

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 458

By: Branan of the Senate

3 and

4 Duncan of the House

5  
6  
7 ( elections - absentee ballots - electronic  
8 application -

9 effective date )

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11  
12 AUTHORS: Add the following House Coauthors: Dorman, Nelson,  
13 Sanders, Fields, Osborn, Ownbey, Thompson, Tibbs and Kern

14 AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
15 entire bill and insert

16 "An Act relating to elections; amending 26 O.S. 2001,  
17 Sections 14-116, 14-117 and 14-118, as amended by  
18 Sections 14, 15 and 16, Chapter 485, O.S.L. 2003,  
19 14-119, 14-120 and 14-120.1, as amended by Sections  
20 18 and 19, Chapter 485, O.S.L. 2003 (26 O.S. Supp.  
21 2008, Sections 14-116, 14-117, 14-118, 14-120 and  
22 14-120.1), which relate to absentee ballots;  
23 allowing certain electors to make electronic  
24 application for absentee ballots; providing for  
ballots to be in electronic form and transmitted  
electronically under certain circumstances;  
specifying certain duties of secretary of county  
election board; providing that certain information  
be confidential; applying certain provisions of law  
to electronically transmitted ballots; modifying  
materials to accompany ballots; specifying  
procedures for return of electronically transmitted

1 ballots; providing procedures if multiple ballots  
2 returned; providing for electronic transmission and  
3 return of special write-in absentee ballots; and  
4 providing an effective date.

5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

6 SECTION 1. AMENDATORY 26 O.S. 2001, Section 14-116, as  
7 amended by Section 14, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2008,  
8 Section 14-116), is amended to read as follows:

9 Section 14-116. Any qualified elector covered by the federal  
10 Uniformed and Overseas Citizens Absentee Voting Act of 1986, as  
11 amended, and the spouse or dependent of the elector may make written  
12 or electronic application to the secretary of the county election  
13 board in the county of the residence of the elector for absentee  
14 ballots and shall be entitled, without being registered to vote, to  
15 receive absentee ballots for all elections in which the elector is  
16 eligible to participate that occur both during the remainder of the  
17 calendar year in which the application is received and during the  
18 subsequent calendar year without requiring further application.  
19 Voter registration in the county shall not be required for a  
20 qualified elector covered by the federal Uniformed and Overseas  
21 Citizens Absentee Voting Act of 1986, as amended, although the  
22 elector must be eligible to be registered to vote as provided by  
23 Section 4-101 of this title.

1 SECTION 2. AMENDATORY 26 O.S. 2001, Section 14-117, as  
2 amended by Section 15, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2008,  
3 Section 14-117), is amended to read as follows:

4 Section 14-117. Electors identified by Section 14-116 of this  
5 title may apply for absentee ballots as provided for in the federal  
6 Uniformed and Overseas Citizens Absentee Voting Act of 1986, as  
7 amended, or by letter setting forth substantially the same facts.  
8 Said application shall be transmitted by United States mail ~~or~~, by  
9 facsimile device as defined in Section 1862 of Title 21 of the  
10 Oklahoma Statutes or in an electronic form as provided in Section  
11 14-118 of this title, to the secretary of the county election board  
12 of the elector's residence.

13 SECTION 3. AMENDATORY 26 O.S. 2001, Section 14-118, as  
14 amended by Section 16, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2008,  
15 Section 14-118), is amended to read as follows:

16 Section 14-118. A. When an application for an absentee ballot  
17 pursuant to Section 14-117 of this title is received by the  
18 secretary of a county election board, it shall be the duty of the  
19 secretary to transmit, by United States mail ~~or~~, by facsimile device  
20 as defined in Section 1862 of Title 21 of the Oklahoma Statutes, or  
21 as provided in subsection B of this section, the ballots which ~~said~~  
22 the elector has requested and is entitled to receive.

23 B. The secretary of the county election board may transmit  
24 balloting materials to an electronic mail address in a form and

1 manner prescribed by the Secretary of the State Election Board if  
2 the voter:

3 1. Is a federal postcard application registrant and is eligible  
4 to receive an absentee ballot as provided by law;

5 2. Provides a current address that is located outside the  
6 United States and is voting from outside the United States;

7 3. Provides an electronic mail address; and

8 4. Requests that balloting materials be sent by electronic  
9 mail.

10 If the secretary of the county election board transmits a ballot  
11 to a voter at an electronic mail address as provided in this  
12 subsection, the secretary shall amend the voter's federal postcard  
13 application for future elections to include the voter's electronic  
14 mail address.

15 C. An electronic mail address provided under this section is  
16 confidential and does not constitute public information for purposes  
17 of the Oklahoma Open Records Act. The secretary of the county  
18 election board shall ensure that an electronic mail address provided  
19 under this section is excluded from disclosure.

20 D. All other provisions of this title that would normally apply  
21 to a ballot voted under this title apply to a ballot provided  
22 pursuant to the provisions of subsection B of this section.

