipt of the complaint.

Ballot Access Petitions Submitted by Independent Candidates or Political Parties
Disposition: Temporary Record. Retain 22 months after the election.

REPRESENTATIONAL FINAL VERSIONS OF INFORMATIONAL AND PROMOTIONAL ELECTION ADMINISTRATION MATERIALS
Disposition: PERMANENT RECORD.

Informational and Promotional Working Files
Disposition: Temporary Record. Retain for useful life.

ELECTION FILES
Disposition: PERMANENT RECORD.

REPRESENTATIONAL ELECTION ADMINISTRATION TRAINING AND OUTREACH FILES
Disposition: PERMANENT RECORD.

CERTIFICATION/DENIAL OF ELECTRONIC VOTE COUNTING SYSTEM RECORDS
Disposition: PERMANENT RECORD. Retain in office.

HELP AMERICA VOTE ACT IMPLEMENTATION RECORDS
Disposition: PERMANENT RECORD.

VOTER IDENTIFICATION ACT IMPLEMENTATION RECORDS
Disposition: PERMANENT RECORD. Retain in office.

Statewide Voter Registration List

a. Statewide Voter Registration Database
   Disposition: Temporary Record. Retain database entry fields until updated.

b. ANNUAL EXPORTS OF STATEWIDE VOTER REGISTRATION DATABASE
   Disposition: PERMANENT RECORD.

Records No Longer Created

Unused Absentee Election Materials (Elections with a Federal Office on the Ballot)
Disposition: Temporary Record. Retain 22 months.

Unused Absentee Election Materials (Elections with No Federal Office on the Ballot)
Disposition: Temporary Record. Retain 6 months.

Provisional Balloting Files
Disposition: Temporary Record. Retain 22 months.

Receiving, Filing, and Maintaining Records

Campaign Finance Records

FAIR CAMPAIGN PRACTICES ACT FILINGS AND REPORTS
Disposition: PERMANENT RECORD. Transmit filings, reports, and associated data entries annually.

Land Records

LAND RECORDS
Disposition: PERMANENT RECORD.

Legislative Records

BILLS AND RESOLUTIONS
Disposition: PERMANENT RECORD.

ENGROSSED ACTS
Disposition: PERMANENT RECORD.

ENROLLED ACTS
Disposition: PERMANENT RECORD.

LEGISLATIVE ACTS DATABASE
Disposition: PERMANENT RECORD. Transmit exports of the database annually.

HOUSE AND SENATE JOURNALS
Disposition: PERMANENT RECORD.

LEGISLATIVE STATE PUBLICATIONS
Disposition: PERMANENT RECORD.

Notary Records

Records of Appointment as Notaries Public and Civil Law Notaries

a. Records of Appointment as Notaries Public
   Disposition: Temporary Record. Retain for useful life.

b. Records of Appointment as Civil Law Notaries
   Disposition: Temporary Record. Retain 10 years after the end of the fiscal year in which the appointment expires.

Bonds, Commissions, and Oaths of Office

Records of Oaths, Commissions, and Bonds
Disposition: Temporary Record. Retain 30 years after the term is expired.

Administrative Working Database of Oaths, Commissions, and Bonds
Disposition: Temporary Record. Retain for useful life.

Open Meeting Records

Notices of Meetings Posted by Agencies
Disposition: Temporary Record. Retain 5 years.

Statutory Filings

BOARDS AND COMMISSIONS DATABASE
Disposition: PERMANENT RECORD. Transmit exports of the database annually.

STATUTORY FILINGS DATABASE
Disposition: PERMANENT RECORD. Transmit filings and associated metadata annually.

Registering

Business Entities

Domestic For-Profit and Non-Profit Entity Records (Copies)
Disposition: Temporary Record. Retain until the scanned images are verified.

Foreign Entity Records
Disposition: Temporary Record. Retain until the scanned images are verified.

BUSINESS ENTITY DATABASE
Disposition: PERMANENT RECORD. Transmit filings and associated metadata annually.

Name Reservation Requests and Renewals
Disposition: Temporary Record. Retain 1 year from the date the application is accepted for filing, or until the date that the applicant files a written notice of withdrawal of the reservation, whichever is earlier.

Rejections of Attempted Business Entity Filing Statements
Disposition: Temporary Record. Retain 4 years.

Trademark, Trade Name, and Service Mark Filings

Trademark, Trade Name, and Service Mark Registration Files (applications, copies of certificates of registration, and supporting documents)
Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the registration expired.

Trademark, Trade Name, and Service Mark Records

a. Trademark, Trade Name, and Service Mark Database
   Disposition: Temporary Record. Retain database entry fields until updated.

b. ANNUAL EXPORTS OF TRADEMARK, TRADE NAME, AND SERVICE MARK DATABASE
Disposition: PERMANENT RECORD. Transmit filings and associated metadata annually.

