

NANCY L. WORLEY
SECRETARY OF STATE



First Floor, State Capitol
Suite S-105
600 Dexter Avenue
P.O. Box 5616
Montgomery, Alabama 36103-5616

State of Alabama

April 19, 2004

To: All Probate Judges

From: Nancy L. Worley
Secretary of State

Re: Amendment of Certifications – June 1, 2004, Primary Ballot

Please find enclosed in this mailing three amended certifications for the June 1, 2004, Primary Ballot. This amended certification is necessary because of filings from the Alabama Republican Party, the Alabama Democratic Party and a recent letter from the Alabama Attorney General clarifying certain issues impacting the certification of a proposed statewide constitutional amendment. I will appreciate your attention to these amended certifications so that the printing companies can quickly finalize their preparations for ballot printing for your county.

Additionally, please be aware that the printing of ballots for several counties will be further impacted by pending Federal litigation. Because a legal action was filed by a candidate for the State School Board against a political party; the ballots for District Three, which is comprised of portions of Montgomery, Elmore, Autauga, Chilton, Coosa, Shelby, Talladega, St. Clair, Calhoun, Cleburne, and Cherokee counties, cannot be printed until an order is received from the Federal Judge in Birmingham. Once we receive written instructions from the Federal Judge, we will promptly notify each of you of his decision.

Should you or any member of your staff have any question or comment regarding these issues, please do not hesitate to contact me for assistance.

Nancy L. Worley
Secretary of State

P.O. Box 5616
Montgomery, AL 36103-5616

STATE OF ALABAMA

I, Nancy L. Worley, Secretary of State of the State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that in accordance with the Code of Alabama, 1975, as amended, this certification is an amendment to the ballot certification issued by this office on April 12, 2004, containing the prescribed ballot language for the ballot in the Primary Election to be held on Tuesday, June 1, 2004. Please take all steps necessary to insure that this proposed Constitutional Amendment appears on the ballot in the precise language.

**“Shall the following Amendment be adopted
to the Constitution of Alabama?”**

**PROPOSED AMENDMENT WHICH APPLIES
STATEWIDE**

Proposing an amendment to the Constitution of Alabama of 1901, relating to the 24th Judicial Circuit, consisting of Fayette County, Lamar County, and Pickens County, to provide an assessment of an additional five dollar (\$5) fee on all civil and criminal cases in the circuit, with the proceeds to be remitted to the West Alabama Children’s Advocacy Center for abuse victims in the circuit. (Proposed by Act 2003-77)

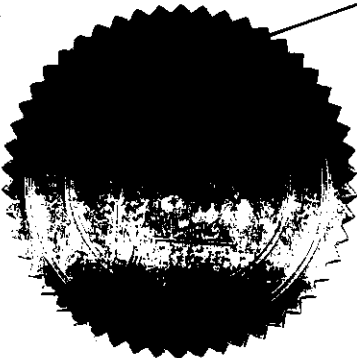
Yes _____
No _____

**In Testimony Whereof, I have hereunto set my hand
and affixed the Great Seal of the State, at the Capitol,
in the City of Montgomery, on this day.**

April 19, 2004

Date


Nancy L. Worley Secretary of State



State of Alabama
House of Representatives



MONTGOMERY, ALABAMA

Resolution

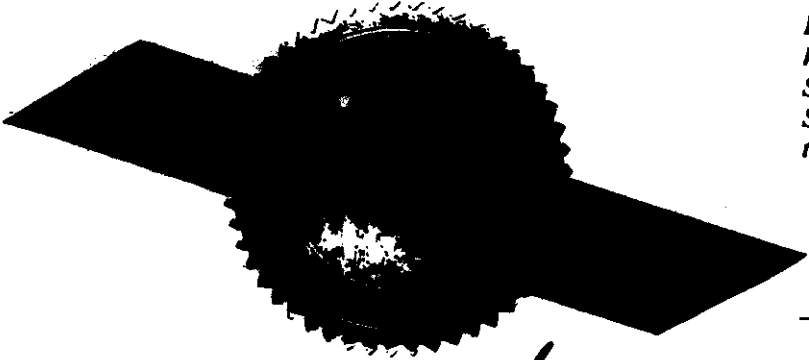
HJR334

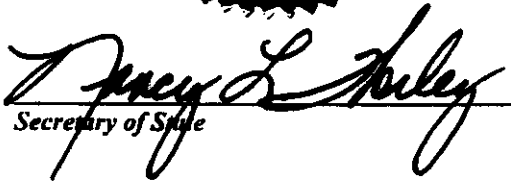
By Representative William Thigpen Sr.,


**ESTABLISHING THE DATE THAT THE CONSTITUTIONAL AMENDMENT PROPOSED BY ACT 2003-77,
PROVIDING FOR ADDITIONAL COURT COSTS IN THE 24TH JUDICIAL CIRCUIT,
SHALL BE VOTED UPON**

**BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF
CONCURRING, That, notwithstanding any other provision of law to the contrary, the amendment to the
Constitution of Alabama of 1901, proposed by Act 2003-77, 2003 1st Special Session of the Legislature, providing
for additional court costs in the 24th Judicial Circuit, shall be voted upon on June 1, 2004, the date of the first
primary election in 2004.**

*IN WITNESS WHEREOF, I have hereunto set my
hand and have caused the GREAT SEAL of the
State of Alabama to be affixed by the Secretary of
State at the Capitol in the City of Montgomery on
this the 15th day of April, 2004.*




Secretary of State


GOVERNOR



STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

TROY KING
ATTORNEY GENERAL

April 15, 2004

ALABAMA STATE HOUSE
11 SOUTH UNION STREET
MONTGOMERY, AL 36130
(334) 242-7300
WWW.AGO.STATE.AL.US

Honorable Nancy L. Worley
Secretary of State
Alabama State Capitol Room S-105
600 Dexter Avenue
Montgomery, Alabama 36130

Re: Ballot Certification – Statewide Constitutional Amendments

Dear Secretary Worley:

Thank you for your recent inquiry requesting an expedited Attorney General's opinion regarding the certification of statewide constitutional amendments. After a review of the matter, we agree with you that neither the Code of Alabama nor other prevailing legal authority provides clear guidance and/or specific deadlines to the Alabama Secretary of State regarding the certification of the ballot language of proposed statewide constitutional amendments.

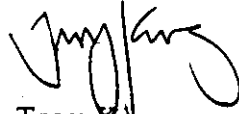
I agree with your assessment of the matter and would concur that an Attorney General's opinion and possible statutory revision would help provide clear authority and guidance for you and your office during each election year. Prevailing legal authority does allow for an amended certification in some circumstances prior to the printing of a ballot. Because amending a certification would not be a new practice in Alabama, it would not require pre-clearance from the United States Department of Justice to continue this practice. It is my opinion that the Secretary of State may legally certify or amend a certification for a proposed statewide constitutional amendment.

Unless legal authority to the contrary is found during our opinion process, we will formalize this opinion in a letter to be issued to you in the near future. Because time is of the essence, and in an effort to accommodate the pending amended certification and printing of ballots for the June 1

Honorable Nancy L. Worley
Page 2

primary election, I am providing you and your office with this advice and recommendation.

Sincerely,

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

Troy King
Attorney General

TK/BHA

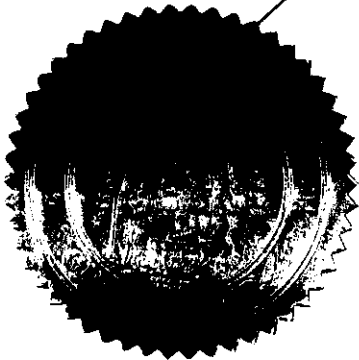
Nancy L. Worley
Secretary of State

P.O. Box 5616
Montgomery, AL 36103-5616

STATE OF ALABAMA

I, Nancy L. Worley, Secretary of State of the State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that

in accordance with the Code of Alabama, 1975, as amended, the attached certification is an addendum to the ballot certification issued by this office on April 12, 2004, containing the prescribed ballot language for the ballot in the Republican Party Primary Election to be held on Tuesday, June 1, 2004. The April 12, 2004, certification contained a letter from the Republican Party dated March 19, 2004, referencing the attached resolution entitled "2004 Presidential Preference Primary Resolution".



In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the City of Montgomery, on this day.

