

1 HB727  
2 82834-1  
3 By Representative McLaughlin  
4 RFD: Constitution and Elections  
5 First Read: 02-MAR-06

SYNOPSIS: Under existing law, voters are not permitted to submit their absentee ballot applications or absentee ballots to the absentee ballot manager by facsimile (fax) device.

This bill would:

Provide for a system by which military personnel, the spouses and dependents of military personnel, and other individuals qualified to vote by absentee ballot pursuant to the federal Uniformed and Overseas Citizens Absentee Voting Act may submit their absentee ballot applications or absentee ballots to the absentee election manager by facsimile (fax) device through the Federal Voting Assistance Program's Electronic Transmission (Faxing) Service.

Permit multiple individuals who are qualified to vote by absentee ballot pursuant to the federal Uniformed and Overseas Citizens Absentee Voting Act and who are working or deployed

1 in a combat zone to submit their absentee ballot  
2 materials in the same envelope or package.

3 Require county and municipal governing  
4 bodies to provide the absentee election managers  
5 with a post office box or other secure mail  
6 receptacle through which to receive absentee ballot  
7 applications and absentee ballots, prohibit changes  
8 to the address for the post office box or mail  
9 receptacle after October 1 of the year immediately  
10 preceding a regularly-scheduled election year,  
11 provide that the state shall fully reimburse the  
12 county or municipal governing bodies for expenses  
13 associated with these requirements and would  
14 require county and municipal governing bodies to  
15 provide the absentee election managers a facsimile  
16 (fax) device with a dedicated phone line for use in  
17 receiving absentee voting materials submitted by,  
18 or in delivering absentee voting materials to,  
19 certain categories of voters.

20 Change existing law to state that the work  
21 shift must be at least 12 hours long to coincide  
22 with polling hours.

23 Require the Secretary of State to consult  
24 with the Alabama League of Municipalities or its  
25 members regarding the content of voter lists  
26 produced by the statewide voter registration list  
27 for use in municipal elections.

1           Authorize the Secretary of State to provide  
2           a municipal absentee election manager with  
3           electronic access to the list of registered voters  
4           for his or her municipality's election.

5           Require that the list of municipal voters  
6           who requested an absentee ballot be maintained by  
7           the municipal clerk for a period of 60 days and  
8           then be sealed with the municipal records of the  
9           election after the 60-day period has elapsed.

10          Permit a person who has applied for an  
11          absentee ballot to vote a provisional ballot at his  
12          or her polling place and have that ballot counted  
13          only if the voter surrenders his or her unmarked  
14          absentee ballot to the poll worker or attests that  
15          he or she did not receive his or her absentee  
16          ballot from the absentee election manager and the  
17          board of registrars is able to confirm that the  
18          absentee election manager has not received the  
19          voter's marked absentee ballot.

20          Clarify that the absentee ballot application  
21          submitted by an individual qualified to vote by  
22          absentee ballot pursuant to the Uniformed and  
23          Overseas Citizens Absentee Voting Act is valid for  
24          all primary, general, special, and municipal  
25          elections to be held during the time period defined  
26          by the next two regularly scheduled general  
27          election cycles for federal office and would

1           require the county and municipal absentee elections  
2           managers to send the voter all ballots for  
3           elections in which he or she is qualified to vote,  
4           unless the voter states otherwise, and requires the  
5           Secretary of State, in consultation with circuit  
6           clerks, municipal clerks, boards of registrars, and  
7           the Alabama Military Department, to prescribe rules  
8           for implementing these provisions.

9           Require the Secretary of State to provide  
10          electronically to the general public information  
11          related to candidates and issues to be voted upon  
12          in elections for federal and state offices and  
13          issues.

14  
15                           A BILL  
16                           TO BE ENTITLED  
17                           AN ACT

18  
19           Relating to absentee balloting; amending Sections  
20   17-10-2 to 17-10-5, inclusive, 17-10-9, 17-10-10, 17-10-12,  
21   17-10-17, 17-10-23, 17-10-24, and 17-11A-1, Code of Alabama  
22   1975, to provide for a system by which certain military  
23   personnel may submit their absentee ballots by facsimile.

24   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25           Section 1. Sections 17-10-2 to 17-10-5, inclusive,  
26   17-10-9, 17-10-10, 17-10-12, 17-10-17, 17-10-23, 17-10-24, and

1 17-11A-1, Code of Alabama 1975, are amended to read as  
2 follows:

3 "§17-10-2.

