

1 SB55  
2 125637-4  
3 By Senators Dial, Holley, Taylor, Glover, Williams, Bussman,  
4 Scofield, Holtzclaw, Brewbaker, Whatley, Allen, McGill, Orr,  
5 Reed, Beason, Sanford, Waggoner and Ward  
6 RFD: Constitution, Campaign Finance, Ethics, and Elections  
7 First Read: 01-MAR-11

1 SB55

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4 ENROLLED, An Act,

5 Relating to elections and the provision of secure  
6 overseas absentee voting by electronic transmission; to  
7 establish the Alabama Electronic Overseas Voting Advisory  
8 Committee to determine whether a secure electronic means may  
9 be established for use by the Secretary of State to conduct  
10 overseas absentee voting; to provide a procedure for the  
11 adoption of rules by the committee and the Secretary of State  
12 for conducting overseas absentee voting; to require the  
13 committee and the Secretary of State to determine the  
14 requirements for a request and receipt of an overseas absentee  
15 ballot, for the return of a voted overseas absentee ballot,  
16 for an overseas voter certificate, for the instructions for  
17 voting an overseas absentee ballot, and for the processing of  
18 a voted overseas absentee ballot; and to require the Secretary  
19 of State to adopt rules regarding emergency overseas absentee  
20 voting rule powers and situations during which those powers  
21 may be exercised.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. For the purposes of this act, the  
24 following terms shall have the following meanings:

1           (1) COMMITTEE. The Alabama Electronic Overseas  
2 Voting Advisory Committee.

3           (2) OVERSEAS VOTER. Includes all of the following:

4           a. A member of the uniformed services while in the  
5 active service, or an eligible spouse or dependent of such a  
6 member, who is a permanent resident of the state and is  
7 temporarily residing outside of the territorial limits of the  
8 United States and the District of Columbia, who is qualified  
9 and registered to vote as provided by law.

10           b. A member of the Merchant Marine of the United  
11 States, or an eligible spouse or dependent of such a member,  
12 who is a permanent resident of the state and is temporarily  
13 residing outside of the territorial limits of the United  
14 States and the District of Columbia, who is qualified and  
15 registered to vote as provided by law.

16           c. Any other citizen of the United States who is a  
17 permanent resident of the state and is temporarily residing  
18 outside of the territorial limits of the United States and the  
19 District of Columbia, who is qualified and registered to vote  
20 as provided by law.

21           Section 2. (a) The Alabama Electronic Overseas  
22 Voting Advisory Committee is created to determine whether  
23 secure electronic means may be established for conducting  
24 absentee voting for overseas voters and to advise and assist  
25 the office of the Secretary of State in the establishment,

1 testing, and implementation of absentee overseas balloting by  
2 secure electronic means.

3 (b) The membership of the committee shall include  
4 all of the following:

5 (1) The Secretary of State as chair.

6 (2) A representative of the Alabama Sheriff's  
7 Association appointed by that association.

8 (3) A representative of the Alabama Probate Judge's  
9 Association appointed by that association.

10 (4) A representative of the Alabama Circuit Clerks  
11 Association appointed by that association.

12 (5) A representative of the Alabama National Guard  
13 appointed by the Adjutant General.

14 (6) The Chair of the Senate Constitution, Campaign  
15 Finance, Ethics, and Elections Committee.

16 (7) The Chair of the House Constitution and  
17 Elections Committee.

18 (8) A representative of the county boards of  
19 registrars appointed by the Secretary of State.

20 (9) A representative of the Association of County  
21 Commissions of Alabama appointed by that association

22 (10) One person appointed by the Governor.

23 (11) One person appointed by the Attorney General.

24 (12) The Director of the Alabama State Department of  
25 Veterans Affairs.

1           (13) The Executive Director of the Veterans of  
2 Foreign Wars for the State of Alabama.

3           (c) The membership of the committee shall be  
4 inclusive and reflect the racial, gender, geographic,  
5 urban/rural, and economic diversity of the state. The  
6 committee shall annually report to the Legislature by the  
7 second legislative day of each regular session the extent to  
8 which the committee has complied with the diversity provisions  
9 provided for in this act. Members of the committee shall be  
10 appointed within 30 days after the effective date of this act  
11 and shall serve without compensation but shall be eligible for  
12 reimbursement for necessary and reasonable expenses incurred  
13 in the performance of their official duties.

14           (d) The chair of the committee shall convene an  
15 organizational meeting of the committee within 45 days after  
16 the effective date of this act.