Uniform Commercial Code (UCC) Filings

National UCC Initial Financing Statements

a. For Business, Business In-Lieu, and Agricultural Lien (Form UCC-1)
Disposition: Temporary Record. Retain 1 year after the 5-year effectiveness period has elapsed.

b. For Manufactured Home (Form UCC-1)
Disposition: Temporary Record. Retain 1 year after the 30-year effectiveness period has elapsed.

c. For Transmitting Utility (Form UCC-1)
Disposition: Temporary Record. Retain indefinitely unless terminated by the secured party, in which case, retain 1 year after the termination was filed.

UCC Initial Financing Statements for Farm Products (Form UCC-1F)
Disposition: Temporary Record. Retain 1 year after the 5-year effectiveness period has elapsed.

National UCC Financing Statements of Continuation, Termination, Assignment, or Amendment

a. For Business, Business In-Lieu, and Agricultural Lien (Form UCC-3)
Disposition: Temporary Record. Retain 1 year after the 5-year effectiveness period has elapsed.

b. For Manufactured Home (Form UCC-3)
Disposition: Temporary Record. Retain 1 year after the 30-year effectiveness period has elapsed.

c. For Transmitting Utility (Form UCC-3)
Disposition: Temporary Record. Retain indefinitely unless terminated by the secured party, in which case, retain 1 year after the termination was filed.

UCC Financing Statements of Continuation, Termination, Assignment, or Amendment for Farm Products (Form UCC-3F)
Disposition: Temporary Record. Retain 1 year after the 5-year effectiveness period has elapsed.

National UCC Information Statements (Form UCC-5)
Disposition: Temporary Record. Retain 1 year after the 5-year effectiveness period has elapsed.

National UCC Information Request Forms (Form UCC-11)
Disposition: Temporary Record. Retain 1 year after audit.

Farm Products Central Registry Registration Form (Form UCC-20)
Disposition: Temporary Record. Retain 1 year after audit.

Filing Statements of Notice, Release, Amendment, or Continuation for State and Federal Tax Liens
Disposition: Temporary Record. Retain 1 year after the 10-year effectiveness period has elapsed.

Rejections of Attempted UCC Filing Statements
Disposition: Temporary Record. Retain 4 years.

Records No Longer Created

Records of Pistols Sold by Dealers
Disposition: Temporary Record. Retain 2 years.

Notices of Removal of Abandoned Vehicles
Disposition: Temporary Record. Retain 4 years.

Administering Internal Operations: Managing the Agency

Policies and Procedures

a. POLICIES AND PROCEDURES GOVERNING CORE FUNCTIONS AND SERVICES
Disposition: PERMANENT RECORD.

b. Policies and procedures concerning internal operations, including the administration of finances, personnel, properties, facilities, and resources
Disposition: Temporary Record. Retain 3 years.

CERTIFIED COPIES OF ADMINISTRATIVE RULES
Disposition: PERMANENT RECORD. Retain in office.

Register of Administrative Rules
Disposition: Temporary Record. Retain until superseded.

Administrative Rule Change Working Files
Disposition: Temporary Record. Retain 1 year after adoption, amendment, repeal, or rejection of the rule.

ADMINISTRATIVE FILES THAT DOCUMENT POLICY, PROCESS, AND PROCEDURE
Disposition: PERMANENT RECORD.

ANNUAL AND OTHER PERIODIC REPORTS
Disposition: PERMANENT RECORD.

SPECIAL REPORTS
Disposition: PERMANENT RECORD.

INFORMATIONAL AND PROMOTIONAL MATERIALS
Disposition: PERMANENT RECORD.

Board, Commission, Committee, and Task Force Member Files

a. BIOGRAPHICAL AND HISTORICAL INFORMATION
   Disposition: PERMANENT RECORD.

b. Board, Commission, Committee, and Task Force Appointment Letters
   Disposition: Temporary Record. Retain 1 year after audit after the term expires.

c. Other Files about Board, Commission, Committee, and Task Force Members
   Disposition: Temporary Record. Retain for useful life.

Routine Correspondence
Disposition: Temporary Record. Retain 3 years.

Administrative Reference Files
Disposition: Temporary Record. Retain for useful life.

Internal Procedures
Disposition: Temporary Record. Retain until superseded.

Legislative Files (drafts of proposed agency-sponsored legislation, tracking files and records)
Disposition: Temporary Record. Retain for useful life.

Records documenting the implementation of the agency's approved RDA (copies of transmittal forms to Archives or State Records Center, evidence of obsolete records destroyed, and annual reports to State Records Commission)
Disposition: Temporary Record. Retain 10 years.

