

By the Committee on Executive Business, Ethics and Elections and Senators Crist, Latvala, Silver, Clary, Bronson, Meadows, Childers, Lee, Kirkpatrick, Dyer and Hargrett

313-349A-98

1                                   A bill to be entitled  
 2           An act relating to overseas electors; amending  
 3           s. 97.021, F.S.; defining the terms "absent  
 4           qualified elector overseas," "fax," and  
 5           "faxed"; amending s. 100.025, F.S.; revising  
 6           the notice of election to overseas electors;  
 7           amending s. 101.5614, F.S.; designating  
 8           procedures for tabulating faxed ballots;  
 9           amending s. 101.62, F.S.; authorizing  
 10          supervisors of elections to fax absentee  
 11          ballots to overseas electors requesting faxed  
 12          ballots; deleting certain requirements  
 13          applicable to overseas ballots; amending ss.  
 14          101.64, 101.65, F.S., to conform; creating s.  
 15          101.653, F.S.; providing instructions to be  
 16          included with faxed overseas ballots; amending  
 17          s. 101.68, F.S., to conform; amending s.  
 18          101.694, F.S.; authorizing procedure for  
 19          overseas electors using the Federal Post Card  
 20          Application to request faxed ballots; creating  
 21          s. 101.697, F.S.; authorizing the Department of  
 22          State to adopt rules to administer faxed  
 23          balloting; providing an effective date.

24  
 25 Be It Enacted by the Legislature of the State of Florida:

26  
 27           Section 1. Present subsections (2) through (10) of  
 28 section 97.021, Florida Statutes, are renumbered as  
 29 subsections (3) through (11), respectively, and present  
 30 subsections (11) through (30) of section 97.021, Florida  
 31 Statutes, are renumbered as subsections (13) through (32),

1 respectively, and new subsections (2) and (12) are added to  
2 that section to read:

3           97.021 Definitions.--For the purposes of this code,  
4 except where the context clearly indicates otherwise, the  
5 term:

6           (2) "Absent qualified elector overseas" means:

7           (a) Members of the Armed Forces while in the active  
8 service who are permanent residents of the state and are  
9 temporarily residing outside the territorial limits of the  
10 United States and the District of Columbia;

11           (b) Members of the Merchant Marine of the United  
12 States who are permanent residents of the state and are  
13 temporarily residing outside the territorial limits of the  
14 United States and the District of Columbia; and

15           (c) Other citizens of the United States who are  
16 permanent residents of the state and are temporarily residing  
17 outside the territorial limits of the United States and the  
18 District of Columbia,

19  
20 who are qualified and registered as provided by law.

21           (12) "Fax" or "faxed" means any transmission made by  
22 an electronic telefacsimile machine or device which transports  
23 an authentic copy of a document from one user of the device to  
24 another.

25           Section 2. Section 100.025, Florida Statutes, is  
26 amended to read:

27           100.025 Citizens residing overseas; notice of  
28 elections.--A citizen of this state who is residing overseas  
29 may notify the supervisor of elections in the county where he  
30 or she is registered of his or her overseas address; and,  
31 thereafter, the supervisor shall notify such citizen at least

1 90 days prior to regular primary and general elections and  
2 when possible prior to any special election so that such  
3 citizen may follow the procedures for absentee voting provided  
4 by law. The supervisor of elections shall provide instructions  
5 to the overseas voter on the procedure to request an absentee  
6 ballot by mail or by fax.

7 Section 3. Present subsections (6) through (8) of  
8 section 101.5614, Florida Statutes, are renumbered as  
9 subsections (7) through (9), respectively, and a new  
10 subsection (6) is added to that section to read:

11 101.5614 Canvass of returns.--

12 (6) A faxed ballot received from a qualified overseas  
13 elector may be counted manually or a true duplicate copy may  
14 be made pursuant to the requirements of subsection (5) for  
15 damaged or defective, nonpaper ballots. However, the method  
16 chosen for tabulating faxed ballots must be the same for all  
17 faxed ballots received in a particular county.

18 Section 4. Section 101.62, Florida Statutes, is  
19 amended to read:

20 101.62 Request for absentee ballots.--

21 (1)(a) The supervisor may accept a request for an  
22 absentee ballot from an elector or for an elector from any  
23 person designated by such elector. Such request may be made in  
24 person, by mail, ~~or~~ by telephone, or by fax. One request  
25 shall be deemed sufficient to receive an absentee ballot for  
26 all elections which are held within a calendar year, unless  
27 the elector or the elector's designee indicates at the time  
28 the request is made the elections for which the elector  
29 desires to receive an absentee ballot. Such request may be  
30 considered canceled when any first-class mail sent by the  
31 supervisor to the elector is returned as undeliverable.

