

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 602

By: Sykes, Marlatt, Treat,
Allen, David, Shortey,
Brinkley, Fields and
Brecheen of the Senate

6 and

7 Banz of the House

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9
10 COMMITTEE SUBSTITUTE

11 An Act relating to elections; amending 26 O.S. 2001,
12 Sections 1-102, as amended by Section 2, Chapter 162,
13 O.S.L. 2003, 1-103, as amended by Section 3, Chapter
14 162, O.S.L. 2003, 1-104, 1-105, as amended by Section
15 1, Chapter 221, O.S.L. 2009, 2-129, as amended by
16 Section 6, Chapter 248, O.S.L. 2005, 3-101, as last
17 amended by Section 1, Chapter 224, O.S.L. 2005, 5-
18 116.1, 6-103, 6-109, 6-110, 6-111, as amended by
19 Section 13, Chapter 189, O.S.L. 2010, 6-112, 6-115,
20 6-116, 7-102, 7-103, 7-104, 8-101, 8-105, as amended
21 by Section 11, Chapter 545, O.S.L. 2004, 8-106, as
22 amended by Section 12, Chapter 545, O.S.L. 2004, 8-
23 109, 8-114, as last amended by Section 1, Chapter
24 151, O.S.L. 2009, 8-120, 8-122, 12-103, as last
amended by Section 3, Chapter 369, O.S.L. 2004, 12-
104, 12-108, as last amended by Section 4, Chapter
369, O.S.L. 2004, 12-109, Section 1, Chapter 369,
O.S.L. 2004, 12-111, as amended by Section 12,
Chapter 447, O.S.L. 2002, 12-113, as last amended by
Section 5, Chapter 369, O.S.L. 2004, 12-114, 12-116,
as amended by Section 6, Chapter 369, O.S.L. 2004,
12-117, 13-102, as amended by Section 19, Chapter
545, O.S.L. 2004, 14-118, as last amended by Section
1, Chapter 149, O.S.L. 2010, 20-101, as amended by
Section 1, Chapter 174, O.S.L. 2003, 20-102, as
amended by Section 24, Chapter 485, O.S.L. 2003 and

1 22-114 (26 O.S. Supp. 2010, Sections 1-102, 1-103, 1-
2 105, 2-129, 3-101, 6-111, 8-105, 8-106, 8-114, 12-
3 103, 12-108, 12-110.1, 12-111, 12-113, 12-116, 13-
4 102, 14-118, 20-101 and 20-102), which relate to the
5 election code and runoff primary elections; creating
6 the Let the Troops Vote Act; modifying date of
7 primary election; modifying dates for special
8 election; modifying transmission of certain ballots;
9 modifying date of Presidential Preferential Primary;
10 eliminating runoff primary elections; repealing 26
11 O.S. 2001, Sections 5-116, as amended by Section 2,
12 Chapter 88, O.S.L. 2003, 6-108 and Section 9, Chapter
13 485, O.S.L. 2003, as amended by Section 21, Chapter
14 545, O.S.L. 2004 (26 O.S. Supp. 2010, Sections 5-116
15 and 14-104.1), which relate to runoff primary
16 elections; providing for noncodification; and
17 providing an effective date.

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

19 SECTION 1. NEW LAW A new section of law not to be
20 codified in the Oklahoma Statutes reads as follows:

21 This act shall be known and may be cited as the "Let the Troops
22 Vote Act".

23 SECTION 2. AMENDATORY 26 O.S. 2001, Section 1-102, as
24 amended by Section 2, Chapter 162, O.S.L. 2003 (26 O.S. Supp. 2010,
Section 1-102), is amended to read as follows:

Section 1-102. A Primary Election shall be held on the last
Tuesday in ~~July~~ August of each even-numbered year, at which time
each political party recognized by the laws of Oklahoma shall
nominate its candidates for the offices to be filled at the next
succeeding General Election, unless otherwise provided by law. No

1 candidate's name shall be printed upon the General Election ballot
2 unless such candidate shall have been nominated as herein provided,
3 unless otherwise provided by law; provided further that this
4 provision shall not exclude the right of a nonpartisan candidate to
5 have his or her name printed upon the General Election ballots. No
6 county, municipality or school district shall schedule an election
7 on any date during the twenty (20) days immediately preceding the
8 date of any such primary election.

9 SECTION 3. AMENDATORY 26 O.S. 2001, Section 1-103, as
10 amended by Section 3, Chapter 162, O.S.L. 2003 (26 O.S. Supp. 2010,
11 Section 1-103), is amended to read as follows:

12 Section 1-103. If at any Primary Election no candidate for the
13 nomination for office of any political party receives a majority of
14 all votes cast for all candidates of such party for the office, ~~ne~~
15 the candidate shall be nominated by such party for the office, but
16 ~~the two candidates~~ receiving the highest number of votes at such
17 election shall be placed on the official ballot as ~~candidates for~~
18 ~~such nomination at a Runoff Primary Election to be held on the~~
19 ~~fourth Tuesday of August in the same year. No county, municipality~~
20 ~~or school district shall schedule an election on any date during the~~
21 ~~twenty (20) days immediately preceding the date of any such Runoff~~
22 Primary the nominee for the next succeeding General Election.

23 SECTION 4. AMENDATORY 26 O.S. 2001, Section 1-104, is
24 amended to read as follows:

1 Section 1-104. A. No registered voter shall be permitted to
2 vote in any Primary Election ~~or Runoff Primary Election~~ of any
3 political party except the political party of which ~~his~~ the
4 registration form shows ~~him~~ the voter to be a member, except as
5 otherwise provided by this section.

6 B. 1. A recognized political party may permit registered
7 voters designated as Independents pursuant to the provisions of
8 Section 4-112 of this title to vote in a Primary Election ~~or Runoff~~
9 ~~Primary Election~~ of the party.