April 19, 2004

Date


Nancy L. Worley Secretary of State

All Delegates Elected in Primary - Alternates Elected by AREC

2004 PRESIDENTIAL PREFERENCE PRIMARY RESOLUTION

BE IT RESOLVED by the Republican Party of Alabama acting by and through the Alabama Republican Executive Committee, as follows:

1. The Republican Party of Alabama hereby elects and states its intention to hold a presidential preference primary pursuant to Chapters 16 and 16A of Title 17 of the 1975 Code of Alabama, as amended, and prescribes the method by which electors in said primary are to indicate their preferences, the method by which delegates and alternate delegates are to be selected, elected, chosen and replaced, and the pledge by which delegates and alternates are to be bound.
2. The Republican presidential preference primary in Alabama shall be held Tuesday, June 1, 2004. In order to qualify the name of a person to appear on the ballot as a candidate for the Republican nomination for the office of President of the United States, a petition or petitions in support of such person's candidacy must be filed with the Chairman of the Alabama Republican Executive Committee or his authorized representative, after March 1, 2004 and before March 15, 2004. Such petition or petitions shall comply with the election laws of the State of Alabama applicable thereto and shall be in substantially the form attached as Exhibit A to this resolution. No candidate shall be allowed to have his or her name placed on the ballot at such presidential preference primary unless at the time of filing such petition or petitions there shall be paid to the Chairman of the Alabama Republican Executive Committee a qualifying fee in the amount of \$4,000.00.

3. Persons desiring to be elected as delegates to the 2004 Republican National Convention must file with the Chairman of the Alabama Republican Executive Committee or his authorized representative, after January 1, 2004 and before March 15, 2004, at 5:00 p.m., a declaration of candidacy in substantially the form attached as Exhibit B to this resolution and shall pay to the Alabama Republican Executive Committee a qualifying fee in the amount of \$150.00. As a part of such declaration of candidacy, each delegate candidate shall state the name of the Republican Presidential candidate to whom such delegate candidate is pledged, or in the absence of such a pledge, that the delegate candidate is uncommitted. Each delegate candidate must specify whether he or she is a candidate from a congressional district or from the State at Large, and each candidate must designate the delegate place number to which he or she desires election. No person may qualify as a candidate for a delegate position from both a congressional district and the State at Large. Candidates for delegate from a congressional district must be qualified electors of the district, and candidates for delegate from the State at Large must be qualified electors of the State. In order for a delegate candidate to be eligible to appear on the primary election ballot, his or her declaration of candidacy must include either the statement that the candidate is uncommitted to any Republican presidential candidate or a pledge of support to a candidate for the Republican nomination for the office of President of the United States whose name is entitled or becomes entitled to appear on the Republican Presidential Preference Primary ballot pursuant to paragraph 2 of this Resolution. No person may be a candidate for more than one delegate position, and no person may submit a pledge other than in support of one presidential candidate. Any person filing a declaration of

candidacy pledging support for a presidential candidate who fails to qualify pursuant to paragraph 2 of this Resolution may either withdraw as a delegate candidate and receive a refund of the qualifying fee paid or become an uncommitted delegate candidate for the same delegate position.

4. There shall be space on the ballot of the Republican presidential preference primary, to be headed "Candidate of the Republican Party for President of the United States." Underneath this heading there shall appear the words: "I hereby declare my preference for candidate for the office of President of the United States and for delegates pledged to such candidate to be as follows." Below these words, there shall be printed the names of the presidential candidates in alphabetical order of their surnames and a heading designated "uncommitted," and thereafter in the appropriate column by delegate place number the names of persons who are pledged to support each such presidential candidate or who are uncommitted and who have duly qualified for election to each such delegate position. The ballot shall not include the names of persons who qualify without opposition as delegate candidates. Such persons shall be certified as delegates in the event the results of the presidential preference primary are such as to entitle uncommitted delegates or a presidential candidate to the delegate positions for which such persons qualified under paragraph 3 of this resolution.

5. Pursuant to the Rules adopted by the 2000 Republican National Convention, there shall be twenty-four delegates to the 2004 Republican National Convention from the State at Large and three delegates from each of the State's seven congressional districts. In casting a vote for a candidate of the Republican Party for President of the United States, each elector shall vote for such candidate or shall vote

uncommitted, and each elector may also vote for delegates who are pledged or unpledged in accordance with that elector's presidential preference. An elector may not vote for a presidential candidate or vote uncommitted and also vote for delegates pledged differently. Pursuant to the Rules adopted by the 2000 Republican National Convention, three additional delegate positions are designated for the three members of the Republican National Committee from each state. The provisions of this resolution do not apply to these three delegate positions.