1           (b) An absent qualified elector overseas may specify  
2 in the request that the elector wants to receive a faxed  
3 absentee ballot. If the elector requests a faxed ballot, the  
4 request must state the telephone number to which the ballot is  
5 to be sent. The supervisor shall fax an absentee ballot only  
6 to an absent qualified elector overseas who makes a proper  
7 request pursuant to this paragraph or s. 101.694(1).

8           ~~(2) If a request for an absentee ballot is received~~  
9 ~~after the Friday before the election by the supervisor of~~  
10 ~~elections from an absent elector overseas, the supervisor~~  
11 ~~shall send a notice to the elector acknowledging receipt of~~  
12 ~~his or her request and notifying the elector that the ballot~~  
13 ~~will not be forwarded due to insufficient time for return of~~  
14 ~~the ballot by the required deadline.~~

15           (2)~~(3)~~ For each request for an absentee ballot  
16 received, the supervisor shall record the date the request was  
17 made, the date the absentee ballot was delivered or mailed,  
18 the date the ballot was received by the supervisor, and such  
19 other information he or she may deem necessary. This  
20 information shall be confidential and exempt from the  
21 provisions of s. 119.07(1) and shall be made available to or  
22 reproduced only for a canvassing board, an election official,  
23 a political party or official thereof, a candidate who has  
24 filed qualification papers and is opposed in an upcoming  
25 election, and registered political committees or registered  
26 committees of continuous existence, for political purposes  
27 only.

28           (3)~~(4)~~(a) To each absent qualified elector overseas  
29 who has requested an absentee ballot, the supervisor of  
30 elections shall, not fewer than 35 days before the first  
31 primary election, mail or fax an absentee ballot. For electors

1 receiving a mailed ballot, the supervisor shall provide  
2 instructions on how to request faxed ballots for subsequent  
3 elections.Not fewer than 45 days before the second primary  
4 and general election, the supervisor of elections shall mail  
5 or fax an advance absentee ballot to those persons requesting  
6 ballots for such elections. The advance absentee ballot for  
7 the second primary shall be the same as the first primary  
8 absentee ballot as to the names of candidates, except that for  
9 any offices where there are only two candidates, those offices  
10 and all political party executive committee offices shall be  
11 omitted. The advance absentee ballot for the general election  
12 shall be as specified in s. 101.151, except that in the case  
13 of candidates of political parties where nominations were not  
14 made in the first primary, the names of the candidates placing  
15 first and second in the first primary election shall be  
16 printed on the advance absentee ballot. For ballots that are  
17 mailed,the advance absentee ballot or advance absentee ballot  
18 information booklet shall be of a different color for each  
19 election and also a different color from the absentee ballots  
20 for the first primary, second primary, and general election.  
21 The supervisor shall mail or fax an advance absentee ballot  
22 for the second primary and general election to each qualified  
23 absent elector for whom a request is received until the  
24 absentee ballots are printed. The supervisor shall enclose or  
25 fax with the advance second primary absentee ballot and  
26 advance general election absentee ballot an explanation  
27 stating that the absentee ballot for the election will be  
28 mailed or faxed as soon as it is printed; and, if both the  
29 advance absentee ballot and the absentee ballot for the  
30 election are returned in time to be counted, only the absentee  
31 ballot will be counted. As soon as the regular absentee

1 ballots for the second primary and general election are  
2 printed, the supervisor shall mail or fax a ballot to each  
3 qualified elector overseas who requested an absentee ballot.

4 (b) Except as provided in paragraph (a)~~As soon as the~~  
5 ~~remainder of the absentee ballots are printed,~~ the supervisor  
6 shall deliver or mail an absentee ballot to each elector by  
7 whom a request for that ballot has been made. Any elector may  
8 designate in writing a person to pick up the ballot for the  
9 elector; however, the person designated may not pick up more  
10 than two absentee ballots per election, other than the  
11 designee's own ballot, except that additional ballots may be  
12 picked up for members of the designee's immediate family. For  
13 purposes of this section, "immediate family" means the  
14 designee's spouse or the parent, child, grandparent, or  
15 sibling of the designee or of the designee's spouse. The  
16 designee shall provide to the supervisor the written  
17 authorization by the elector and a picture identification of  
18 the designee and must complete an affidavit. The designee  
19 shall state in the affidavit that the designee is authorized  
20 by the elector to pick up that ballot and shall indicate if  
21 the elector is a member of the designee's immediate family  
22 and, if so, the relationship. The department shall prescribe  
23 the form of the affidavit. If the supervisor is satisfied that  
24 the designee is authorized to pick up the ballot and that the  
25 signature of the elector on the written authorization matches  
26 the signature of the elector on file, the supervisor shall  
27 give the ballot to that designee for delivery to the elector.