10 2. The state chairman of the party shall, between November 1
11 and 30 of every odd-numbered year, notify the Secretary of the State
12 Election Board as to whether or not the party intends to permit
13 registered voters designated as Independents to vote in a Primary
14 Election ~~or Runoff Primary Election~~ of the party. If the state
15 chairman notifies the Secretary of the State Election Board of the
16 party's intention to so permit, registered voters designated as
17 Independents shall be permitted to vote in any Primary Election ~~or~~
18 ~~Runoff Primary Election~~ of the party held in the following two (2)
19 calendar years. If the state chairman of one party notifies the
20 Secretary of the State Election Board of the party's intent to so
21 permit, the notification period specified in this paragraph shall be
22 extended to December 15 for the state chairman of any other party to
23 so notify or to change prior notification. A registered voter

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1 designated as Independent shall not be permitted to vote in a
2 Primary Election ~~or Runoff Primary Election~~ of more than one party.

3 3. Failure to so notify the Secretary of the State Election
4 Board shall serve to prohibit registered voters designated as
5 Independents from voting in a Primary Election ~~or Runoff Primary~~
6 ~~Election~~ of the party.

7 4. A group of persons seeking to form a recognized political
8 party pursuant to the provisions of Section 1-108 of this title
9 shall, upon filing of the petitions seeking recognition of the
10 political party with the Secretary of the State Election Board,
11 notify the Secretary of the State Election Board as to whether or
12 not the party intends to permit registered voters designated as
13 Independents to vote in a Primary Election ~~or Runoff Primary~~
14 ~~Election~~ of the party. If the party is recognized and the group of
15 persons seeking recognition of the party notifies the Secretary of
16 the State Election Board of such intention, registered voters
17 designated as Independents shall be permitted to vote in any Primary
18 Election ~~or Runoff Primary Election~~ of the party held prior to
19 January 1 of the following even-numbered year.

20 SECTION 5. AMENDATORY 26 O.S. 2001, Section 1-105, as
21 amended by Section 1, Chapter 221, O.S.L. 2009 (26 O.S. Supp. 2010,
22 Section 1-105), is amended to read as follows:

23 Section 1-105. A. In the event of the death of a political
24 party's nominee for office prior to the date of the General

1 Election, a substitute candidate will be permitted to have his name
2 placed on the General Election ballot as follows:

3 1. If the nominee was a candidate for county office, the
4 political party's central committee of said county shall notify the
5 secretary of the county election board of the name of an alternative
6 candidate to be placed on the General Election ballot. Such notice
7 shall be submitted in writing, within fifteen (15) days after said
8 death has occurred, but not later than fifty-five (55) days prior to
9 the General Election, and shall be signed by at least two duly
10 authorized members of the political party's county central
11 committee;

12 2. If the nominee was a candidate who filed a Declaration of
13 Candidacy with the State Election Board, the state central committee
14 of the party affected shall notify the Secretary of the State
15 Election Board of the name of an alternative candidate to be placed
16 on the General Election ballot. Such notice shall be submitted in
17 writing, within fifteen (15) days after said death has occurred, but
18 not later than sixty (60) days prior to the General Election for
19 statewide and federal offices and not later than fifty-five (55)
20 days prior to the General Election for other offices, and shall be
21 signed by at least two duly authorized members of the political
22 party's state central committee; and

23 3. If said death should occur five (5) days or more following
24 the ~~Runoff~~ Primary Election date, a special General Election shall

1 be called by the Governor and shall be conducted according to the
2 laws governing such elections, Section 12-101 et seq. of this title,
3 except that there shall be no filing period or special Primary
4 Election and the candidates in the special General Election shall be
5 the substitute candidate named by the central committee and the
6 nominee of other political parties elected in the Primary ~~or Runoff~~
7 ~~Primary~~, and any previously filed independent candidates.

8 B. In the event of the death of a candidate who was unopposed
9 for election, a Special Election shall be called by the Governor.
10 Said Special Election shall be conducted according to the laws
11 governing such elections, Section 12-101 et seq. of this title.

12 SECTION 6. AMENDATORY 26 O.S. 2001, Section 2-129, as
13 amended by Section 6, Chapter 248, O.S.L. 2005 (26 O.S. Supp. 2010,
14 Section 2-129), is amended to read as follows:

15 Section 2-129. The inspector shall be paid Ninety-five Dollars
16 (\$95.00) for each election and shall be allowed mileage
17 reimbursement at the rate provided by the State Travel Reimbursement
18 Act for mileage incurred to receive or return ballots and materials
19 for the election. Judges, and clerks ~~and counters~~ shall be paid
20 Eighty-five Dollars (\$85.00) for each election. Precinct officials
21 assigned to work a polling place ten (10) miles or more from their
22 home, shall be allowed mileage reimbursement at the rate provided by
23 the State Travel Reimbursement Act for mileage incurred from their
24 home to and from their assigned polling place. An additional Two

1 Dollars (\$2.00) per election shall be paid to each inspector, judge,
2 and clerk ~~and counter~~ of a precinct from the funds of the county.
3 Compensation provided herein shall be paid for any state, county,
4 municipal or school district election; provided, however, that
5 compensation for elections conducted concurrently shall not exceed
6 in total the amount herein prescribed. Said compensation shall be
7 paid by the State Election Board for all regular Primary, ~~Runoff~~
8 ~~Primary~~ and General Elections, all statewide special elections and
9 all special elections for United States Representatives or United
10 States Senators and State Senators or State Representatives.

11 SECTION 7. AMENDATORY 26 O.S. 2001, Section 3-101, as
12 last amended by Section 1, Chapter 224, O.S.L. 2005 (26 O.S. Supp.
13 2010, Section 3-101), is amended to read as follows:

14 Section 3-101. A. No election required to be conducted by any
15 county election board shall be scheduled for a day other than
16 Tuesday.