Signed Copies of Approved RDA
Disposition: Temporary Record. Retain until superseded.

Computer Systems Documentation (Hardware/Software Specifications and Warranties)
Disposition: Temporary Record. Retain documentation of former system 1 year after audit for the fiscal year in which the former hardware and software no longer exists anywhere in the agency and all permanent records have been migrated to a new system.

WEBSITE AND SOCIAL MEDIA PAGE(S)
Disposition: PERMANENT RECORD.

Note: ADAH staff capture and preserve the agency's website and other social media page(s) via a service offered by the Internet Archive [Archive It]. Any content behind password protected or login would not be captured by ADAH. Check with the ADAH website at www.archiveit.org/organizations/62 to ensure your agency and social media page(s) are captured and preserved. If your agency's website and social media page(s) are not captured by the service, please contact the Archives Division at 334-242-4452 to get them included.

Legal Case Files
Disposition: Temporary Record. Retain 10 years after the final settlement of the case.

Attorney General Opinion Requests
Disposition: Temporary Record. Retain 1 year after audit.

Attorney General Opinions
Disposition: Temporary Record. Retain until superseded.

Recordings of Meetings
Disposition: Temporary Record. Retain until the official minutes are adopted and signed.

Administering Internal Operations: Managing Finances

Records documenting the preparation of a budget request package and reporting of the status of funds, requesting amendments of allotments, and reporting program performance
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Records documenting the requisitioning and purchasing of supplies and equipment, receipting and invoicing for goods, and authorizing payment for products
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Records of original entry or routine accounting transactions, such as journals, registers, ledgers, receipt books, and records of funds deposited outside the state treasury
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Purchase and Repair Order Documents
Disposition: Temporary Record. Retain for life of warranty.

Records documenting requests for authorization from supervisors to travel on official business and other related materials, such as travel reimbursement forms and itineraries
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Records documenting contracts for services or personal property
Disposition: Temporary Record. Retain 6 years after expiration of the contract.

Records documenting the bid process (including requests for proposals and unsuccessful responses)
Disposition: Temporary Record. Retain for 10 years after the award of the contract.

Agency Audit Reports
Disposition: Temporary Record. Retain 6 years after the end of the fiscal year in which the records were created.

Records documenting the application for, award of, receipt and disbursement of, and reporting of expenditure of federal funds received through grants and federal funds
Disposition: Temporary Record. Retain 6 years after submission of final expenditure report.

Records documenting the unsuccessful application for grants and federal funds
Disposition: Temporary Record. Retain 1 year.

Administering Internal Operation: Managing Human Resources

Job Recruitment Materials
Disposition: Temporary Record. Retain 1 year.

Application Materials
Disposition: Temporary Record. Retain 1 year.

Position Classification Questionnaire
Disposition: Temporary Record. Retain 4 years after reclassification of the position.

Records documenting payroll (e.g. pre-payroll reports, payroll check registers)
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm.

Records documenting payroll deduction authorizations
Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Records documenting payroll deductions for tax purposes (including Form 941)
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Personnel File - Records documenting an employee's work history - generally maintained as a case file
Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Records, located within divisions/offices, which document an employee's work history
Disposition: Temporary Record. Retain 1 year after separation of employee from the agency.

Records documenting employees' daily and weekly work schedules
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Records documenting employee hours worked, leave earned, and leave taken
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Records Documenting Leave Donations
Disposition: Temporary Record. Retain 1 year after compliance or financial audit by the Examiners of Public Accounts or an equivalent auditing firm or one year after the end of the fiscal year the audit covers, whichever is later.

Records of Final Leave Status
Disposition: Temporary Record. Retain record of individual employees' cumulative leave 6 years after separation of employee from the agency.

Records documenting the State Employee Injury Compensation Trust Fund (SEICTF) Claims
Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Records documenting Equal Employment Opportunity Commission (EEOC) Charges of Discrimination
Disposition: Temporary Record. Retain 6 years after final dispensation.

Equal Employment Opportunity Commission Case Files
Disposition: Temporary Record. Retain 3 years.

Employee Administrative Hearing Files
Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Records Documenting Employee Grievances (Internal Complaints)
Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Records documenting complaints against the agency and its employees from outside the agency (made by members of the public, officials, or supervisees, etc.)
Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Records (maintained separately from employee personnel file), documenting employee disciplinary proceedings and appeals of formal reprimands, demotions, transfers, or terminations resulting from a grievance or complaint
Disposition: Temporary Record. Retain 6 years after separation of the employee from the agency.

Records documenting the administration of the unemployment compensation program
Disposition: Temporary Record. Retain 6 years after conclusion of eligibility.