28 (4)~~(5)~~ In the event that the Elections Canvassing  
29 Commission is unable to certify the results of an election for  
30 a state office in time to comply with subsection(3)~~(4)~~, the  
31

1 Department of State is authorized to prescribe rules for a  
2 ballot to be sent to absent electors overseas.

3 (5)~~(6)~~ Nothing other than the materials necessary to  
4 vote absentee shall be mailed, faxed, or delivered with any  
5 absentee ballot.

6 ~~(7)(a) For the purposes of this section, "absent~~  
7 ~~qualified elector overseas" means:~~

8 ~~1. Members of the Armed Forces while in the active~~  
9 ~~service who are permanent residents of the state and are~~  
10 ~~temporarily residing outside the territorial limits of the~~  
11 ~~United States and the District of Columbia;~~

12 ~~2. Members of the Merchant Marine of the United States~~  
13 ~~who are permanent residents of the state and are temporarily~~  
14 ~~residing outside the territorial limits of the United States~~  
15 ~~and the District of Columbia; and~~

16 ~~3. Other citizens of the United States who are~~  
17 ~~permanent residents of the state and are temporarily residing~~  
18 ~~outside the territorial limits of the United States and the~~  
19 ~~District of Columbia,~~

20  
21 ~~who are qualified and registered as provided by law.~~

22 ~~(b) Notwithstanding any other provision of law to the~~  
23 ~~contrary, there shall appear on the ballots sent to absent~~  
24 ~~qualified electors overseas, in addition to the names of the~~  
25 ~~candidates for each office, the political party affiliation of~~  
26 ~~each candidate for each office, other than a nonpartisan~~  
27 ~~office.~~

28 ~~(c) With respect to marked ballots mailed by absent~~  
29 ~~qualified electors overseas, only those ballots mailed with an~~  
30 ~~APO, FPO, or foreign postmark shall be considered valid.~~

31

1           Section 5. Subsection (1) of section 101.64, Florida  
2 Statutes, is amended to read:

3           101.64 Mailed or delivered ~~Delivery of~~ absentee  
4 ballots; envelopes; form.--

5           (1) The supervisor shall enclose two envelopes with  
6 each absentee ballot that is mailed or delivered ~~two~~  
7 ~~envelopes~~: a secrecy envelope, into which the absent elector  
8 shall enclose his or her marked ballot; and a mailing  
9 envelope, into which the absent elector shall then place the  
10 secrecy envelope, which shall be addressed to the supervisor  
11 and also bear on the back side a certificate in substantially  
12 the following form:

13

14           Note: Please Read Instructions Carefully Before  
15 Marking Ballot and Completing Voter's Certificate.

16

VOTER'S CERTIFICATE

17           I, ...(print name)..., do solemnly swear or affirm that  
18 I am a qualified elector in this election, that I am unable to  
19 attend the polls on election day, and that I have not and will  
20 not vote more than one ballot in this election. I understand  
21 that failure to sign this certificate and have my signature  
22 witnessed will invalidate my ballot.

23

...(Voter's Signature)...

24

25 Note: Your Signature Must Be Witnessed By One Witness 18  
26 Years of Age or Older as provided in Item 7. of the  
27 Instruction Sheet.

28

29           I swear or affirm that the elector signed this Voter's  
30 Certificate in my presence.

31

...(Signature of Witness)...





1           Section 7. Section 101.653, Florida Statutes, is  
2 created to read:

3           101.653 Instructions to electors requesting faxed  
4 ballots.--The supervisor shall fax with each absentee ballot  
5 faxed to an absent qualified elector overseas separate printed  
6 instructions in substantially the following form:

7  
8 READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING BALLOT.  
9 FAILURE TO FOLLOW THESE INSTRUCTIONS MAY RESULT IN YOUR BALLOT  
10 NOT BEING COUNTED.

11           1. VERY IMPORTANT. In order to ensure that your  
12 absentee ballot will be counted, it should be completed and  
13 returned as soon as possible so that it can reach the  
14 supervisor of elections of the county in which your precinct  
15 is located no later than 7 p.m. on the day of the election.