17 B. Except as otherwise provided by law, no special election
18 shall be held by any county, school district, technology center
19 school district, municipality or other entity authorized to call
20 elections except on ~~the~~ the:

21 1. The second Tuesday of January, February, May, June, July,
22 August, September, October, November and December and the first
23 Tuesday in March and April in odd-numbered years; and ~~the~~

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1 2. The second Tuesday of January, February, and May, ~~and~~
2 ~~December,~~ the first Tuesday in March and April, ~~the last Tuesday in~~
3 ~~July,~~ the ~~fourth~~ last Tuesday in August, and the first Tuesday after
4 the first Monday in November of any even-numbered year, ~~except in~~
5 ~~any year when a Presidential Preferential Primary Election is held~~
6 ~~in February, the date for the special elections shall be the same~~
7 ~~date as the Presidential Preferential Primary Election.~~

8 C. In the event that a regular or special election date occurs
9 on an official state holiday, the election shall be scheduled for
10 the next following Tuesday.

11 SECTION 8. AMENDATORY 26 O.S. 2001, Section 5-116.1, is
12 amended to read as follows:

13 Section 5-116.1 A candidate in a General Election may withdraw
14 his candidacy upon filing a written notice of withdrawal as a
15 candidate with the secretary of the election board which accepted
16 said candidate's declaration of candidacy. Said notice shall be
17 signed by the candidate, whose signature shall be notarized by a
18 notary public, and shall be filed on or before 5:00 p.m. on the
19 Friday following the date of the ~~Runoff~~ Primary Election.

20 SECTION 9. AMENDATORY 26 O.S. 2001, Section 6-103, is
21 amended to read as follows:

22 Section 6-103. The State Election Board shall cause ballots to
23 be printed for statewide Primary, ~~Runoff Primary,~~ General Elections
24 and special elections at such time as to insure delivery of said

1 ballots to the several county election boards for distribution to
2 the several precinct election boards prior to election day. Said
3 board shall cause ballots to be printed for the following offices:
4 Electors for President and Vice President; United States Senators;
5 United States Representatives; state officers; Justices of the
6 Supreme Court; Judges of the Court of Criminal Appeals; Judges of
7 the Court of Appeals; district judges and associate district judges;
8 State Senators; State Representatives; district attorneys; county
9 officers, and such other officers as required by law, in the order
10 they appear in the statutes, and shall cause ballots to be printed
11 for state questions.

12 SECTION 10. AMENDATORY 26 O.S. 2001, Section 6-109, is
13 amended to read as follows:

14 Section 6-109. On all ~~Primary and Runoff~~ Primary Election
15 ballots, except absentee ballots, the names of the candidates for
16 each office shall be rotated in such a manner that all candidates'
17 names appear in each position on said ballots an equal number of
18 times. Provided, however, the names of candidates for judicial,
19 school, city and town offices shall be placed on the ballot
20 according to lot.

21 SECTION 11. AMENDATORY 26 O.S. 2001, Section 6-110, is
22 amended to read as follows:

23 Section 6-110. The names of candidates of the several political
24 parties shall be printed on separate ballot cards for the ~~Primary~~

1 ~~and Runoff~~ Primary Elections, and each ballot card shall be a
2 different color.

3 SECTION 12. AMENDATORY 26 O.S. 2001, Section 6-111, as
4 amended by Section 13, Chapter 189, O.S.L. 2010 (26 O.S. Supp. 2010,
5 Section 6-111), is amended to read as follows:

6 Section 6-111. All ballots for Primary, ~~Runoff Primary~~ and
7 General Elections shall be printed with a stub so perforated that
8 the ballot may be easily detached from the stub. Upon the stub
9 shall be printed the number of the stub and the words, "Primary
10 Election Ballot", ~~"Runoff Primary Election Ballot"~~ or "General
11 Election Ballot", as the case may be; in the event of ~~Primary and~~
12 ~~Runoff~~ Primary Elections, the name of the political party shall be
13 printed above the words.

14 SECTION 13. AMENDATORY 26 O.S. 2001, Section 6-112, is
15 amended to read as follows:

16 Section 6-112. All ballots for Primary, ~~Runoff Primary~~ and
17 General Elections must be designated in such a manner as the
18 Secretary of the State Election Board may prescribe to achieve the
19 identification of a ballot for a particular precinct.

20 SECTION 14. AMENDATORY 26 O.S. 2001, Section 6-115, is
21 amended to read as follows:

22 Section 6-115. In every Primary, ~~Runoff Primary~~ and General
23 Election, the Secretary of the State Election Board shall determine
24 the number of ballots to be printed for statewide elections and the

1 secretary of the county election board shall determine the number of
2 ballots to be printed for county, school, municipal and other local
3 elections.

4 SECTION 15. AMENDATORY 26 O.S. 2001, Section 6-116, is
5 amended to read as follows:

6 Section 6-116. As soon as practicable, the State Election Board
7 and each county election board, when ballots are printed by a county
8 election board, shall cause to be printed a sufficient number of
9 absentee ballots, prepared as nearly as practical in the same manner
10 as provided for other ballots for the Primary, ~~Runoff Primary~~ and
11 General Elections, in time for said ballots to be issued during the
12 time prescribed by law.

13 SECTION 16. AMENDATORY 26 O.S. 2001, Section 7-102, is
14 amended to read as follows:

15 Section 7-102. Prior to the day of any Primary, ~~Runoff Primary~~
16 or General Election, it shall be the duty of the State Election
17 Board to provide for each county election board the supplies and
18 ballots required by law to conduct the election.

19 SECTION 17. AMENDATORY 26 O.S. 2001, Section 7-103, is
20 amended to read as follows:

21 Section 7-103. Prior to the day of any Primary, ~~Runoff Primary~~
22 or General Election, it shall be the duty of each county election
23 board to provide for each precinct election board within its
24 jurisdiction the supplies and ballots required by law to conduct the

1 election. The inspector for each precinct shall sign a form
2 acknowledging receipt of all supplies and ballots for his precinct.