Worker Compensation Injury and Settlement Reports
Disposition: Temporary Record. Retain 12 years after the end of the fiscal year in which the transaction occurred (Code of Alabama 1975 § 25-5-4).

Administering Internal Operation: Managing Properties, Facilities, and Resources

Semiannual Property Inventory Lists
Disposition: Temporary Record. Retain 2 years (Code of Alabama 1975 § 36-16-8[1]).

Agency Copies of Transfer of State Property Forms (SD-1)
Disposition: Temporary Record. Retain 1 year after property audit.

Property Inventory Cards and/or Computer Files
Disposition: Temporary Record. Retain 1 year after property audit.

Property Inventory Affidavits
Disposition: Temporary Record. Retain 1 year after property audit.

Receipts of Responsibility for Property
Disposition: Temporary Record. Retain until return of item to property manager.

Records documenting the use, maintenance, ownership, insurance, and disposition of vehicles owned by the agency
Disposition: Temporary Record. Retain 3 years after the end of the fiscal year in which the vehicle was removed from the property inventory.

Real Property Renting/Leasing Records
Disposition: Temporary Record. Retain 6 years after the termination of lease or rental agreement or until agency is audited and audit report is released, whichever is longer.

Facilities/Building Security Records (including visitor logs)
Disposition: Temporary Record. Retain 1 year.

Insurance Policies/Risk Management Records
Disposition: Temporary Record. Retain 6 years after termination of policy or membership.

Building Maintenance Work Orders
Disposition: Temporary Record. Retain 1 year.

Records Documenting Vehicle Use/Mileage
Disposition: Temporary Record. Retain 1 year.

Records documenting the lease or rental of office or warehouse
Disposition: Temporary Record. Retain 6 years after the expiration of the lease.

Requirement and Recommendations for Implementing the Records Disposition Authority (RDA)

Requirement

Under the Code of Alabama 1975, § 41-13-21, "no state officer or agency head shall cause any state record to be destroyed or otherwise disposed of without first obtaining approval of the State Records Commission." This Records Disposition Authority constitutes authorization by the State Records Commission for the disposition of the records of the Agency as stipulated in this document.

One condition of this authorization is that the Agency submit an annual Records Disposition Authority (RDA) Implementation Report on its activities, including documentation of records destruction, to the State Records Commission.

Unless otherwise stipulated in this document, the Agency must transmit all permanent records which are no longer in active use to the ADAH.

Recommendations

In addition, the Agency should make every effort to establish and maintain a quality record-keeping program by conducting the following activities:

The Agency should designate a staff member in a managerial position as its records liaison/records manager, who is responsible for: ensuring the development of quality record keeping systems that meet the business and legal needs of the agency, coordinating the transfer and destruction of records, ensuring that permanent records held on alternative storage media (such as microforms and digital imaging systems) are maintained in compliance with national and state standards, and ensuring the regular implementation of the agency's approved RDA.

Permanent records in the Agency's custody should be maintained under proper intellectual control and in an environment that will ensure their physical order and preservation. ADAH archivists are available to work with Agency staff in determining the best location and storage conditions for permanent records.

Destruction of temporary records, as authorized in this RDA, should occur agency-wide on a regular basis—for example, after the successful completion of an audit, at the end of an administration, or at the end of a fiscal year. Despite the RDA's provisions, no record should be destroyed that is necessary to comply with requirements of the Open Meetings Act, audit requirements, or any legal notice or subpoena.

The agency should maintain full documentation of any computerized record-keeping system it employs. It should develop procedures for: (1) backing up all permanent records held in electronic format; (2) storing a back-up copy off-site; and (3) migrating all permanent records when the system is upgraded or replaced. If the agency chooses to maintain permanent records

solely in electronic format, it is committed to funding any system upgrades and migration strategies necessary to ensure the records' permanent preservation and accessibility.

Electronic mail contains permanent, temporary, or transitory record information. Although e-mail records can be printed out, filed, and retained according to the RDA's requirements, the office should preferably employ an electronic records management system capable of sorting e-mail into folders and archiving messages having long-term value.

The staff of the State Records Commission or the Examiners of Public Accounts may examine the condition of the permanent records maintained in the custody of the Agency and inspect records destruction documentation. Agency records managers and/or the ADAH archivists are available to instruct the staff in RDA implementation and otherwise assist the Agency in implementing its records management program.

The State Records Commission adopted this records disposition authority on October 27, 2021.

Steve Murray, Chairman
State Records Commission

11-9-21
Date

By signing below, the agency acknowledges receipt of the retention periods and requirements established by the records disposition authority.

John H. Merrill
Secretary of State

Nov. 10, 2021
Date