17           (e) For the purposes of this committee, eight  
18 members present at a meeting shall constitute a quorum.

19           Section 3. (a) If the committee determines a secure  
20 electronic means may be established for conducting overseas  
21 absentee voting, the Secretary of State shall promulgate rules  
22 proposed by the committee to provide that option to eligible  
23 overseas voters. The Secretary of State may veto any rule  
24 proposed by the committee, may resubmit any vetoed proposed  
25 rule to the committee, and may provide an alternative rule for

1 consideration by the committee. In the event that the  
2 Secretary of State and the committee are unable to jointly  
3 recommend a rule, or are unable to agree on a rule, the  
4 Secretary of State shall submit both the proposed rule of the  
5 committee and the proposed rule of the Secretary of State to  
6 the Joint Committee on Administrative Regulation Review for  
7 comment. The Joint Committee on Administrative Regulation  
8 Review, after review, shall return the proposed rules, with  
9 comments, to the Secretary of State. The Secretary of State  
10 shall proceed to adopt a rule pursuant to the Alabama  
11 Administrative Procedure Act. The rules for conducting  
12 overseas absentee voting by secure remote electronic  
13 transmission shall authorize the absentee election manager, as  
14 defined in Section 17-11-2, Code of Alabama 1975, to accept  
15 requests for absentee ballots and voted absentee ballots from  
16 overseas voters and provide a process for verifying the  
17 identity of a voter, ensuring the security of the  
18 transmission, accepting a voted ballot, and recording each  
19 ballot received.

20 (b) Before overseas absentee voting may be conducted  
21 pursuant to this act, the committee, among other factors,  
22 shall consider all of the following:

23 (1) A timetable and process for notifying eligible  
24 overseas voters of the availability of voting an absentee  
25 ballot by secure remote electronic transmission.

1           (2) Detailed instructions to be given eligible  
2 overseas voters regarding voting by secure remote electronic  
3 transmission.

4           (3) A timetable for the conduct of elections  
5 utilizing the electronic transmission of absentee ballots.

6           (4) A method of providing blank ballots to overseas  
7 voters.

8           (5) A method and criteria for returning overseas  
9 voted absentee ballots to the absentee election manager.

10          (6) Procedures for ensuring the physical security of  
11 the remote voting site for receipt and transmission of blank  
12 and voted absentee ballots.

13          (c) Pursuant to subsection (a), the Secretary of  
14 State, by rule adopted pursuant to the Alabama Administrative  
15 Procedure Act, shall establish minimum criteria to ensure the  
16 secure remote electronic transmission of election materials  
17 including, but not limited to:

18           (1) The use of encrypted information, including, but  
19 not limited to, ballots, passwords, and both public and  
20 private encryption keys.

21           a. A public or private key encryption methodology  
22 shall include key generation under the control of the  
23 Secretary of State.

1           b. A password protected private key shall be held  
2 secure by the county appointing board and never transmitted or  
3 otherwise divulged by any means.

4           c. A password protected private key that is unique  
5 for each eligible overseas voter to digitally sign the ballot  
6 for transmission and storage before decryption by the  
7 canvassing board.

8           (2) The capability for auditing the secure remote  
9 voting application source code, and the capability for this  
10 application to be executed on a clean computer which, at a  
11 minimum, has a baseline operating system on its hard disk and  
12 no other software or driver installed.

13           (3) The capability to secure access to and from the  
14 overseas voter and the voting server or the voting database  
15 platform, or both.

16           (4) The verification of the authenticity of the  
17 identity of the overseas voter before granting access to the  
18 transmission of election material.

19           (5) The capability for the overseas voter to  
20 determine that the secure transmission of election material  
21 was successful.

22           (6) The capability for the absentee election manager  
23 to segregate rejected ballots before decryption.

24           (7) The capability to record election material  
25 received by secure transmission.



1           (8) The capability for the absentee election manager  
2 to produce a marked paper ballot for each vote cast by secure  
3 transmission.

4           Section 4. (a) In determining the requirements for a  
5 request for an overseas absentee ballot, the committee and the  
6 Secretary of State shall consider including the following  
7 information:

8           (1) The name of the voter requesting the ballot.

9           (2) The legal Alabama residence of the voter.

10          (3) The date of birth of the voter.

11          (4) One of the following:

12           a. An APO/FPO or other deliverable overseas address,  
13 if the overseas voter requests that the ballot be mailed.

14           b. A facsimile machine number where return  
15 information shall be received, if the overseas voter requests  
16 that the ballot be faxed. If the voter requests facsimile  
17 transmission, his or her signature is also required.