3 SECTION 18. AMENDATORY 26 O.S. 2001, Section 7-104, is
4 amended to read as follows:

5 Section 7-104. A. At every Primary, ~~Runoff Primary~~ and General
6 Election, each polling place in the state shall open at 7:00 a.m.
7 and shall remain open continuously until 7:00 p.m., and every
8 registered voter of a precinct who presents himself between said
9 hours shall be entitled to vote, as provided by law, provided
10 further, all qualified voters who are in line waiting to vote at
11 7:00 p.m. shall be allowed to vote.

12 B. If any provision of federal law specifies hours for voting
13 in federal elections, the Secretary of the State Election Board
14 shall direct the county election boards to allow voting in all
15 elections held on the same day as such federal elections during the
16 hours specified by federal law.

17 SECTION 19. AMENDATORY 26 O.S. 2001, Section 8-101, is
18 amended to read as follows:

19 Section 8-101. The county election board shall certify a list
20 of nominees of each political party for county offices following the
21 ~~Primary and Runoff Primary~~ Primary Elections. The State Election Board
22 shall certify a list of nominees of each political party for the
23 offices for which the Board accepts filings of Declarations of
24 Candidacy following the ~~Primary and Runoff Primary~~ Primary Elections.

1 SECTION 20. AMENDATORY 26 O.S. 2001, Section 8-105, as
2 amended by Section 11, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2010,
3 Section 8-105), is amended to read as follows:

4 Section 8-105. A. When a tie vote is certified in the
5 nomination or election of any candidate in any ~~Runoff Primary,~~
6 General Election or any Primary Election, the election board which
7 is authorized by law to issue the certified list or certificate of
8 election shall, at a public meeting of the board and in the presence
9 of the candidates involved or their designee, if they or any of them
10 desire to be present, select the nominee or electee by lot.

11 B. When a nominee or electee is to be selected by lot pursuant
12 to the provisions of this section, the following procedures shall be
13 observed:

14 1. The secretary of the appropriate election board shall, on or
15 before the tenth day following the election, notify each of the
16 tying candidates for which the vote was tied. The notice shall
17 include the time, date and location of the selection, shall be made
18 in writing by registered or certified mail and shall be postmarked
19 not fewer than five (5) days prior to the meeting;

20 2. A candidate may designate one person as a witness to attend
21 the meeting on the candidate's behalf. The designation shall be
22 made in writing, signed by the candidate and presented to the
23 secretary of the appropriate election board;

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1 3. The secretary of the appropriate election board shall, in
2 full view of those present at the meeting, clearly write or print
3 the name of each tied candidate on separate pieces of paper
4 measuring approximately equal size. The names of the candidates
5 shall be written or printed on the same color and type of paper.
6 The papers shall be folded in half one time so that the written
7 names are not visible and shall be placed into a container selected
8 by the secretary of the appropriate election board;

9 4. The secretary shall draw, or may designate a person other
10 than the candidates, witnesses or other person directly interested
11 in the election to draw, one paper, and the name of the nominee or
12 electee appearing on the first drawn paper shall be declared the
13 winner. The secretary shall then expose the other name or names not
14 drawn to all witnesses present; and

15 5. The meeting shall be held on a weekday, holidays excepted,
16 between the hours of 7:00 a.m. and 7:00 p.m.

17 ~~C. When there are three (3) or more candidates and a tie for~~
18 ~~first place occurs for the nomination of a candidate at a Primary~~
19 ~~Election for which a Runoff Primary will be held, the names of the~~
20 ~~tied candidates shall be placed on the Runoff Primary ballot.~~

21 SECTION 21. AMENDATORY 26 O.S. 2001, Section 8-106, as
22 amended by Section 12, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2010,
23 Section 8-106), is amended to read as follows:

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1 Section 8-106. No lists or certificates provided for in Section
2 8-103 of this title shall be issued either by the county election
3 board or State Election Board before 5:00 p.m. Friday next following
4 a Primary, ~~Runoff Primary~~ or General Election.

5 SECTION 22. AMENDATORY 26 O.S. 2001, Section 8-109, is
6 amended to read as follows:

7 Section 8-109. Any candidate whose name appeared on a Primary,
8 ~~Runoff Primary~~ or General Election ballot, or any individual
9 authorized to request a recount pursuant to Section 8-111 of this
10 title may, at any time before 5:00 p.m. Friday next following an
11 election, contest the correctness of the announced results of said
12 election by filing a written petition with the appropriate election
13 board. Contests alleging irregularities or fraud shall not be
14 permitted in any election except those in which candidates are
15 seeking office. Nothing in this section shall be construed to
16 prohibit any proceedings in district court, which are otherwise
17 authorized by law, alleging irregularities or fraud in an election.

18 SECTION 23. AMENDATORY 26 O.S. 2001, Section 8-114, as
19 last amended by Section 1, Chapter 151, O.S.L. 2009 (26 O.S. Supp.
20 2010, Section 8-114), is amended to read as follows:

21 Section 8-114. A. If a recount is to be conducted using
22 electronic voting devices, the devices used shall be tested for
23 accuracy by the county election board, giving all contestants, or
24 their agents, an opportunity to view the testing procedure. In

1 conducting a recount using electronic voting devices, the county
2 election board shall open the transfer cases containing regular
3 ballots and counted provisional ballots from each requested precinct
4 or for absentee ballots individually and shall assign said ballot
5 cards to one or more voting devices operated by persons appointed by
6 the secretary of the county election board. The county election
7 board shall supervise such counting and its decision shall be final
8 in all cases. The county election board shall have the authority,
9 by a majority vote, to determine if a ballot is valid and if the
10 ballot should be counted. Each contestant is entitled to have a
11 watcher present at each place where a voting device is being used.
12 Said watcher shall be limited to a challenge, in writing, of any
13 action taken by operators of the voting devices. Such challenge
14 shall be made immediately to the county election board, whose
15 decision on said challenge shall be final.