4 "In each county and municipality there shall be an  
5 "absentee election manager," who shall fulfill the applicable  
6 duties assigned by this chapter. The register of the county  
7 shall, at his or her option, be the absentee election manager.  
8 If the register declines such duties, the circuit clerk of the  
9 county, at his or her option, shall be the absentee election  
10 manager. If neither the register nor the circuit clerk of the  
11 county assumes the duties of absentee election manager, the  
12 presiding circuit judge shall thereupon appoint an absentee  
13 election manager, who shall be a person qualified by training  
14 and experience, who is a qualified elector of the county and  
15 who is not a candidate in the election to perform the duties  
16 assigned by this chapter. The presiding circuit judge shall  
17 designate the place or office where such duties shall be  
18 performed. Such place or office shall be open on the days and  
19 during the hours as that of the register prior to each  
20 election. Any person so appointed shall have all the powers,  
21 duties and responsibilities of the clerk or register for the  
22 purposes of this chapter, including the power to administer  
23 oaths. Such powers, duties and responsibilities shall  
24 terminate at the end of the day of the election. The absentee  
25 election manager, clerk, register or register in chancery  
26 shall be entitled to the same compensation for the performance  
27 of his duties as is provided in Section 17-10-14. The

1 governing body for a county or municipality shall provide the  
2 absentee election manager with: A post office box or other  
3 secure mail receptacle through which to receive materials  
4 related to absentee voting, including, but not limited to,  
5 absentee ballot applications and marked absentee ballots; and  
6 with a fax device with a dedicated telephone line for  
7 implementing provisions related to the Federal Voting  
8 Assistance Program's Electronic Transmission (Faxing) Service  
9 for voters qualified to submit absentee voting materials by  
10 facsimile (fax) device pursuant to this Chapter. The address  
11 of the post office box or other mail receptacle and the  
12 telephone number of the dedicated phone line shall not be  
13 changed after September 30 of the year immediately preceding a  
14 regularly scheduled election year. The state shall reimburse  
15 each municipal and county governing body for all expenses  
16 incurred pursuant to this section for the rental or purchase  
17 of a post office box or other secure mail receptacle and for a  
18 facsimile (fax) device and dedicated phone line for the  
19 facsimile (fax) device. The reimbursement of the expenses  
20 shall be made from the Election Expenses Account in the State  
21 Treasury upon approval by the Secretary of State on warrants  
22 drawn by the state Comptroller.

23 "§17-10-3.

24 "(a) Any qualified elector of this state (1) who  
25 will be out of the county or the state on election day or (2)  
26 who has any physical illness or infirmity which prevents his  
27 or her attendance at the polls, whether he or she is within or

1 without the county on the day of the election, or (3) who  
2 works on a shift which has at least ~~10~~ 12 hours which coincide  
3 with the hours the polls are open at his or her regular  
4 polling place, or (4) who is enrolled as a student at an  
5 educational institution located outside the county of his or  
6 her personal residence attendance at which prevents his or her  
7 attendance at the polls, or (5) who is a member of, or spouse  
8 or dependent of a member of, the armed forces of the United  
9 States, including the Alabama National Guard, the United  
10 States Naval, Air Force, or Military Reserves, or is similarly  
11 qualified to vote absentee pursuant to the federal Uniformed  
12 and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff,  
13 or (6) who has been appointed as an election officer or named  
14 as a poll watcher at a polling place other than his or her  
15 regular polling place, may apply for and vote an absentee  
16 ballot by mail or by hand delivery, as provided in Sections  
17 17-10-5 and 17-10-9, in any primary, general, special, or  
18 municipal election, provided he or she makes application in  
19 writing therefor not less than five days prior to the election  
20 in which he or she desires to vote as authorized in this  
21 chapter.

22 "(b) An applicant for an absentee ballot who is a  
23 ~~member of the armed forces of the United States, including the~~  
24 ~~Alabama National Guard, the United States Naval Reserves, the~~  
25 ~~United States Air Force Reserves, and the United States~~  
26 ~~Military Reserves on active duty training or an applicant who~~  
27 ~~is the spouse of any member of the armed forces or any other~~



1 ~~applicant~~ a member of, or spouse or dependent of a member of,  
2 the Armed Forces of the United States, including the Alabama  
3 National Guard, the United States Naval, Air Force, or  
4 Military Reserves, or is similarly qualified to vote absentee  
5 pursuant to the federal Uniformed and Overseas Citizens  
6 Absentee Voting Act, 42 U.S.C. 1973ff, may make application  
7 for an absentee ballot by filling out the federal postcard  
8 application form, authorized and provided for under the  
9 provisions of ~~"The Federal Voting Assistance Act of 1955,"~~  
10 ~~Public Law 296, Chapter 656, H.R. 4048, approved August 9,~~  
11 ~~1955, 84th Congress 1st Session~~ the Uniformed and Overseas  
12 Absentee Voting Act, 42 U.S.C. 1973ff.

13           "(c) Notwithstanding any other provision of  
14 otherwise applicable law, in the event more than one absentee  
15 ballot is cast ~~in the name of the single voter~~ by the same  
16 individual, whether any such multiple ballot is cast by mail  
17 or otherwise, none of the affidavit envelopes containing ~~said~~  
18 multiple ballots shall be opened, and none of ~~said the~~  
19 multiple ballots shall be counted, except in the event of an  
20 election contest, upon the order of the election contest  
21 tribunal. Upon the conclusion of an election contest or, in  
22 the event no such contest is filed, upon the expiration of  
23 time for filing such a contest, ~~said the~~ multiple ballots  
24 shall be provided to the district attorney, with photocopies  
25 provided to the state Attorney General, for such  
26 investigation, prosecution, or other action as may be  
27 appropriate under applicable law.

1           "§17-10-4.

