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3 HOUSE CONSTITUTION, CAMPAIGNS, AND ELECTIONS COMMITTEE
4 SUBSTITUTE FOR HB140

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9 SYNOPSIS: Under existing law, if a voter's affidavit
10 signature or mark on the affidavit envelope
11 containing an absentee ballot is not properly
12 witnessed, the ballot is not removed or counted.

13 This bill would require the absentee
14 election manager to notify voters by mail after an
15 election of the reason why his or her absentee
16 ballot was not counted.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

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22 To amend Section 17-11-10, Code of Alabama 1975,
23 relating to absentee ballots; to require the local board of
24 registrars to notify absentee voters by mail after each
25 election of the reason why his or her absentee ballot was not
26 counted.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 17-11-10 of the Code of Alabama
2 1975, is amended to read as follows:

3 "§17-11-10.

4 "(a) Upon receipt of the absentee ballot, the
5 absentee election manager shall record its receipt thereof on
6 the absentee list as provided in Section 17-11-5 and shall
7 safely keep the ballot without breaking the seal of the
8 affidavit envelope.

9 "(b) For absentee ballots received by noon on the
10 day of the election, the absentee election manager shall,
11 beginning at noon, deliver the sealed affidavit envelopes
12 containing absentee ballots to the election officials provided
13 for in Section 17-11-11. The election officials shall then
14 call the name of each voter casting an absentee ballot with
15 poll watchers present as may be provided under the laws of
16 Alabama and shall examine each affidavit envelope to determine
17 if the signature of the voter has been appropriately
18 witnessed. If the witnessing of the signature and the
19 information in the affidavit establish that the voter is
20 entitled to vote by absentee ballot, then the election
21 officials shall certify the findings, open each affidavit
22 envelope, and deposit the plain envelope containing the
23 absentee ballot into a sealed ballot box.

24 "No poll worker or other election official shall
25 open an affidavit envelope if the envelope indicates the
26 ballot is an unverified provisional ballot or the affidavit
27 printed thereon is unsigned by the voter or unmarked, and no

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

18 "Upon closing of the polls, the absentee ballots
19 shall be counted and otherwise handled in all respects as if
20 the absentee voter were present and voting in person.

21 "Precinct ballot counters may be used to count
22 absentee ballots. Absentee election officials are to be
23 appointed and trained in the same manner as prescribed for
24 regular election officials. The number of absentee election
25 officials shall be determined by the number of precinct
26 counters provided. The county commission may provide more than
27 one precinct ballot counter based upon the recommendation of

1 the absentee election manager. Beginning not earlier than noon
2 on election day, the absentee election officials shall perform
3 the duties prescribed in Section 17-11-11.

4 "As regards municipalities with populations of less
5 than 10,000, in the case of municipal elections held at a time
6 different from a primary or general election, the return mail
7 envelopes containing the ballots shall be delivered to the
8 election official of the precinct of the respective voters,
9 unless the city or town having a population of less than
10 10,000 inhabitants has, by permanent ordinance adopted six
11 months prior to the municipal election, established a
12 procedure for the appointment of absentee election officials
13 pursuant to subsection (c) of Section 11-46-27.

14 "(c) Absentee ballots cast in a second primary
15 election for federal, state, or county office by individuals
16 voting pursuant to the federal Uniformed and Overseas Citizens
17 Absentee Voting Act, 42 U.S.C. 1973ff et seq., and received
18 after noon on the day of the second primary election, shall be
19 opened and counted at the same time as the verified
20 provisional ballots. At noon seven days after the second
21 primary election, the absentee election manager shall deliver
22 the sealed affidavit envelopes containing absentee ballots to
23 the officials provided for in subsection (f) of Section
24 17-10-2. The officials shall call the name of each voter
25 casting an absentee ballot in the presence of watchers
26 designated by any interested candidates and shall examine each
27 affidavit envelope to determine if the signature of the voter

1 has been appropriately witnessed. If the witnessing of the
2 signature and the information in the affidavit establish that
3 the voter is entitled to vote by absentee ballot, then the
4 election officials shall certify the findings, open each
5 affidavit envelope, and deposit the plain envelope containing
6 the absentee ballot into a sealed ballot box.

7 "No election official shall open an affidavit
8 envelope if the affidavit printed thereon is unsigned by the
9 voter or unmarked, and no ballot envelope or ballot therein
10 may be removed or counted. No election official shall open an
11 affidavit envelope if the voter's affidavit signature or mark
12 is not witnessed by the signatures of two witnesses or a
13 notary public, or other officer, including a military
14 commissioned officer, authorized to acknowledge oaths, and no
15 ballot envelope or ballot therein may be removed or counted.
16 The provision for witnessing of the voter's affidavit
17 signature or mark in Section 17-11-7 goes to the integrity and
18 sanctity of the ballot and election. No court or other
19 election tribunal shall allow the counting of an absentee
20 ballot with respect to which the voter's affidavit signature
21 or mark is not witnessed by the signatures of two witnesses 18
22 years of age or older or a notary public, or other officer,
23 including a military commissioned officer, authorized to
24 acknowledge oaths, prior to being delivered or mailed to the
25 absentee election manager.

26 "The absentee ballots described in this subsection
27 shall be opened, counted, and tabulated. The results of the

1 absentee ballots counted and tabulated on election day shall
2 be amended to include the results of the absentee ballots
3 described in this subsection.

4 "In all other respects, unless otherwise
5 specifically provided by law, the absentee ballots described
6 in this subsection shall be treated as other absentee ballots.

7 "(d) In the event the voter's affidavit signature or
8 mark on the affidavit envelope is not witnessed by the
9 signatures of two witnesses 18 years of age or older or a
10 notary public, or other officer, including a military
11 commissioned officer, authorized to acknowledge oaths, or the
12 ballot is rejected for any other legal reason, and the ballot
13 envelope or ballot therein is not removed and counted, the
14 rejected ballot shall be delivered to the local board of
15 registrars. The local board of registrars shall issue a notice
16 in writing to the voter stating the cause of the rejection and
17 the reason why the voter's absentee ballot was not counted,
18 and send the notice by first class mail to the voter within 20
19 calendar days after the election. Within 20 calendar days
20 after each election, the sheriff shall collect all rejected
21 ballots. A copy of the notice of rejection shall be retained
22 by the office of the local judge of probate for a minimum of
23 one year and shall be made available as provided in Section
24 36-12-40. The Secretary of State shall promulgate any rules as
25 necessary to provide for the implementation of this
26 subsection."

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