16 B. In conducting a manual recount of ballots, the county
17 election board shall open the transfer cases containing regular
18 ballots and counted provisional ballots from each requested precinct
19 or for absentee ballots individually and shall assign said ballot
20 cards to a group of counters appointed by the secretary of the
21 county election board. Counters shall then conduct the recount in
22 the same manner as provided by law for counting ballots in Primary,
23 ~~Runoff Primary~~ and General Elections. The county election board
24 shall supervise such counting and its decision shall be final in all

1 cases. The county election board shall have the authority, by a
2 majority vote, to determine if a ballot is valid and if the ballot
3 should be counted. Each candidate affected by or individual
4 petitioning for the recount is entitled to have a watcher present at
5 each place where a count is being made. Said watcher shall be
6 limited to a challenge, in writing, of any decision made by the
7 counters with regard to counting of a ballot. Such challenge shall
8 be made immediately to the county election board, whose decision on
9 said challenge shall be final. Each group of counters shall have
10 representation of at least two political parties, where possible.
11 Said counters shall be appointed from among the registered voters of
12 the county and shall meet such qualifications as may be imposed for
13 a precinct inspector, judge or clerk. Counters shall be paid on the
14 same basis as precinct judges and clerks are paid for Primary,
15 ~~Runoff Primary~~ or General Elections.

16 SECTION 24. AMENDATORY 26 O.S. 2001, Section 8-120, is
17 amended to read as follows:

18 Section 8-120. When a petition alleging irregularities other
19 than fraud is filed, said petition must allege a sufficient number
20 of irregularities and of such nature as to:

21 1. Prove that the contestant is lawfully entitled to be
22 certified the party's nominee or to be issued a certificate of
23 election, ~~or to have his name appear on the Runoff Primary Election~~
24 ~~ballot~~; or

1 2. Prove that it is impossible to determine with mathematical
2 certainty which candidate is entitled to be certified as the party's
3 nominee or to be issued a certificate of election, ~~or to have his~~
4 ~~name appear on the Runoff Primary Election ballot.~~
5 Additional irregularities may be presented at the hearing if not
6 known to the contestant at the time the petition is filed. If such
7 allegations are not made, the petition shall be deemed frivolous by
8 the presiding judge and shall be dismissed. Said petition must be
9 accompanied by either a cashier's check or certified check in the
10 amount of Two Hundred Fifty Dollars (\$250.00) for each county
11 affected by the petition. Said petition must set forth specific
12 allegations of irregularities in certain precincts or in the casting
13 of absentee ballots. If said petition is filed in the manner herein
14 provided, the district judge of the county or such other judge as
15 may be assigned by the Supreme Court shall hear and determine said
16 issue in the same manner as provided for a petition alleging fraud.
17 On the day of the hearing, the contestee may file an answer to the
18 petition or may file a cross petition setting forth in detail, as
19 required of petitioner herein, such claim of irregularities. A
20 cross petition must be accompanied by either a cashier's check or
21 certified check in the amount of Two Hundred Fifty Dollars (\$250.00)
22 for each county affected by the cross petition. Deposits shall be
23 used to defray actual costs as provided for recounts.

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1 SECTION 25. AMENDATORY 26 O.S. 2001, Section 8-122, is
2 amended to read as follows:

3 Section 8-122. In the event, after a hearing is conducted, it
4 is deemed impossible to determine who should be certified as the
5 party's nominee or to whom a certificate of election shall be
6 issued, ~~or which candidates are entitled to have their names appear~~
7 ~~on the Runoff Primary Election ballot~~, the judge shall notify the
8 appropriate election board secretary of same. It shall then be the
9 duty of the election board secretary to notify the Governor of said
10 decision. The Governor shall then order a new election to be
11 conducted as soon as is practicable in the same manner as the
12 contested election, with the identical candidates; provided, that
13 any candidate upon whom fraud has been proved shall not be a
14 candidate in the new election. Provided further, the above shall
15 not apply to elections resulting in tie votes, which elections shall
16 be determined as provided by law.

17 SECTION 26. AMENDATORY 26 O.S. 2001, Section 12-103, as
18 last amended by Section 3, Chapter 369, O.S.L. 2004 (26 O.S. Supp.
19 2010, Section 12-103), is amended to read as follows:

20 Section 12-103. The proclamation required by Section 12-102 of
21 this title shall prescribe filing and election dates that permit
22 full compliance with the requirements of the federal Military and
23 Overseas Voters Empowerment Act of 2009 and shall contain the
24 following facts:

1 1. A filing period of three (3) days, on a Monday, Tuesday and
2 Wednesday not less than ten (10) days from the date of such
3 proclamation; and

4 2. The date of the Special Primary Election, not less than
5 twenty (20) days after the close of the filing period;

6 ~~3. The date of the Special Runoff Primary Election, not less~~
7 ~~than twenty (20) days after the date of the Special Primary~~
8 ~~Election; and~~

9 ~~4. The date of the Special General Election, not less than~~
10 ~~twenty (20) days after the date of the Special Runoff Primary~~
11 ~~Election.~~

12 Should such a vacancy occur between March 1 and June 1 of an
13 even-numbered year, when a special election is required, the
14 proclamation must contain dates that are the same as are required by
15 law for the regular filing period, Primary Election, ~~Runoff Primary~~
16 ~~Election~~ and General Election.

17 SECTION 27. AMENDATORY 26 O.S. 2001, Section 12-104, is
18 amended to read as follows:

19 Section 12-104. Said elections shall be conducted under the
20 laws applicable to regular Primary, ~~Runoff Primary~~ and General
21 Elections.

22 SECTION 28. AMENDATORY 26 O.S. 2001, Section 12-108, as
23 last amended by Section 4, Chapter 369, O.S.L. 2004 (26 O.S. Supp.
24 2010, Section 12-108), is amended to read as follows:

1 Section 12-108. Such proclamation shall contain the following
2 facts:

3 1. A filing period of three (3) days, on a Monday, Tuesday and
4 Wednesday not less than ten (10) days from the date of such
5 proclamation;

6 2. The date of the Special Primary Election, not less than
7 twenty (20) days after the close of the filing period; and

8 3. The date of the Special General Election, not less than
9 twenty (20) days after the date of the Special Primary Election.