2           "The application required in Section 17-10-3(a)  
3 shall be filed with the person designated to serve as the  
4 absentee election manager. The application shall be in a form  
5 prescribed and designed by the Secretary of State and shall be  
6 used throughout the state. Notwithstanding the foregoing,  
7 handwritten applications can also be accepted at any time  
8 prior to the five day deadline to receive absentee ballot  
9 applications as provided in Section 17-10-3(a). The  
10 application shall contain provisions which permit the voter to  
11 identify himself or herself as an individual voting pursuant  
12 to the Uniformed and Overseas Citizens Absentee Voting Act, 42  
13 U.S.C. 1973ff; and sufficient information to identify the  
14 applicant and shall include the applicant's name, residence  
15 address, or such other information necessary to verify that  
16 the applicant is a registered voter. Any applicant may receive  
17 assistance in filling out the application as he or she  
18 desires, but each application shall be manually signed by the  
19 applicant and, if he or she signs by mark, the name of the  
20 witness to his or her signature shall be signed thereon. The  
21 application may be handed by the applicant to the absentee  
22 election manager or forwarded to him or her by United States  
23 mail. An application may be delivered by facsimile (fax)  
24 device to the absentee election manager by those voters who  
25 are qualified to vote absentee pursuant to the Uniformed and  
26 Overseas Absentee Voting Act, 42 U.S.C. 1973ff. An application  
27 for an emergency absentee ballot pursuant to Section 17-10-12

1 may be forwarded to the absentee election manager by the  
2 applicant or his or her designee. Application forms which are  
3 printed and made available to any applicant by the absentee  
4 election manager shall have printed thereon all penalties  
5 provided for any violation of this chapter. The Secretary of  
6 State shall provide applications for absentee voting to  
7 military and overseas voters in accordance with Section  
8 17-4-211.

9           "§17-10-5.

10           "(a) Upon receipt of an application for an absentee  
11 ballot as provided in Section 17-10-3(a) if the applicant's  
12 name appears on the list of qualified voters produced from the  
13 state voter registration list in the election to be held or if  
14 the voter makes an affidavit for a challenged vote, the  
15 absentee election manager shall furnish or transmit the  
16 absentee ballot to the applicant by: (1) forwarding it by  
17 United States mail to the applicant's or voter's residence  
18 address or upon written request of the voter, to the address  
19 where the voter regularly receives mail or (2) by handing the  
20 absentee ballot to the voter in person or, in the case of  
21 emergency voting, his or her designee in person. For  
22 individuals qualified to vote by absentee ballot pursuant to  
23 the Uniformed and Overseas Citizens Absentee Voting Act, 42  
24 U.S.C. 1973ff, the absentee ballot may be delivered to the  
25 voter by facsimile (fax) device utilizing the Federal Voting  
26 Assistance Program's Electronic Transmission (Faxing) Service  
27 or successor program. If the absentee election manager has

1 reasonable cause to believe that the applicant has given a  
2 fraudulent address on the application for the absentee ballot,  
3 the absentee election manager shall turn over the ballot  
4 application to the district attorney for any action which may  
5 be necessary under Act 94-320 or other acts. The absentee  
6 election manager further may require additional proof of a  
7 voter's eligibility to vote absentee when there is evidence of  
8 continuous absentee voting. The absentee election manager  
9 shall ~~mail~~ furnish or transmit any absentee ballot ~~requested~~  
10 ~~to be mailed~~ duly applied for as provided in Section  
11 17-10-3(a) no later than the next business day after an  
12 application has been received unless the absentee ballots have  
13 not been delivered to the absentee election manager. If the  
14 absentee ballots have not been so delivered, the absentee  
15 election manager shall hold all requests until the ballots are  
16 delivered and shall then respond by placing ballots in the  
17 mail no later than the next business day.

18 "(b) The official list of qualified voters shall be  
19 furnished to the absentee election manager by the judge of  
20 probate using a printout from the state voter registration  
21 list of registered voters for that county containing ~~vote~~  
22 voter registration information useful in the identification of  
23 absentee voters. The information provided in this report shall  
24 be established by rules adopted by the Secretary of State with  
25 the advice of the Alabama Circuit Court Clerks Association,  
26 the Alabama League of Municipalities, or ~~its~~ members of these  
27 organizations and shall indicate whether the individual is

1 obligated to produce identification in accordance with Section  
2 17-10A-1. The Secretary of State may further provide by  
3 administrative rule for electronic access to this list for  
4 optional use by the absentee election manager. This list shall  
5 be made available beginning at least 45 days before the  
6 election. In municipal elections, the official list of  
7 qualified voters shall be furnished to the absentee election  
8 manager at least 35 days before the election. Any supplemental  
9 list of qualified electors shall also be provided to the  
10 absentee election manager as soon as the list becomes  
11 available. The absentee election manager shall underscore on  
12 the list the name of each voter who has applied for an  
13 absentee ballot and shall write immediately beside his or her  
14 name the word "absentee." The Secretary of State by rule may  
15 provide for electronic access to the absentee election  
16 manager's county or municipal list of registered voters and  
17 for the method of identifying applicants for absentee ballots  
18 in conjunction with the state voter registration list.