18           c. An electronic mail address, if the overseas voter  
19 requests that the ballot be transmitted pursuant to electronic  
20 mail.

21           d. A signed application for an electronic ballot if  
22 the overseas voter requests that the ballot be transmitted or  
23 accessed by other secure electronic means approved by rule of  
24 the Secretary of State.

1           (b) A request for a ballot to be faxed to an  
2 overseas voter shall remain valid for 12 months, unless a  
3 shorter length of time is requested by the overseas voter.

4           (c) The absentee election manager and the staff of  
5 the absentee election manager shall ensure the confidentiality  
6 of all voted ballots, including voted ballots received by  
7 facsimile.

8           Section 5. In determining the requirements for  
9 receipt of a request for an overseas absentee ballot, the  
10 committee and the Secretary of State shall consider  
11 verification by the absentee election manager of the  
12 information provided, a determination that the overseas voter  
13 is qualified and registered to vote in the election, and the  
14 provision of:

15           (1) An absentee ballot.

16           (2) Instructions for voting.

17           (3) Instructions for returning the voted ballot.

18           (4) An overseas voter certificate.

19           Section 6. The committee and the Secretary of State  
20 shall determine the procedures whereby an overseas voter may  
21 return a voted ballot.

22           Section 7. In determining the requirements for an  
23 overseas voter certificate, the committee and the Secretary of  
24 State shall consider including information including the  
25 following:

1 "OVERSEAS VOTER CERTIFICATE

2 "I, \_\_\_\_\_ (print name), swear or affirm,  
3 under penalty of perjury, that:

4 "1. I am a member of the uniformed services or  
5 Merchant Marine on active duty temporarily residing outside  
6 the United States; or the eligible spouse or dependent of such  
7 a member temporarily residing outside the United States; or a  
8 United States citizen temporarily residing outside the United  
9 States; and

10 "2. I am a United States citizen, at least 18 years  
11 of age, as of the date of the applicable election, and  
12 eligible to vote in the requested jurisdiction; and

13 "3. I have not been convicted of a disqualifying  
14 felony or been adjudicated mentally incompetent or, if I have,  
15 my voting rights have been reinstated; and

16 "4. I am not registering, requesting a ballot, or  
17 voting in any other jurisdiction in the United States, except  
18 the jurisdiction cited in this voting form.

19 "In voting, I have marked and sealed my ballot in  
20 private and have not allowed any person to observe my marking  
21 of the ballot, except for those authorized to assist overseas  
22 voters under state or federal law. I have not been influenced  
23 in marking my ballot. My signature and date below indicate  
24 when I completed this certificate. The information on this  
25 form is true, accurate, and complete to the best of my

1 knowledge. I understand that a material misstatement of fact  
2 in completion of this document may constitute grounds for a  
3 conviction for perjury.

4 "Signed: \_\_\_\_\_ Date:

5 \_\_\_\_\_"

6 Section 8. The committee and the Secretary of State  
7 may draft instructions to be included when an absentee ballot  
8 is sent to an overseas voter, including, but not limited to,  
9 the following instructions:

10 "(1) To ensure that your absentee ballot is counted,  
11 it should be completed and returned to the absentee election  
12 manager of the county of registration as soon as possible, and  
13 not later than 12:00 noon on the day of the election.

14 "(2) The ballot should be marked in secret.

15 "(3) Only the number of candidates or issue choices  
16 indicated on the ballot should be marked. If the ballot  
17 instructs a voter to "vote for one" candidate, and you vote  
18 for more than one candidate, your vote in that race will not  
19 be counted.

20 "(4) For your ballot to be counted, you must also  
21 complete an overseas voter certificate, which includes your  
22 signature. Failure to include your signature will result in  
23 your ballot not being counted.

24 "(5) An overseas voted absentee ballot may be  
25 returned to the absentee election manager by facsimile, mail,

1 commercial ground or air carrier, or secure remote electronic  
2 access, if such option is approved by the Secretary of State.  
3 An overseas voted absentee ballot returned by standard  
4 electronic mail shall be rejected.

5 "(6) If faxed, the voted absentee ballot and  
6 overseas voter certificate shall be faxed to the number  
7 provided by the absentee election manager or to a facsimile  
8 number provided by the Federal Voting Assistance Program of  
9 the Department of Defense. If the ballot and certificate are  
10 faxed to the number provided by the Federal Voting Assistance  
11 Program, the voter should ensure that there is sufficient time  
12 for the Federal Voting Assistance Program to transmit the  
13 ballot and certificate to the absentee election manager so  
14 that it is received no later than 12:00 noon on election day.  
15 By faxing a voted ballot, the voter voluntarily waives his or  
16 her right to a secret ballot.