10 Should such a vacancy occur between March 1 and June 1 of an
11 even-numbered year, when a special election is required, the
12 proclamation must contain dates that are the same as are required by
13 law for the regular filing period, Primary Election, ~~Runoff Primary~~
14 ~~Election~~ and General Election.

15 SECTION 29. AMENDATORY 26 O.S. 2001, Section 12-109, is
16 amended to read as follows:

17 Section 12-109. Said elections shall be conducted under the
18 laws applicable to regular Primary and General Elections, except
19 that the candidate receiving the highest number of votes in said
20 Primary Election shall be deemed the nominee of his political party,
21 provided that the dates of the elections do not coincide with the
22 dates for the regular Primary, ~~Runoff Primary~~ and General Elections.
23 If the nominee of a political party is unopposed in the Special
24 Election, he shall be issued a certificate of election after the

1 expiration of the contest period following the ~~Primary or Runoff~~
2 Primary Election, if no contest is filed, and shall immediately
3 assume the duties of said office.

4 SECTION 30. AMENDATORY Section 1, Chapter 369, O.S.L.
5 2004 (26 O.S. Supp. 2010, Section 12-110.1), is amended to read as
6 follows:

7 Section 12-110.1 A. Elections to fill the seat of a member of
8 the Oklahoma State Senate or the Oklahoma House of Representatives
9 who is not eligible to complete the term of office to which such
10 member was elected due to the provisions of Section 17A of Article V
11 of the Oklahoma Constitution shall be held as provided in this
12 section.

13 B. Whenever a member's eligibility to serve shall expire after
14 March 1 in an even-numbered year, the vacancy shall be filled by a
15 special election to be called by the Governor which shall be held in
16 that even-numbered year on the same dates as the regular Primary
17 Election, ~~Runoff Primary Election~~ and General Election. The filing
18 period for the special election shall be the regular filing period
19 prescribed in Section 5-110 of Title 26 of the Oklahoma Statutes.
20 The person elected in the special election shall take office on the
21 later of the date other members of the Legislature elected at such
22 election take office or the expiration of the incumbent's
23 eligibility to serve and shall serve the remainder of the unexpired
24 term.

1 C. Whenever a member's eligibility to serve shall expire in an
2 odd-numbered year or prior to March 1 in an even-numbered year, the
3 position shall be filled by a special election to be called by the
4 Governor. The Governor shall issue a proclamation calling such an
5 election no less than sixty (60) days prior to the expiration of the
6 member's eligibility to serve. The person elected shall take office
7 upon the expiration of the incumbent's eligibility to serve.

8 D. The Governor shall issue a proclamation, a copy of which
9 must be filed with the Secretary of the State Election Board, for
10 any election to be held pursuant to this section. Such proclamation
11 shall be issued prior to the date the member's eligibility to serve
12 expires and must be issued at least ten (10) days prior to the
13 filing period. For an election held pursuant to subsection C of
14 this section, the proclamation shall contain the following facts:

15 1. A filing period of three (3) days, on a Monday, Tuesday and
16 Wednesday, not less than ten (10) days from the date of said
17 proclamation;

18 2. The date of the Special Primary Election, not less than
19 twenty (20) days after the close of the filing period; and

20 3. The date of the Special General Election, not less than
21 twenty (20) days after the date of the Primary Election.

22 E. For purposes of this section:

23 1. A full term of service in the Oklahoma House of
24 Representatives shall be counted as two (2) years of service;

1 2. A full term of service in the Oklahoma State Senate shall be
2 counted as four (4) years of service;

3 3. A period of service of less than a full term which is not
4 exempt from the constitutional limitations on length of legislative
5 service shall be calculated from the date the legislator assumes the
6 office for such term until the date the legislator vacates such
7 office; and

8 4. A period of service with respect to a term during which a
9 member reaches the constitutionally limited length of service shall
10 be calculated from the date the legislator assumes the office for
11 such term until the date the legislator completes a total of twelve
12 (12) years of service not exempt from the constitutional
13 limitations.

14 SECTION 31. AMENDATORY 26 O.S. 2001, Section 12-111, as
15 amended by Section 12, Chapter 447, O.S.L. 2002 (26 O.S. Supp. 2010,
16 Section 12-111), is amended to read as follows:

17 Section 12-111. A. Whenever a vacancy shall occur in the
18 office of a county commissioner, the vacancy shall be filled at a
19 special election to be called by the Governor within thirty (30)
20 days after the vacancy occurs. Provided, no special election shall
21 be called if the vacancy occurs after March 1 of any even-numbered
22 year if the term of the office expires the following year. In such
23 case, the candidate elected to the office at the Primary Election,
24 ~~runoff Primary Election,~~ or the regular General Election shall be

1 appointed by the Governor as soon as practical after the applicable
2 election to fill the unexpired term.

3 B. Whenever a vacancy shall occur in any elective county office
4 of any county in this state having a population of more than the
5 population figure specified in subsection B of Section 10 of Title
6 51 of the Oklahoma Statutes, the vacancy shall be filled at a
7 special election to be called by the Governor within thirty (30)
8 days after the vacancy occurs. Provided, no special election shall
9 be called if the vacancy occurs after March 1 of any even-numbered
10 year if the term of the office expires the following year. In such
11 case, the candidate elected to the office at the Primary Election,
12 ~~runoff Primary Election,~~ or the regular General Election shall be
13 appointed by the Governor as soon as practical after the applicable
14 election to fill the unexpired term.

15 SECTION 32. AMENDATORY 26 O.S. 2001, Section 12-113, as
16 last amended by Section 5, Chapter 369, O.S.L. 2004 (26 O.S. Supp.
17 2010, Section 12-113), is amended to read as follows:

18 Section 12-113. Such proclamation shall contain the following
19 facts:

20 1. A filing period of three (3) days, on a Monday, Tuesday and
21 Wednesday, not less than ten (10) days from the date of such
22 proclamation;

23 2. The date of the Special Primary Election, not less than
24 twenty (20) days after the close of the filing period; and

1 3. The date of the Special General Election, not less than
2 twenty (20) days after the date of the Special Primary Election.