19 "(c) The absentee election manager shall enroll the  
20 name, residence, and polling place of the applicant, and the  
21 date the application was received on a list of absentee  
22 voters. Each day the absentee election manager shall enter on  
23 the list the names, addresses, and polling places of each  
24 voter who has that day applied for an absentee ballot and  
25 shall, for all elections other than municipal elections, post  
26 a copy of the list of applications received each day on the  
27 regular bulletin board or other public place in the county

1 courthouse. In municipal elections, the absentee election  
2 manager shall post a copy of the list of applications received  
3 each day on the regular bulletin board or other public place  
4 in city hall. The list shall be maintained in the office of  
5 the circuit clerk or register, in the case of elections for  
6 federal, county, or state issues or offices, or the municipal  
7 clerk, in the case of elections for municipal offices or  
8 issues, for 60 days after the election, at which time it shall  
9 be ~~filed with the judge of probate~~ sealed with the records of  
10 the election. Before the polls open at any election on  
11 election day, the absentee election manager shall effectuate  
12 the delivery to the election officers of each polling place a  
13 list showing the name and address of every person whose name  
14 appears on the official list of qualified electors for the  
15 polling place who applied for an absentee ballot in the  
16 election. The name of the person who applied for an absentee  
17 ballot shall be stricken from the list of qualified electors  
18 kept at the polling place, and the person shall not be  
19 permitted to vote again at the polling place except by  
20 provisional ballot, provided, however, that the provisional  
21 ballot shall not be counted unless the voter either surrenders  
22 his or her unmarked absentee ballot to the poll worker, or  
23 attests that he or she did not receive his or her absentee  
24 ballot from the absentee election manager and the board of  
25 registrars is able to confirm that the absentee election  
26 manager has not received the voter's marked absentee ballot.  
27 Except as to individuals voting pursuant to the Uniformed and

1 Overseas Absentee Voting Act, 42 U.S.C. 1973ff, separate  
2 applications for absentee ballots are required for elections  
3 which are more than 30 days apart.

4 ~~"(d) For individuals voting pursuant to the~~  
5 ~~Uniformed and Overseas Absentee Voting Act, 42 U.S.C. 1973ff,~~  
6 ~~the Secretary of State shall by rule prescribe use of~~  
7 ~~standardized military and overseas voter registration~~  
8 ~~applications and applications for absentee ballots adopted by~~  
9 ~~the United States government for such use. The Secretary of~~  
10 ~~State shall also prescribe by rule provisions within the~~  
11 ~~standard state application form for absentee voting which~~  
12 ~~permit the voter to identify himself or herself as a military~~  
13 ~~or overseas voter. Unless otherwise indicated by the military~~  
14 ~~or overseas voter, an application for an absentee ballot by~~  
15 ~~such a voter shall remain valid through the next two regularly~~  
16 ~~scheduled general election cycles for federal office. The~~  
17 ~~circuit clerk shall confirm by January 1 of each election year~~  
18 ~~the address of the military and overseas voters prior to~~  
19 ~~mailing the ballots during each election cycle, and the~~  
20 ~~absentee election manager shall provide an absentee ballot to~~  
21 ~~the military and overseas voters for each such subsequent~~  
22 ~~election. The absentee election manager, within seven days~~  
23 ~~after each regularly scheduled general election for federal~~  
24 ~~office, shall report the number of military and overseas~~  
25 ~~ballots mailed out and the number of ballots received to the~~  
26 ~~Secretary of State who shall report this information to the~~

1 ~~Federal Election Assistance Commission within 90 days of each~~  
2 ~~regularly scheduled general election for federal office.~~

3 "(d) For individuals voting by absentee ballot  
4 pursuant to the Uniformed and Overseas Citizens Absentee  
5 Voting Act, 42 U.S.C. 1973ff (hereinafter referred to as the  
6 federal act) the following procedures apply:

7 "(1) The voter may apply for an absentee ballot  
8 using any of the following methods:

9 "a. The Federal Postcard Application (Department of  
10 Defense Standard Form 76A) or successor form prescribed  
11 pursuant to the federal act.

12 "b. The absentee ballot application prescribed by  
13 the Secretary of State pursuant to Section 17-10-4 which shall  
14 permit the voter to identify himself or herself as an  
15 individual voting pursuant to the federal act.

16 "c. A handwritten application pursuant to Section  
17 17-10-4, provided that the handwritten application shall  
18 expressly identify the applicant as an individual qualified to  
19 vote by absentee ballot pursuant to the federal act, for the  
20 voter to avail himself or herself of the provisions of this  
21 chapter available to individuals qualified to vote by absentee  
22 ballot pursuant to the federal act.

23 "(2) Absentee ballot materials may be submitted by  
24 facsimile (fax) device to the appropriate absentee election  
25 manager through the Federal Voting Assistance Program's  
26 Electronic Transmission (Faxing) Service, or successor



1 program. Absentee voting materials include all of the  
2 following:

3 "a. The state-prescribed application for an absentee  
4 ballot.