16           2. Mark your ballot in secret as instructed on the  
17 ballot.

18           3. Place your marked ballot in an envelope and seal  
19 it.

20           4. Insert the envelope containing the marked ballot in  
21 a mailing envelope and address the mailing envelope to the  
22 supervisor of elections.

23           5. VERY IMPORTANT. Clearly write the words "FAX  
24 ABSENTEE BALLOT" on the front of the mailing envelope and seal  
25 it.

26           6. VERY IMPORTANT. Sign your name across the seal on  
27 the mailing envelope and clearly print your name and the date  
28 beneath your signature. If there is not enough room to sign  
29 your name across the seal, sign and print your name and the  
30 date anywhere on the back of the mailing envelope.

31

1           7. VERY IMPORTANT. In order for your absentee ballot  
2 to be counted, it must include the signature and address of a  
3 witness 18 years of age or older. Have the person witnessing  
4 your signature sign his or her name across the seal of the  
5 mailing envelope next to your signature, with the witness'  
6 address printed clearly beneath the signature. If there is  
7 not enough room for the witness to sign his or her name across  
8 the seal, have the witness write his or her signature and  
9 address anywhere on the back of the mailing envelope.

10           8. Mail, deliver, or have delivered the completed  
11 mailing envelope. Be sure that there is sufficient postage if  
12 mailed. DO NOT FAX YOUR VOTED BALLOT TO THE SUPERVISOR OF  
13 ELECTIONS.

14           9. You may use the secrecy and mailing envelopes  
15 furnished with the Federal Write-In Absentee Ballot to return  
16 your faxed ballot, if you follow these instructions.

17           Section 8. Section 101.68, Florida Statutes, is  
18 amended to read:

19           101.68 Canvassing of absentee ballot.--

20           (1) The supervisor of the county where the absent  
21 elector resides shall receive the voted ballot, at which time  
22 the supervisor may compare the signature of the elector on the  
23 mailing envelope ~~voter's certificate~~ with the signature of the  
24 elector in the registration books to determine whether the  
25 elector is duly registered in the county and may record on the  
26 elector's registration certificate that the elector has voted.  
27 The supervisor shall safely keep the ballot unopened in his or  
28 her office until the county canvassing board canvasses the  
29 vote.

30           (2)(a) The county canvassing board may begin the  
31 canvassing of absentee ballots at 7 a.m. on the fourth day

1 before the election, but not later than noon on the day  
2 following the election. In addition, for any county using  
3 electronic tabulating equipment, the processing of absentee  
4 ballots through such tabulating equipment may begin upon the  
5 opening of the polls on election day. However,  
6 notwithstanding any such authorization to begin canvassing or  
7 otherwise processing absentee ballots early, no result or  
8 tabulation of absentee ballots shall be made until after the  
9 close of the polls on election day.

10 (b) To ensure that all absentee ballots to be counted  
11 by the canvassing board are accounted for, the canvassing  
12 board shall compare the number of ballots in its possession  
13 with the number of requests for ballots received to be counted  
14 according to the supervisor's file or list.

15 (c)1. The canvassing board shall, if the supervisor  
16 has not already done so, compare the signature of the elector  
17 on the mailing envelope ~~voter's certificate~~ with the signature  
18 of the elector in the registration books to see that the  
19 elector is duly registered in the county and to determine the  
20 legality of that absentee ballot. An absentee ballot shall be  
21 considered illegal if it does not include the signature of the  
22 elector, as shown by the registration records, and the  
23 signature and address of an attesting witness. However, an  
24 absentee ballot shall not be considered illegal if the  
25 signature of the elector or attesting witness does not cross  
26 the seal of the mailing envelope. If the canvassing board  
27 determines that any ballot is illegal, a member of the board  
28 shall, without opening the envelope, mark across the face of  
29 the envelope: "rejected as illegal." The envelope and the  
30 ballot contained therein shall be preserved in the manner that  
31 official ballots voted are preserved.

1           2. If any elector or candidate present believes that  
2 an absentee ballot is illegal due to a defect apparent on the  
3 mailing envelope ~~voter's certificate~~, he or she may, at any  
4 time before the ballot is removed from the envelope, file with  
5 the canvassing board a protest against the canvass of that  
6 ballot, specifying the precinct, the ballot, and the reason he  
7 or she believes the ballot to be illegal. A challenge based  
8 upon a defect in the mailing envelope ~~voter's certificate~~ may  
9 not be accepted after the ballot has been removed from the  
10 mailing envelope.