3 Should such a vacancy occur between March 1 and June 1 of an
4 even-numbered year, when a special election is required, the
5 proclamation must contain dates that are the same as are required by
6 law for the regular filing period, Primary Election, ~~Runoff Primary~~
7 ~~Election~~ and General Election.

8 SECTION 33. AMENDATORY 26 O.S. 2001, Section 12-114, is
9 amended to read as follows:

10 Section 12-114. Said elections shall be conducted under the
11 laws applicable to regular Primary and General Elections, except
12 that the candidate receiving the highest number of votes in said
13 Primary Election shall be deemed the nominee of his political party,
14 provided that the dates of the elections do not coincide with the
15 dates for the regular ~~Primary, Runoff~~ Primary and General Elections.
16 If the nominee of a political party is unopposed in the Special
17 Election, he shall be issued a certificate of election after the
18 expiration of the contest period following the ~~Primary or Runoff~~
19 Primary Election, if no contest is filed, and shall immediately
20 assume the duties of said office.

21 SECTION 34. AMENDATORY 26 O.S. 2001, Section 12-116, as
22 amended by Section 6, Chapter 369, O.S.L. 2004 (26 O.S. Supp. 2010,
23 Section 12-116), is amended to read as follows:

24

1 Section 12-116. In the event the Governor or the Legislature
2 shall call for a special statewide election on any measure to be
3 submitted to a vote of the people, said election shall be held not
4 fewer than ~~sixty (60)~~ seventy (70) days from the date said election
5 is called. Such special statewide election may be on the same date
6 as a primary or general election or may be on some other date set by
7 the Governor or the Legislature. In the event the board of county
8 commissioners or the governing body of a municipality or school
9 district or technology center school district or any other
10 governmental subdivision calls for a special election on any
11 question, said election shall be held not fewer than sixty (60) days
12 from the date said election is called; provided, that a special
13 election called by a school or technology center school district to
14 be held on the date of the annual school runoff election shall not
15 be held fewer than forty-five (45) days from the date said special
16 election is called. A special election to fill a vacancy for member
17 of the board of education of a school district or to fill a vacancy
18 for municipal office shall be scheduled not fewer than sixty (60)
19 days from the date said election is called.

20 SECTION 35. AMENDATORY 26 O.S. 2001, Section 12-117, is
21 amended to read as follows:

22 Section 12-117. The State Election Board shall conduct such
23 election in the same manner as provided for conducting statewide
24 Primary, ~~Runoff Primary~~ or General Elections.

1 SECTION 36. AMENDATORY 26 O.S. 2001, Section 13-102, as
2 amended by Section 19, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2010,
3 Section 13-102), is amended to read as follows:

4 Section 13-102. A. Not fewer than fifteen (15) days before the
5 filing period for any regular municipal election, or in the event of
6 a special election, not fewer than sixty (60) days before such
7 election, the governing board of any municipality shall submit a
8 resolution to the secretary of the county election board conducting
9 such election. Such resolution shall contain the following facts:

- 10 1. The dates of the election or elections;
- 11 2. The offices to be filled or the questions to be voted upon
12 at such election or elections;
- 13 3. Qualifications for such offices;
- 14 4. Designation of which offices shall be filled by voting by
15 ward and which offices shall be filled by voting at large;
- 16 5. Indication of whether the election will be partisan or
17 nonpartisan;
- 18 6. For charter cities where the charter is silent, indication
19 of any portion of state law which will apply; and
- 20 7. Any other information necessary for conducting said election
21 or elections.

22 B. In the event that a municipality governed by charter
23 schedules a regular or special election for a municipal office on
24 the same date as an election involving state or federal offices, the

1 filing period for such municipal office shall be scheduled on a
2 Monday, Tuesday, and Wednesday not less than fifteen (15) days nor
3 more than twenty (20) days following the date of the resolution or
4 order.

5 SECTION 37. AMENDATORY 26 O.S. 2001, Section 14-118, as
6 last amended by Section 1, Chapter 149, O.S.L. 2010 (26 O.S. Supp.
7 2010, Section 14-118), is amended to read as follows:

8 Section 14-118. A. When an application for an absentee ballot
9 pursuant to Section 14-117 of this title is received by the
10 secretary of a county election board, it shall be the duty of the
11 secretary to transmit by United States mail, by facsimile device as
12 defined in Section 1862 of Title 21 of the Oklahoma Statutes, or as
13 provided in subsection B of this section the ballots which the
14 elector has requested and is entitled to receive. When an
15 application for absentee ballots is received at least forty-five
16 (45) days before an election involving state or federal offices,
17 absentee ballots shall be transmitted by mail, by electronic mail,
18 or by other means of electronic communication, as provided in this
19 section, or by facsimile device as provided in Section 14-118.1 of
20 this title, not less than forty-five (45) days preceding the
21 election. When an application for absentee ballots for an election
22 involving state or federal offices is received less than forty-five
23 (45) days preceding the election, absentee ballots shall be
24 transmitted by mail, by electronic mail, or by other means of

1 electronic communication as provided in this section or by facsimile
2 device as provided in Section 14-118.1 of this title within forty-
3 eight (48) hours of receipt of the application.

4 B. The secretary of the county election board may transmit
5 balloting materials for any state or federal election, or for any
6 other election as designated by the Secretary of the State Election
7 Board as provided in subsection D of this section, ~~to an~~ by
8 electronic mail address or by other means of electronic
9 communication in a form and manner prescribed by the Secretary of
10 the State Election Board, if the voter:

- 11 1. Is a Federal Post Card Application registrant and is
12 eligible to receive an absentee ballot as provided by law;
- 13 2. Provides an electronic mail address; and
- 14 3. Requests that balloting materials be sent by electronic
15 mail.

16 If the secretary of the county election board transmits a ballot
17 to a voter ~~at an~~ by electronic mail ~~address~~ or by other means of
18 electronic communication as provided in this subsection, the
19 secretary shall amend the voter's federal postcard application for
20 future elections to include the voter's electronic mail address.