23 E. The Secretary of the State Election Board may suspend the  
24 provisions of subsection B of this section if the Secretary

1 determines that electronic transmission of balloting materials is  
2 not in the best interest of the people of this state due to a  
3 potential problem with the security of the balloting materials.

4 SECTION 4. AMENDATORY 26 O.S. 2001, Section 14-119, is  
5 amended to read as follows:

6 Section 14-119. ~~Said ballots~~ Ballots transmitted pursuant to  
7 the provisions of subsection A of Section 14-118 of this title must  
8 be accompanied by:

- 9 1. A plain opaque envelope in which voted ballots must be  
10 placed by the voter;
- 11 2. An envelope bearing an affidavit stating that the voter is  
12 qualified to vote, that he or she has personally marked the ballots,  
13 and has not exhibited the marked ballots to any other person; and
- 14 3. A return envelope addressed to the secretary of the county  
15 election board.

16 Ballots transmitted to an electronic mail address pursuant to  
17 the provisions of subsection B of Section 14-118 of this title shall  
18 include a signature sheet for the voter and shall include  
19 instructions for return of the ballot by United States mail or a  
20 private mail service, as prescribed by the Secretary of the State  
21 Election Board.

22 SECTION 5. AMENDATORY 26 O.S. 2001, Section 14-120, as  
23 amended by Section 18, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2008,  
24 Section 14-120), is amended to read as follows:

1       Section 14-120. ~~The~~ A. For ballots transmitted pursuant to the  
2 provisions of Section 14-118 of this title, the voter shall be  
3 required to mark the voter's ballots in ink or other manner as  
4 prescribed by the Secretary of the State Election Board, seal the  
5 ballots in the plain opaque envelope, fill out completely and sign  
6 the affidavit, seal the plain opaque envelope inside the envelope  
7 bearing the affidavit, and return both envelopes, sealed inside the  
8 return envelope, by United States mail or by a private mail service,  
9 provided such service has delivery documentation.

10       B. If a voter returns both a voted ballot mailed to the voter  
11 under subsection A of Section 14-118 of this title and a voted  
12 ballot provided electronically to the voter under subsection B of  
13 Section 14-118 of this title, only the first ballot received may be  
14 counted.

15       C. A ballot received by the county election board which was  
16 issued electronically shall be processed in the same manner as any  
17 other ballot voted by mail as provided by this title.

18       SECTION 6.       AMENDATORY       26 O.S. 2001, Section 14-120.1, as  
19 amended by Section 19, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2008,  
20 Section 14-120.1), is amended to read as follows:

21       Section 14-120.1 A. Notwithstanding any other law to the  
22 contrary, any qualified elector who is covered by the federal  
23 Uniformed and Overseas Absentee Voting Act of 1986, as amended, may  
24 make written or electronic application within ninety (90) days

1 before an election for presidential preference, presidential  
2 electors, or members of the United States Senate and United States  
3 House of Representatives to the secretary of the county election  
4 board of residence of the elector for a special write-in absentee  
5 ballot for said federal offices being contested in the election.  
6 The elector shall be entitled, without being registered, if a  
7 qualified elector in the precinct of residence, to receive the  
8 special write-in absentee ballot.

9 B. Application shall be by using Standard Form 76, Post Card  
10 Application for Absentee Ballot, as provided for in the federal  
11 Uniformed and Overseas Citizens Absentee Voting Act of 1986, as  
12 amended, or by letter or in electronic form setting forth  
13 substantially the same facts.

14 C. Upon receipt of the application, the secretary of the county  
15 election board shall issue to the elector the ballot which shall be  
16 prescribed by the Secretary of the State Election Board, a list of  
17 the offices to be voted upon, and other materials as described in  
18 Section 14-119 of this title. As soon as a completed list of  
19 nominated candidates including the party designations of the  
20 candidates is available, the secretary shall send the list to each  
21 applicant. If the list of candidates is not available when the  
22 ballot is issued, the secretary shall include a statement indicating  
23 that the list shall be mailed or electronically transmitted as soon  
24 as it becomes available.

1 D. The ballot shall permit the elector to vote by writing in  
2 the names of specific candidates, the names of persons whom the  
3 voter prefers, or, in the case of a general election, the party  
4 preference for each office. The ballot shall be returned in the  
5 manner specified in Section 14-120 of this title.

6 E. A voter who requests a special write-in absentee ballot  
7 pursuant to the provisions of this section may also request regular  
8 absentee ballots pursuant to the provisions of Section 14-116 of  
9 this title. If the regular absentee ballots are properly returned,  
10 the special write-in absentee ballot shall be deemed void and shall  
11 be rejected without the opaque envelope being opened.

12 F. Special write-in absentee ballots shall be counted and  
13 tabulated according to procedures prescribed by the Secretary of the  
14 State Election Board.

15 SECTION 7. This act shall become effective January 1, 2010."  
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1 Passed the House of Representatives the 20th day of April, 2009.

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4 Presiding Officer of the House of  
Representatives  
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6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2009.

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9 Presiding Officer of the Senate  
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