17 "(7) If mailed, the voted absentee ballot and  
18 overseas voter certificate shall be mailed to the absentee  
19 election manager as follows:

20 "a. Place the voted ballot in a sealed secrecy  
21 envelope, which may have been provided in the original mailing  
22 of the ballot by the absentee election manager. Anyone who has  
23 received his or her unmarked ballot by facsimile or electronic  
24 mail may place his or her voted ballot in an unmarked envelope  
25 and seal the envelope.

1            "b. Insert the secrecy envelope inside a separate  
2 mailing envelope. If the ballot was mailed to you, use the  
3 mailing envelope provided and fill out the overseas voter  
4 certificate on the back of the mailing envelope. If the ballot  
5 was faxed to you or sent by electronic mail, place the sealed  
6 secrecy envelope and the completed overseas voter certificate  
7 in another envelope for mailing. Do not seal the overseas  
8 voter certificate in the secrecy envelope with the ballot. The  
9 mailing envelope should be clearly marked "Absentee Ballot  
10 Enclosed."

11            "c. Mail the absentee ballot to the absentee  
12 election manager with sufficient postage.

13            "(8) To vote and transmit a voted absentee ballot  
14 and overseas voter certificate by secure remote electronic  
15 access, carefully follow the supplemental instructions given  
16 to you by the absentee election manager to ensure that your  
17 ballot will be counted.

18            "(9) It is a crime under Alabama law to accept any  
19 gift, payment, or gratuity in exchange for your vote for a  
20 candidate. It is also a crime under Alabama law to vote in an  
21 election using a false identity or false address, or under any  
22 other circumstances making your ballot false or fraudulent."

23            Section 9. The committee and the Secretary of State  
24 shall determine the procedures to be followed for the

1 processing of voted absentee ballots received from eligible  
2 overseas voters.

3 Section 10. (a) The Secretary of State is granted  
4 authority to adopt requirements related to witnessing or  
5 notarization of absentee ballots, voter identification,  
6 candidate qualifying, and ballot access procedures, ballot  
7 printing, and the application process for absentee balloting  
8 in elections for federal, state, county, and municipal offices  
9 and constitutional amendments and other referenda to comply  
10 with federal law.

11 (b) The Secretary of State is authorized to extend  
12 the deadline for receiving, processing, and counting absentee  
13 ballots if absentee ballots are transmitted to qualified  
14 absentee voters less than the minimum number of days prior to  
15 an election as required by federal law. Absentee election  
16 officials utilized for the processing and counting of absentee  
17 ballots pursuant to this section shall be appointed in the  
18 manner prescribed in Section 17-11-11 of the Code of Alabama  
19 1975, and compensated as provided in Section 17-8-12 of the  
20 Code of Alabama 1975.

21 Section 11. (a) If a national or local emergency or  
22 other situation arises that makes substantial compliance with  
23 this act impossible or unreasonable, such as a natural  
24 disaster or an armed conflict involving the Armed Forces of  
25 the United States, or mobilization of those forces including

1 state National Guard and state reserve components, the  
2 Secretary of State may prescribe, by emergency orders or  
3 rules, any special procedures or requirements necessary to  
4 facilitate absentee voting by those directly affected  
5 uniformed services or overseas voters who are eligible to vote  
6 in this state.

7 (b) The Secretary of State shall adopt emergency  
8 rules under this section pursuant to the emergency rule  
9 requirements of Section 41-22-5(b) of the Code of Alabama  
10 1975.

11 Section 12. Notwithstanding any other laws to the  
12 contrary, all expenses and costs incurred by the state or any  
13 county commission in carrying out the responsibilities and  
14 duties required in this act shall be paid by the State of  
15 Alabama. All costs associated with this act shall be drawn  
16 from funds made available to the Secretary of State under  
17 state and federal law to pay all such expenses and costs in  
18 all counties regardless of whether a state elective office or  
19 referendum appears on the ballot in a particular county.

20 Section 13. This act shall become effective  
21 immediately following its passage and approval by the  
22 Governor, or its otherwise becoming law.



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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB55  
Senate 31-MAR-11  
I hereby certify that the within Act originated in and passed  
the Senate, as amended.

Patrick Harris  
Secretary

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House of Representatives  
Passed: 31-MAY-11

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By: Senator Dial