5 "b. The Federal Postcard Application (Department of  
6 Defense Standard Form 76A) or successor form prescribed  
7 pursuant to the federal act.

8 "c. The completed absentee ballot.

9 "d. Other materials reasonably related to absentee  
10 voting as identified by rule by the Secretary of State in  
11 consultation with circuit clerks and municipal clerks.

12 "(3) Absentee ballot materials for multiple  
13 individuals who are qualified to vote by absentee ballot  
14 pursuant to the federal act and who are working or deployed in  
15 a combat zone may be submitted in the same envelope or  
16 package.

17 "(4) Unless otherwise indicated by the voter, an  
18 application for an absentee ballot shall remain valid in all  
19 elections for federal, state, county, municipal, and other  
20 local offices and for referenda and proposed constitutional  
21 amendments through the next two regularly scheduled general  
22 election cycles for federal office. The absentee election  
23 manager shall issue to the voter an absentee ballot for each  
24 election held during this specified time period in which the  
25 voter is qualified to cast a ballot.

1           "(5) The Secretary of State, in consultation with  
2 the boards of registrars, circuit clerks, and municipal  
3 clerks, shall prescribe absentee voting procedures:

4           "a. For maintaining the absentee ballot applications  
5 for these voters and for the issuance of absentee ballots for  
6 each election in which each voter is qualified to cast a  
7 ballot.

8           "b. For the transmission of voter information  
9 between the circuit clerks, municipal clerks, and boards of  
10 registrars, including absentee ballot applications and voter  
11 history.

12           "c. For the recording of information related to the  
13 absentee ballot applications in the statewide voter  
14 registration list provided for in Section 17-4-210.

15           "d. For the preparation of voter lists to be used in  
16 administering absentee balloting for individuals voting  
17 pursuant to the federal act.

18           "(6) The circuit clerk or municipal clerk shall  
19 confirm by January 1 of each regularly scheduled election year  
20 the mailing addresses of those individuals qualified to vote  
21 by absentee ballot pursuant to the federal act.

22           "(7) The absentee election manager for the general  
23 election for federal offices, within seven days after each  
24 regularly scheduled general election for federal office, shall  
25 report to the Secretary of State the number of ballots mailed  
26 to and the number of ballots received from individuals  
27 qualified to vote by absentee ballot pursuant to the federal

1 act. The Secretary of State shall report this information to  
2 the Federal Election Assistance Commission within 90 days of  
3 each regularly scheduled general election for federal office.

4 "(8) The Secretary of State, in consultation with  
5 circuit clerks, municipal clerks, boards of registrars, and  
6 the Alabama Military Department, shall prescribe rules  
7 necessary for implementing this subsection.

8 "§17-10-9.

9 "(a) Each prospective absentee voter who meets the  
10 requirements of this chapter, except for those individuals  
11 requesting and qualified to utilize the Federal Voting  
12 Assistance Program's Electronic Transmission (Faxing) Service  
13 or successor program, shall be furnished with the absentee  
14 ballot herein provided for, together with two envelopes for  
15 returning his or her marked ballot and instructions for  
16 completing and returning the absentee ballot as well as  
17 instructions for correcting mistakes in completing ballots or  
18 obtaining a replacement ballot. One envelope shall be a plain  
19 envelope in which the ballot shall be sealed by the voter  
20 after he or she has marked it.

21 "The second envelope shall have the voter's  
22 affidavit printed on the back and shall be large enough to  
23 seal the plain ballot envelope inside. The second envelope  
24 shall also be a return mail envelope.

25 "Such return mail envelope shall be addressed on the  
26 front to the absentee election manager and shall be endorsed  
27 on the left-hand upper corner thereof as follows:

1           "Absent Voter's Ballot. State, County, Municipal,  
2       General, Primary or Special Election (as the case may be) to  
3       be held on the \_\_\_\_ day of \_\_\_\_, 2\_\_ From \_\_\_\_\_ (name of  
4       voter), precinct or districts \_\_\_\_\_, County of \_\_\_\_\_,  
5       Alabama.

6           "After marking the ballot and subscribing the oath  
7       herein required, the voter shall seal his or her ballot in the  
8       plain envelope, place that plain envelope inside the affidavit  
9       envelope, complete the affidavit, shall have a notary public  
10      (or other officer authorized to acknowledge oaths) or two  
11      witnesses witness his or her signature to the affidavit, and  
12      shall forward it by United States mail to the addressee or  
13      shall hand it to him or her in person.

14          "Notwithstanding the other provisions of this  
15      section, the absentee election manager shall determine whether  
16      an applicant for an absentee ballot is obligated to produce  
17      identification in accordance with Section 17-10A-1 or  
18      reidentify in accordance with Section 17-10A-1. For absentee  
19      applicants required to produce identification, a third  
20      envelope of different color and sufficient size to enclose the  
21      first and second envelopes shall be provided to the applicant  
22      along with instructions for including a proper form of  
23      identification in accordance with Section 17-10A-1.