21 C. An electronic mail address provided under this section is
22 confidential and does not constitute public information for purposes
23 of the Oklahoma Open Records Act. The secretary of the county
24

1 election board shall ensure that an electronic mail address provided
2 under this section is excluded from disclosure.

3 D. The Secretary of the State Election Board shall determine if
4 balloting materials for any election other than a state or federal
5 election may be produced in a form which would allow them to be
6 transmitted ~~to an~~ by electronic mail address or by other means of
7 electronic communication. If so, the Secretary shall so designate
8 them. If such designation is not made, the balloting materials may
9 be transmitted to the voter as provided in subsection A of this
10 section.

11 E. All other provisions of this title that would normally apply
12 to a ballot voted under this title apply to a ballot provided
13 pursuant to the provisions of subsection B of this section.

14 F. The Secretary of the State Election Board may suspend the
15 provisions of subsection B of this section if the Secretary
16 determines that electronic transmission of balloting materials is
17 not in the best interest of the people of this state due to a
18 potential problem with the security of the balloting materials.

19 SECTION 38. AMENDATORY 26 O.S. 2001, Section 20-101, as
20 amended by Section 1, Chapter 174, O.S.L. 2003 (26 O.S. Supp. 2010,
21 Section 20-101), is amended to read as follows:

22 Section 20-101. A. A Presidential Preferential Primary for
23 recognized political parties shall be held on the first Tuesday in
24

1 ~~February~~ March in each of the years in which the President and Vice
2 President of the United States are to be elected.

3 B. If one or more states having a mutual boundary with this
4 state establish a single date for a regional primary, the State
5 Election Board is authorized to change the date of the Oklahoma
6 primary to the date established for the regional primary.

7 C. No county, municipality, school district or other entity
8 authorized by law to call elections shall schedule an election on
9 any date during the twenty (20) days immediately preceding the date
10 of any such Primary Election. However, this subsection shall not
11 apply to home rule municipalities.

12 SECTION 39. AMENDATORY 26 O.S. 2001, Section 20-102, as
13 amended by Section 24, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2010,
14 Section 20-102), is amended to read as follows:

15 Section 20-102. A. Candidates for the nomination for President
16 of the United States shall file with the Secretary of the State
17 Election Board. Such candidates shall be members of political
18 parties recognized under the laws of the State of Oklahoma and shall
19 have filed a statement of candidacy with the Federal Election
20 Commission and shall have raised and expended not less than Five
21 Thousand Dollars (\$5,000.00) for said office. The candidates shall
22 be required to swear an oath or affirm that they meet the
23 aforementioned qualifications, and their signatures shall be
24 witnessed by a notary public. Such filing beginning at 8:00 a.m. on

1 the first Monday in December and ending at 5:00 p.m. on the next
2 succeeding Wednesday, or at a time prescribed by the State Election
3 Board for a Presidential Preferential Primary to be held on a date
4 other than the first Tuesday in ~~February~~ March. A statement of
5 candidacy must be accompanied by a petition supporting a candidate's
6 filing signed by one percent (1%) of the registered voters in each
7 congressional district eligible to vote for a candidate or one
8 thousand (1,000) registered voters in each congressional district
9 eligible to vote for a candidate, whichever is less, as reflected by
10 the latest January 15 registration report; or by a cashier's check
11 or certified check in the amount of Two Thousand Five Hundred
12 Dollars (\$2,500.00). ~~Such check shall be forfeited unless a~~
13 ~~candidate receives more than fifteen percent (15%) of the votes~~
14 ~~east.~~ The State Election Board shall cause the names of all
15 candidates who have filed within the proper time to be printed on
16 the official ballots. The ballots shall be prepared as provided for
17 by law. Voters shall be restricted to one vote for the candidate of
18 his or her choice of the political party in which the voter is
19 registered.

20 B. Each page of a petition supporting a candidate's filing
21 shall identify the county and the congressional district, and shall
22 contain the names of registered voters in only one congressional
23 district and in only one county.

24

1 C. Each page of a petition supporting a candidate's filing
2 shall be verified. Verification shall be made in substantial
3 compliance with the provisions of Section 6 of Title 34 of the
4 Oklahoma Statutes.

5 SECTION 40. AMENDATORY 26 O.S. 2001, Section 22-114, is
6 amended to read as follows:

7 Section 22-114. In a declared election emergency, in conducting
8 the recount of ballots, the county election board shall open each
9 ballot box individually and shall assign said ballots to a group of
10 counters appointed by the secretary of the county election board.
11 Said counters shall then conduct the recount in the same manner as
12 provided by law for counting ballots in ~~Primary, Runoff~~ Primary and
13 General Elections. The county election board shall supervise such
14 counting and its decision shall be final in all cases. Each
15 candidate affected by or individual petitioning for the recount is
16 entitled to have a watcher present at each place where a count is
17 being made. Said watcher shall be limited to a challenge, in
18 writing, of any decision made by the counters with regard to
19 counting of a ballot. Such challenge shall be made immediately to
20 the county election board, whose decision on said challenge shall be
21 final. Each group of counters shall have representation of at least
22 two political parties, where possible. Said counters shall be
23 appointed from among the registered voters of the county and shall
24 meet such qualifications as may be imposed for a precinct inspector,

1 judge or clerk. Counters shall be paid on the same basis as
2 precinct judges and clerks are paid for ~~Primary, Runoff~~ Primary or
3 General Elections.

4 SECTION 41. REPEALER 26 O.S. 2001, Sections 5-116, as
5 amended by Section 2, Chapter 88, O.S.L. 2003, 6-108, and Section 9,
6 Chapter 485, O.S.L. 2003, as amended by Section 21, Chapter 545,
7 O.S.L. 2004 (26 O.S. Supp. 2010, Sections 5-116 and 14-104.1), are
8 hereby repealed.

9 SECTION 42. This act shall become effective November 1, 2011.

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