11           (d) The canvassing board shall record the ballot upon  
12 the proper record, unless the ballot has been previously  
13 recorded by the supervisor. The mailing envelopes shall be  
14 opened and the secrecy envelopes shall be mixed so as to make  
15 it impossible to determine which secrecy envelope came out of  
16 which signed mailing envelope; however, in any county in which  
17 an electronic or electromechanical voting system is used, the  
18 ballots may be sorted by ballot styles and the mailing  
19 envelopes may be opened and the secrecy envelopes mixed  
20 separately for each ballot style. The votes on absentee  
21 ballots shall be included in the total vote of the county.

22           (3) The supervisor or the chair of the county  
23 canvassing board shall, after the board convenes, have custody  
24 of the absentee ballots until a final proclamation is made as  
25 to the total vote received by each candidate.

26           Section 9. Section 101.694, Florida Statutes, is  
27 amended to read:

28           101.694 Mailing of ballots upon receipt of federal  
29 postcard application.--

30           (1) Upon receipt of a federal postcard application for  
31 an absentee ballot executed by a person whose registration is

1 in order or whose application is sufficient to register or  
2 update the registration of that person, the supervisor shall  
3 mail, or if requested on the application by an absent  
4 qualified elector overseas, fax to the applicant a ballot, if  
5 the ballots are available for mailing or faxing. Electors  
6 requesting a fax ballot shall write the word "fax" or  
7 "facsimile" in a conspicuous place on the application and  
8 state the telephone number to which the ballot is to be sent.

9 (2) Upon receipt of a federal postcard application for  
10 an absentee ballot executed by a person whose registration is  
11 not in order and whose application is insufficient to register  
12 or update the registration of that person, the supervisor  
13 shall follow the procedure set forth in s. 97.073.

14 (3) There shall be printed across the face of each  
15 envelope in which a ballot is mailed ~~sent~~ to a federal  
16 postcard applicant, or is returned by such applicant to the  
17 supervisor, two parallel horizontal red bars, each one-quarter  
18 inch wide, extending from one side of the envelope to the  
19 other side, with an intervening space of one-quarter inch, the  
20 top bar to be 1 1/4 inches from the top of the envelope, and  
21 with the words "Official Election Balloting Material-via Air  
22 Mail," or similar language, between the bars. There shall be  
23 printed in the upper right corner of each such envelope, in a  
24 box, the words "Free of U. S. Postage, including Air Mail."  
25 All printing on the face of each envelope shall be in red, and  
26 there shall be printed in red in the upper left corner of each  
27 ballot envelope an appropriate inscription or blanks for  
28 return address of sender. Additional specifications may be  
29 prescribed by rule of the Division of Elections upon  
30 recommendation of the presidential designee under the  
31 Uniformed and Overseas Citizens Absentee Voting Act.

1 Otherwise, the envelopes shall be the same as those used in  
2 sending ballots to, or receiving them from, other absentee  
3 voters.

4 (4) Cognizance shall be taken of the fact that  
5 absentee ballots and other materials such as instructions and  
6 envelopes are to be carried via air mail, and, to the maximum  
7 extent possible, such ballots and materials shall be reduced  
8 in size and weight of paper. The same ballot shall be used,  
9 however, as is used by other absentee voters.

10 Section 10. Section 101.697, Florida Statutes, is  
11 created to read:

12 101.697 Department of State to adopt rules governing  
13 fax ballots.--

14 (1) The Department of State shall adopt rules  
15 governing the procedures and forms necessary to administer the  
16 fax ballot process for absent qualified electors overseas  
17 prescribed in ss. 101.62-101.694.

18 (2) These procedures must seek to ensure the  
19 confidentiality of faxed absentee ballots and the integrity of  
20 the electoral process.

21 Section 11. This act shall take effect July 1, 1998.

22  
23 \*\*\*\*\*

24 SENATE SUMMARY

25 Authorizes the supervisor of elections to fax election  
26 information and absentee ballots to a registered voter  
27 who resides overseas. Specifies instructions that must be  
28 provided to an overseas elector who requests a faxed  
29 ballot. Provides for the supervisor of elections to fax  
30 an absentee ballot to a person who requests such ballot  
31 by means of a federal post card application. Requires  
that the Department of State adopt rules to administer  
the faxing of absentee ballots to overseas electors and  
to ensure the confidentiality of ballots faxed to the  
supervisor of elections. (See bill for details.)