6. Based on the relationship that the number of votes received by each presidential candidate bears to the total number of votes cast for candidates receiving at least 15 percent of the vote cast in the Republican presidential primary election in the entire State, the Steering Committee of the Alabama Republican Executive Committee shall apportion pro rata the number of delegates from the State at Large each of the presidential candidates is entitled to receive rounded to the nearest whole number; provided that a presidential candidate must receive at least 15 percent of the total vote cast in the State in the Republican presidential preference primary election in order to be entitled to any of the nineteen State at Large delegates. Uncommitted delegate positions shall be similarly awarded, and committed and uncommitted delegate positions in the State at Large and in each congressional district shall be awarded by counting uncommitted presidential votes as if they were cast for a single, duly qualified presidential candidate. All delegates from each congressional district shall be awarded to a presidential candidate who receives a majority of the votes in the Republican presidential preference primary election in that district. If no presidential candidate receives a majority of the votes in a congressional district, then the presidential candidate

who receives the most votes in that congressional district shall receive two (2) delegates and the presidential candidate who receives the second most votes in that congressional district shall receive one (1) delegate, provided that a presidential candidate must receive at least 15% of the total vote cast in the district in the Republican presidential primary election in order to be entitled to any of the three delegates from that district. If only one presidential candidate receives 15% or more of such total vote in the district, such presidential candidate shall be awarded all of the delegates from that district.

7. In the event the pro rata apportionment of delegates leaves one or more delegates unassigned by process of mathematical distribution, then any such delegate or delegates shall be authorized for the candidate with the largest portion of the vote in the State in said Republican presidential preference primary. In the event pro rata apportionment entitles candidates by process of mathematical distribution to more delegates than authorized hereunder pursuant to the Rules adopted by the 2000 Republican National Convention, then the number of delegates authorized for the candidate receiving the least number of votes in the State, among those otherwise entitled to delegates, shall be decreased to the extent necessary to conform to the number of authorized delegate positions. Uncommitted delegate positions shall be similarly allocated by counting uncommitted votes as if they were cast for a single, duly qualified presidential candidate.

8. After determining the number and geographic distribution of delegate positions to which each candidate is entitled or to which uncommitted delegates are entitled, the Chairman of the Alabama Republican Executive Committee shall so notify each candidate and specify the number of delegates and alternate delegates authorized as

uncommitted or for each candidate from the State at Large and from each congressional district. One uncommitted alternate delegate shall be authorized for each uncommitted delegate and one alternate delegate for each delegate shall be authorized for each candidate entitled to delegates. The delegate and alternate delegate positions so certified by the Chairman shall be allocated among the presidential candidates or as uncommitted in accordance with paragraphs 6 and 7 of this resolution.

The Chairman shall certify pledged delegates to the 2004 Republican National Convention from each congressional district and from the State at Large from among those persons who were pledged to each presidential candidate entitled to delegates and who were unopposed or who received the largest number of votes cast for each delegate position. Delegate positions for each presidential candidate shall be filled first by unopposed delegate candidates in ascending order of place number for which they qualified under paragraph 3 of this resolution, and thereafter by the respective recipients of the most votes for each place number in descending order of number of votes received, until all delegate positions for that presidential candidate in the appropriate district and in the State at Large are filled. Place numbers shall then be assigned to persons elected as delegates in the order of number of votes received by the presidential candidate to whom such delegates are pledged, and among each presidential candidate's delegates, in descending order of place number for which each delegate qualified as a candidate. Uncommitted delegate positions shall be certified similarly.

Alternate delegates from the State at Large shall be elected by the Alabama Republican Executive Committee. Alternate delegates from each congressional district shall be elected by the members of the Congressional District Committee for that district.

No alternate delegate position shall be deemed filled unless the person so elected (a) completes a pledge of support for the presidential candidate, if any, entitled to the alternate delegate position to which such person is elected and (b) pays to the Alabama Republican Executive Committee the \$150.00 qualifying fee required of delegate candidates.

There shall be no Alternate Delegates for the three members of the Republican National Committee.