24          "For absentee applicants required to reidentify  
25      because they do not appear in the precinct for which they seek  
26      to vote but do appear in another precinct within the state  
27      voter registration list, the absentee election manager shall

1 provide to the voter a third envelope of different color and  
2 sufficient size to enclose the first and second envelopes  
3 along with a voter reidentification form, a provisional voter  
4 affirmation, and instructions in accordance with Section  
5 17-10A-2. Such ballot shall be treated as a provisional ballot  
6 and the term "Provisional" shall be marked on the second or  
7 affidavit envelope prior to transmitting the ballot to the  
8 voter. Applicants for an absentee ballot who do not appear on  
9 the state voter registration list shall not be entitled to an  
10 absentee ballot.

11 "(b) An individual qualified to vote by absentee  
12 ballot pursuant to the Uniformed and Overseas Absentee Voting  
13 Act, 43 U.S.C 1973ff, may request that his or her ballot be  
14 provided through the Federal Voting Assistance Program's  
15 Electronic Transmission (Faxing) Service or successor program.  
16 The absentee election manager shall provide the voter a  
17 facsimile (fax) version of the absentee affidavit along with  
18 the absentee ballot. The Secretary of State, in consultation  
19 with circuit clerks and municipal clerks, shall promulgate  
20 rules governing the transmission of absentee ballots through  
21 the Federal Voting Assistance Program's Electronic  
22 Transmission (Faxing) Service or successor program.

23 "§17-10-10.

24 "Upon receipt of the absentee ballot, the absentee  
25 election manager shall record its receipt thereof on the  
26 absentee list as provided in Section 17-10-5 and shall safely  
27 keep the ballot without breaking the seal of the affidavit

1     envelope. Upon receipt of the facsimile (fax) version of an  
2     absentee affidavit and an absentee ballot through the Federal  
3     Voting Assistance Program's Electronic Transmission (Faxing)  
4     Service, the absentee election manager shall seal the voter's  
5     ballot in a secrecy envelope, place the secrecy envelope  
6     inside an affidavit envelope and shall permanently affix the  
7     fax version of the affidavit to the outside of the affidavit  
8     envelope. On the day of the election, beginning at 12:00 noon,  
9     the absentee election manager shall deliver the sealed  
10    affidavit envelopes containing absentee ballots to the  
11    election officials provided for in Section 17-10-11. The  
12    election officials shall then call the name of each voter  
13    casting an absentee ballot with poll watchers present as may  
14    be provided under the laws of Alabama and shall examine each  
15    affidavit envelope to determine if the signature of the voter  
16    has been appropriately witnessed. If the witnessing of the  
17    signature and the information in the affidavit establish that  
18    the voter is entitled to vote by absentee ballot, then the  
19    election officials shall certify the findings, open each  
20    affidavit envelope, and deposit the plain envelope containing  
21    the absentee ballot into a sealed ballot box.

22            "No poll worker or other election official shall  
23    open an affidavit envelope if the envelope indicates the  
24    ballot is an unverified provisional ballot or the affidavit  
25    printed thereon is unsigned by the voter (and unmarked), and  
26    no ballot envelope or ballot therein may be removed or  
27    counted. No poll worker or other election official shall open

1 an affidavit envelope if the voter's affidavit signature (or  
2 mark) is not witnessed by the signatures of two witnesses or a  
3 notary public (or other officer authorized to acknowledge  
4 oaths) and no ballot envelope or ballot therein may be removed  
5 or counted. The provision for witnessing of the voter's  
6 affidavit signature (or mark) in Section 17-10-7 goes to the  
7 integrity and sanctity of the ballot and election. No court or  
8 other election tribunal shall allow the counting of an  
9 absentee ballot with respect to which the voter's affidavit  
10 signature (or mark) is not witnessed by the signatures of two  
11 witnesses 18 years of age or older or a notary public (or  
12 other officer authorized to acknowledge oaths) prior to being  
13 delivered or mailed to the absentee election manager.

14 "The absentee ballots shall upon the closing of the  
15 polls be counted and otherwise handled in all respects as if  
16 the absentee voter were present and voting in person. As  
17 regards municipalities with populations of less than 10,000,  
18 in the case of municipal elections held at a time different  
19 from a primary or general election, the return mail envelopes  
20 containing the ballots shall be delivered to the election  
21 official of the precinct of the respective voters, unless the  
22 city or town having a population of less than 10,000  
23 inhabitants has, by permanent ordinance adopted six months  
24 prior to the municipal election, established a procedure for  
25 the appointment of absentee election officials pursuant to  
26 subsection (c) of Section 11-46-27.

27 "§17-10-12.

1           "(a) Not less than 40 days prior to the holding of  
2 any election, except a municipal election, to which this  
3 chapter pertains, or in the case of a run-off primary  
4 election, not more than seven days after the first primary  
5 election, the officer charged with the printing and  
6 distribution of the official ballots and election supplies  
7 shall deliver to the absentee election manager of each county  
8 in which the election is held or to the person designated to  
9 serve in his or her place a sufficient number of absentee  
10 ballots, envelopes, and other necessary supplies. Not more  
11 than seven days after the last day to qualify as a candidate  
12 in a municipal election, or in the case of a run-off municipal  
13 election, not more than seven days after the first election,  
14 or in the case of a municipal election held for a purpose  
15 other than the election of municipal officers, not more than  
16 seven days after the giving of notice of the election, the  
17 officer charged with the printing and distribution of the  
18 official ballots and election supplies shall deliver to the  
19 absentee election manager of the municipality in which the  
20 election is held, or to the person designated to serve in his  
21 or her place, a sufficient number of absentee ballots,  
22 envelopes, and other necessary supplies. If the absentee  
23 election manager is a candidate with opposition in the  
24 election, he or she shall immediately, upon receipt of the  
25 ballots, envelopes, and supplies, deliver them to the person  
26 authorized to act in his or her place, as provided in Section  
27 17-10-13.



