

1 SB190  
2 180464-2  
3 By Senators Figures, Dunn, Smitherman, Singleton, Ross,  
4 Coleman-Madison, Sanders, Beasley, Whatley, Allen, Marsh and  
5 Pittman  
6 RFD: Constitution, Ethics and Elections  
7 First Read: 14-FEB-17

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

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

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Section 17-11-10 of the Code of Alabama  
18 1975, is amended to read as follows:

19 "§17-11-10.

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

25 "(b) For absentee ballots received by noon on the  
26 day of the election, the absentee election manager shall,  
27 beginning at noon, deliver the sealed affidavit envelopes

1 containing absentee ballots to the election officials provided  
2 for in Section 17-11-11. The election officials shall then  
3 call the name of each voter casting an absentee ballot with  
4 poll watchers present as may be provided under the laws of  
5 Alabama and shall examine each affidavit envelope to determine  
6 if the signature of the voter has been appropriately  
7 witnessed. If the witnessing of the signature and the  
8 information in the affidavit establish that the voter is  
9 entitled to vote by absentee ballot, then the election  
10 officials shall certify the findings, open each affidavit  
11 envelope, and deposit the plain envelope containing the  
12 absentee ballot into a sealed ballot box.

13 "No poll worker or other election official shall  
14 open an affidavit envelope if the envelope indicates the  
15 ballot is an unverified provisional ballot or the affidavit  
16 printed thereon is unsigned by the voter or unmarked, and no  
17 ballot envelope or ballot therein may be removed or counted.  
18 No poll worker or other election official shall open an  
19 affidavit envelope if the voter's affidavit signature or mark  
20 is not witnessed by the signatures of two witnesses or a  
21 notary public, or other officer, including a military  
22 commissioned officer, authorized to acknowledge oaths, and no  
23 ballot envelope or ballot therein may be removed or counted.  
24 The provision for witnessing of the voter's affidavit  
25 signature or mark in Section 17-11-7 goes to the integrity and  
26 sanctity of the ballot and election. No court or other  
27 election tribunal shall allow the counting of an absentee

1 ballot with respect to which the voter's affidavit signature  
2 or mark is not witnessed by the signatures of two witnesses 18  
3 years of age or older or a notary public, or other officer,  
4 including a military commissioned officer, authorized to  
5 acknowledge oaths, prior to being delivered or mailed to the  
6 absentee election manager.

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

10 "Precinct ballot counters may be used to count  
11 absentee ballots. Absentee election officials are to be  
12 appointed and trained in the same manner as prescribed for  
13 regular election officials. The number of absentee election  
14 officials shall be determined by the number of precinct  
15 counters provided. The county commission may provide more than  
16 one precinct ballot counter based upon the recommendation of  
17 the absentee election manager. Beginning not earlier than noon  
18 on election day, the absentee election officials shall perform  
19 the duties prescribed in Section 17-11-11.

20 "As regards municipalities with populations of less  
21 than 10,000, in the case of municipal elections held at a time  
22 different from a primary or general election, the return mail  
23 envelopes containing the ballots shall be delivered to the  
24 election official of the precinct of the respective voters,  
25 unless the city or town having a population of less than  
26 10,000 inhabitants has, by permanent ordinance adopted six  
27 months prior to the municipal election, established a

1 procedure for the appointment of absentee election officials  
2 pursuant to subsection (c) of Section 11-46-27.

3 "(c) Absentee ballots cast in a second primary  
4 election for federal, state, or county office by individuals  
5 voting pursuant to the federal Uniformed and Overseas Citizens  
6 Absentee Voting Act, 42 U.S.C. 1973ff et seq., and received  
7 after noon on the day of the second primary election, shall be  
8 opened and counted at the same time as the verified  
9 provisional ballots. At noon seven days after the second  
10 primary election, the absentee election manager shall deliver  
11 the sealed affidavit envelopes containing absentee ballots to  
12 the officials provided for in subsection (f) of Section  
13 17-10-2. The officials shall call the name of each voter  
14 casting an absentee ballot in the presence of watchers  
15 designated by any interested candidates and shall examine each  
16 affidavit envelope to determine if the signature of the voter  
17 has been appropriately witnessed. If the witnessing of the  
18 signature and the information in the affidavit establish that  
19 the voter is entitled to vote by absentee ballot, then the  
20 election officials shall certify the findings, open each  
21 affidavit envelope, and deposit the plain envelope containing  
22 the absentee ballot into a sealed ballot box.

23 "No election official shall open an affidavit  
24 envelope if the affidavit printed thereon is unsigned by the  
25 voter or unmarked, and no ballot envelope or ballot therein  
26 may be removed or counted. No election official shall open an  
27 affidavit envelope if the voter's affidavit signature or mark

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

15 "The absentee ballots described in this subsection  
16 shall be opened, counted, and tabulated. The results of the  
17 absentee ballots counted and tabulated on election day shall  
18 be amended to include the results of the absentee ballots  
19 described in this subsection.

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

23 "(d) In the event the voter's affidavit signature or  
24 mark on the affidavit envelope is not witnessed by the  
25 signatures of two witnesses 18 years of age or older or a  
26 notary public, or other officer, including a military  
27 commissioned officer, authorized to acknowledge oaths, or the

1 ballot is rejected for any other legal reason, and the ballot  
2 envelope or ballot therein is not removed and counted, the  
3 rejected ballot shall be delivered to the local board of  
4 registrars. The local board of registrars shall issue a notice  
5 in writing to the voter stating the cause of the rejection and  
6 the reason why the voter's absentee ballot was not counted,  
7 and send the notice by first class mail to the voter within 10  
8 calendar days after the election. Within 10 calendar days  
9 after each election, the sheriff shall collect all rejected  
10 ballots. A copy of the notice of rejection shall be retained  
11 by the office of the local judge of probate for a minimum of  
12 one year and shall be made available as provided in Section  
13 36-12-40. The Secretary of State shall promulgate any rules as  
14 necessary to provide for the implementation of this  
15 subsection."

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

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Senate

Read for the first time and referred to the Senate  
committee on Constitution, Ethics and Elections .. 14-FEB-17

Read for the second time and placed on the calen-  
dar 1 amendment..... 16-MAR-17

Read for the third time and passed as amended .... 06-APR-17

Yeas 27  
Nays 0

Patrick Harris,  
Secretary.