9. No person named as a delegate or alternate delegate pledged to a person as the Republican nominee for President of the United States shall cast a contrary vote at such convention unless first released by (a) public statement or in writing by such presidential candidate or (b) two-thirds vote of all members of the Alabama Delegation to the 2004 Republican National Convention similarly pledged; and the vote of any person who attempts to violate the provisions hereof shall not be allowed, but such vote may instead be cast for the person to whom such delegate or alternate delegate is pledged either by the Chairman of the Alabama Delegation to the 2004 Republican National Convention or by the Secretary of such Convention.

10. Any vacancy in a delegate position shall be filled by his or her alternate delegate. Any vacancy in a delegate position for which there is no alternate or any vacancy among alternate delegates shall be filled by majority vote of the remaining delegates and alternate delegates similarly pledged. If there are then no such remaining delegates or alternate delegates, any such vacancy shall be filled by the Alabama Republican Executive Committee. No vacancy shall be deemed filled until completion of

the pledge required for the delegate or alternate delegate position in which the vacancy has occurred.

We, the undersigned, who by our signatures affirm under penalty of perjury are qualified electors of (the State of Alabama) (the _____ Congressional District of the State of Alabama), support the candidacy of _____ (name of candidate) for the Republican nomination for the office of President of the United States and petition the Republican Party of Alabama to cause such candidate's name to appear on the ballot in the 2004 Republican Presidential Preference Primary in the State of Alabama:

	<u>Name</u>	<u>County of Residence</u>
1.	_____ (signature) _____	_____ (name of county) _____
2.	_____	_____
3.	_____	_____

(Note: Either 500 signatures required from the State, or 50 signatures from each of the seven congressional districts, in which case there shall be separate petitions for each congressional district).

EXHIBIT "A"

STATE OF ALABAMA)
)
 _____ COUNTY)

DECLARATION OF CANDIDACY

I hereby declare that I am a candidate for the office of delegate to the 2004 Republican National Convention from the (State at Large) (_____ Congressional District) of the State of Alabama, Place No. ____.*

I certify that (1) I possess the qualifications fixed by law for said office and will in no way be disqualified from holding the same, and (2) I am a Republican and am in accord with, and endorse, the principles and policies of the Republican Party.

(I pledge my support and vote to _____ for the Republican nomination for the office of President of the United States at the 2004 Republican National Convention, and agree to be bound and abide by the laws of the State of Alabama and the rules of the Republican Party of Alabama with respect to such pledge.) (I am uncommitted to any candidate for the Republican nomination for the office of President of the United States.)

This the _____ day of _____, 2004.

WITNESS:

(Signature of Candidate)

Residence Address

City Zip

Home Phone Office Phone

(Type or print name as you wish it to appear on ballot)

Candidates must run for either the State-at-Large or a Congressional District, not both.

Nancy L. Worley
Secretary of State

P.O. Box 5616
Montgomery, AL 36103-5616

STATE OF ALABAMA


I, Nancy L. Worley, Secretary of State of the State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that

in accordance with the Code of Alabama, 1975, as amended, the attached certification is an amendment to the ballot certification issued by this office on April 12, 2004, containing the prescribed ballot language for the ballot in the Democratic Party Primary Election to be held on Tuesday, June 1, 2004.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the City of Montgomery, on this day.

April 19, 2004

Date



Nancy L. Worley

Nancy L. Worley

Secretary of State



Post Office Box 950
Montgomery, Alabama 36101-0950

p - 334.262.2221
f - 334.262.6474

www.aladems.org

April 19, 2004

The Honorable Nancy Worley
Secretary of State
State Capitol Building
600 Dexter Avenue, S-105
Montgomery, AL 36130

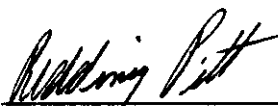


CERTIFICATION AMENDMENT

Pursuant to Section 17-16-11, Code of Alabama, 1975, and according to Rule 820-2-4.09, subparagraph 2A, concerning amendments to ballot certification, I hereby certify that Johnny Swanson III has been disqualified as a candidate for U.S. Senate for the June 1, 2004 Democratic primary election. Please do not include the name of Johnny Swanson III as a candidate in the Secretary of State's certification of candidates to the Probate Judges.

As a result of Mr. Swanson's disqualification, Wayne Sowell, who also qualified to run as a Democrat for the U.S. Senate, becomes the Democratic nominee. Therefore, please do not include the name of Wayne Sowell as a primary candidate in the Secretary of State's certification of candidates to the Probate Judges.

Our certification is hereby amended.



Redding Pitt
Chairman