1           "(b) Any registered elector who requires emergency  
2 treatment of a licensed physician within five days of an  
3 election may apply for an emergency absentee ballot for the  
4 election and may vote by returning the absentee ballot no  
5 later than noon on the day the election is held. The attendant  
6 physician shall describe and certify the circumstances as  
7 constituting an emergency on a special form designed by the  
8 Secretary of State and provided by his or her office to local  
9 absentee election managers. The special form shall be attached  
10 to the application.

11           "(c) Any registered elector whose name appears on  
12 the poll list of qualified voters may vote by an emergency  
13 absentee ballot if he or she is required by his or her  
14 employer under unforeseen circumstances to be out of the  
15 county on an emergency business trip on election day. Under  
16 such circumstances, the applicant shall apply for an emergency  
17 absentee ballot at the office of the absentee election manager  
18 no later than the close of the business day one day prior to  
19 the election. The applicant shall complete and file an  
20 application form designed by the Secretary of State for  
21 emergency absentee voters. The form shall contain an affidavit  
22 which the applicant shall sign or swear acknowledging that he  
23 or she was not aware of the out of county business requirement  
24 prior to five days before the election. An applicant who meets  
25 the requirements of this subsection may vote by an emergency  
26 absentee ballot. After voting the ballot, the voter shall hand  
27 the ballot to the absentee election manager.

1           "(d) Any registered elector qualified to vote by a  
2           federal write-in absentee ballot pursuant to the Uniformed and  
3           Overseas Absentee Voting Act, 43 U.S.C 1973ff, may cast his or  
4           her absentee ballot in elections for federal, state, county,  
5           and municipal offices and issues utilizing a write-in absentee  
6           ballot. The Secretary of State, in consultation with circuit  
7           clerks, municipal clerks, and the Alabama Military Department,  
8           shall prescribe all forms and procedures for voting by said  
9           write-in absentee ballot.

10           "§17-10-17.

11           "(a) Any person who willfully changes an absentee  
12 voter's ballot to the extent that it does not reflect the  
13 voter's true ballot, any person who willfully votes more than  
14 once by absentee in the same election, any person who  
15 willfully votes for another voter or falsifies absentee ballot  
16 applications or verification documents so as to vote absentee,  
17 any person who compromises the integrity or privacy of a  
18 ballot transmitted through the Federal Voting Assistance  
19 Program's Electronic Transmission (Faxing) Service, including,  
20 but not limited to, disclosing the votes cast on said ballot,  
21 other than election officials properly acting within the scope  
22 of their responsibilities under this chapter, or any person  
23 who solicits, encourages, urges, or otherwise promotes illegal  
24 absentee voting, upon conviction, shall be punished by  
25 imprisonment in the penitentiary for not less than one nor  
26 more than two years, or by a fine of not less than \$500.00 nor  
27 more than \$2,000.00, or by being both fined and imprisoned.

1 Any person who willfully aids any person unlawfully to vote an  
2 absentee ballot, any person who knowingly and unlawfully votes  
3 an absentee ballot, and any voter who votes both an absentee  
4 and a regular ballot at any election shall be similarly  
5 punished.

6 "(b) Upon request by the local district attorney or  
7 the Secretary of State, the Attorney General shall provide  
8 investigating assistance in instances of absentee ballot or  
9 voting violations.

10 "(c) Nothing in this section shall be construed to  
11 impede or inhibit organized legal efforts to encourage voter  
12 participation in the election process or to discourage a  
13 candidate from encouraging electors to lawfully vote by  
14 absentee ballot.

15 "§17-10-23.

16 "No absentee ballot shall be opened or counted if  
17 received by the absentee election manager:

18 "(a) By ~~by~~ mail, unless postmarked as of the date  
19 prior to the day of the election and received by mail no later  
20 than noon on the day of election, ~~or, if received by the~~  
21 ~~absentee election manager~~

22 "(b) By ~~by~~ hand delivery, unless so delivered to the  
23 absentee election manager not later than 5:00 p.m. on the day  
24 prior to the election.

25 "(c) Through the Federal Voting Assistance Program's  
26 Electronic Transmission (Faxing) Service not later than noon  
27 on the day of the election.

1           "Except as to provisional absentee ballots that have  
2 not been verified by seven days after the election, any  
3 election official who fails to count a legal vote under Act  
4 96-885 shall be guilty of a Class C felony and punished as  
5 provided by law.

6           "§17-10-24.

7           "Each person, firm or entity supplying to any county  
8 or municipality any absentee affidavit envelopes, absentee  
9 ballots, or other absentee election materials in connection  
10 with any primary, general, special or municipal election  
11 shall, at the time of the shipment or delivery of the same,  
12 provide to said county or municipality, ~~and to the Secretary~~  
13 ~~of State,~~ an itemized and signed statement showing a  
14 description and the quantity of each item so shipped or  
15 delivered. ~~Upon the conclusion of the election, the absentee~~  
16 ~~election manager shall return all unused absentee election~~  
17 ~~materials to the Secretary of State along with an itemized,~~  
18 ~~signed statement showing the description and quantity of each~~  
19 ~~item of absentee election material not utilized by the county~~  
20 ~~or municipality in the election then concluded, and said~~  
21 ~~unused absentee election materials shall be maintained for the~~  
22 ~~period of time prescribed by applicable law and, in no event,~~  
23 ~~less than eighteen (18) months.~~

24           "§17-11A-1.

25           "(a) As used in this section, the term "valid photo  
26 identification" may include in addition to governmentally  
27 produced photo identifications, identification cards

1 containing the photo of the elector produced by employers for  
2 employees and identification cards containing the photo of the  
3 elector produced by a public or private college, university,  
4 or postgraduate technical or professional school located  
5 within the state.

6 "(b) Each elector shall provide identification to an  
7 appropriate election official prior to voting. A voter  
8 required to show identification when voting in person shall  
9 present to the appropriate election official either of the  
10 following forms of identification:

11 "(1) A current valid photo identification.

12 "(2) A copy of a current utility bill, bank  
13 statement, government check, paycheck, or other government  
14 document that shows the name and address of the voter. The  
15 term "other government document" may include, but is not  
16 limited to, any of the following:

17 "a. A valid identification card issued by a branch,  
18 department, agency, or entity of the State of Alabama, any  
19 other state, or the United States authorized by law to issue  
20 personal identification.

21 "b. A valid United States passport.

22 "c. A valid Alabama hunting or fishing license.

23 "d. A valid Alabama permit to carry a pistol or  
24 revolver.

25 "e. A valid pilot's license issued by the Federal  
26 Aviation Administration or other authorized agency of the  
27 United States.

1               "f. A valid United States military identification  
2 card.

3               "g. A certified copy of the elector's birth  
4 certificate.

5               "h. A valid Social Security card.

6               "i. Certified naturalization documentation.

7               "j. A certified copy of court records showing  
8 adoption or name change.

9               "k. A valid Medicaid card, Medicare card, or an  
10 Electronic Benefits Transfer Card (formerly referred to as a  
11 "food stamp card").

12              "(c) For voters required to show identification when  
13 voting by mail, the voter shall submit with the absentee  
14 ballot application a copy of one of the forms of  
15 identification listed in subsection (b).

16              "(d) Notwithstanding the foregoing, a voter who is  
17 entitled to vote by absentee ballot pursuant to the Uniformed  
18 and Overseas Citizens Absentee Voting Act (subchapter I-G of  
19 Chapter 20 of Title 42 U.S.C.); Section 3(b)(2)(B)(ii) of the  
20 Voting Accessibility for the Elderly and Handicapped Act  
21 (subchapter I-F of Chapter 20 of Title 42 U.S.C.); or any  
22 other federal law, shall not be required to produce  
23 identification prior to voting.

24              "(e) An individual required to present  
25 identification in accordance with this section who is unable  
26 to meet the identification requirements of this section shall

1 be permitted to vote by a challenged or provisional ballot, as  
2 provided for by law.

3 "(f) In addition, an individual who does not have  
4 identification in his or her possession at the polls shall be  
5 permitted to vote if the individual is positively identified  
6 by two election officials as a voter on the poll list who is  
7 eligible to vote and the election official signs the voters  
8 list by where the voter signs.

9 "(g) Any polling official who knowingly fails to  
10 require proper identification to verify the name of the  
11 prospective voter on the list of qualified voters at the  
12 polling place in violation of this section, or who knowingly  
13 allows a person to vote who he or she knows is not the person  
14 he or she claims to be shall be guilty of a Class A  
15 misdemeanor for each violation.

16 "(h) Any person who knowingly presents false  
17 identification in order to vote at a polling place where he or  
18 she otherwise would not be qualified to vote, or who knowingly  
19 votes at a polling place where he or she has not been  
20 authorized to vote, or who knowingly votes at more than one  
21 polling place in the same election on the same day shall be  
22 guilty of a Class C felony.

23 "(i) Any election or polling official acting in the  
24 good faith exercise of his or her duties pursuant to this  
25 section, and any county officer, agent, or employee of a  
26 county acting in the good faith exercise of his or her duties  
27 shall not be civilly or criminally liable as a result of acts

1 or omissions in carrying out the duties required by this  
2 section. The immunity from liability granted under this  
3 subsection shall be cumulative and is in addition to the line  
4 and scope of employment immunity, discretionary function  
5 immunity, and any other immunity from liability to which an  
6 individual may be entitled."

7           Section 2. This act shall become effective on the  
8 first day of the third month following its passage and  
9 approval by the Governor, or its otherwise becoming law.