An Act

ENROLLED HOUSE
BILL NO. 1615

By: Banz of the House

and

Sykes, Allen, Russell and Marlatt of the Senate

An Act relating to election dates and deadlines; creating the Let the Troops Vote Act; providing short title; amending 26 O.S. 2001, Sections 1-102, as amended by Section 2, Chapter 162, O.S.L. 2003, 1-108, as last amended by Section 6, Chapter 53, O.S.L. 2004, 3-101, as last amended by Section 1, Chapter 224, O.S.L. 2005, 4-119, as amended by Section 7, Chapter 485, O.S.L. 2003, 5-110, as last amended by Section 8, Chapter 53, O.S.L. 2004, 5-115, as last amended by Section 4, Chapter 307, O.S.L. 2004, 5-119, 12-103, as last amended by Section 3, Chapter 369, O.S.L. 2004, 12-106, 12-108 and 12-113, as last amended by Sections 4 and 5, Chapter 369, O.S.L. 2004, 12-116, as amended by Section 6, Chapter 369, O.S.L. 2004, 13-102, as amended by Section 19, Chapter 545, O.S.L. 2004, 14-115.5, as amended by Section 22, 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 and 20-102, as amended by Section 24, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2010, Sections 1-102, 1-108, 3-101, 4-119, 5-110, 5-115, 12-103, 12-108, 12-113, 12-116, 13-102, 14-115.5, 14-118, 20-101 and 20-102), which relate to election dates and procedures; modifying time period during which recognized political parties may be formed; changing dates upon which special elections may be held; modifying time period during which changes of political affiliation may be processed and approved; modifying period during which declarations of candidacy filed; modifying time period during which notices of withdrawal of candidacy and certain petitions may be filed; requiring certain

petitions may be filed; requiring certain proclamation to prescribe filing and election dates that permit compliance with certain provisions; modifying time period during which occurrence of vacancy requires calling of special election; modifying time period after which special statewide election may be held after call; specifying filing period for certain municipal offices; modifying date of submission of list of nominees to absentee voting board; providing for transmission of absentee ballots; modifying date upon which Presidential Preferential Primary election held; eliminating procedure for return of certain funds; amending 11 O.S. 2001, Section 16-102, as amended by Section 25, Chapter 545, O.S.L. 2004 (11 O.S. Supp. 2010, Section 16-102), which relates to municipal elections; specifying filing period for certain municipal elections; repealing Section 9, Chapter 485, O.S.L. 2003, as amended by Section 21, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2010, Section 14-104.1), which relates to absentee ballots; providing for noncodification; and providing an effective date.

SUBJECT: Election code

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

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

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

SECTION 2. AMENDATORY 26 O.S. 2001, Section 1-102, as 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~~ June 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 candidate's

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

SECTION 3. AMENDATORY 26 O.S. 2001, Section 1-108, as last amended by Section 6, Chapter 53, O.S.L. 2004 (26 O.S. Supp. 2010, Section 1-108), is amended to read as follows:

Section 1-108. A group of persons may form a recognized political party at any time except during the period between ~~June 1~~ March 1 and November 15 of any even-numbered year if the following procedure is observed:

1. Notice of intent to form a recognized political party must be filed in writing with the Secretary of the State Election Board at any time except during the period between March 1 and November 15 of any even-numbered year~~.~~;

2. After such notice is filed, petitions seeking recognition of a political party, in a form to be prescribed by the Secretary of the State Election Board, shall be filed with such Secretary, bearing the signatures of registered voters equal to at least five percent (5%) of the total votes cast in the last General Election either for Governor or for electors for President and Vice President. Each page of such petitions must contain the names of registered voters from a single county. Petitions may be circulated a maximum of one (1) year after notice is filed, provided that petitions shall be filed with ~~such~~ the Secretary no later than ~~May 1~~ March 1 of an even-numbered year. Such petitions shall not be circulated between ~~May 1~~ March 1 and November 15 of any even-numbered year~~.~~; and

3. Within thirty (30) days after receipt of such petitions, the State Election Board shall determine the sufficiency of such petitions. If such Board determines there are a sufficient number of valid signatures of registered voters, the party becomes recognized under the laws of the State of Oklahoma with all rights and obligations accruing thereto.

SECTION 4. AMENDATORY 26 O.S. 2001, Section 3-101, as last amended by Section 1, Chapter 224, O.S.L. 2005 (26 O.S. Supp. 2010, Section 3-101), is amended to read as follows:

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

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

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

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

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

SECTION 5. AMENDATORY 26 O.S. 2001, Section 4-119, as amended by Section 7, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2010, Section 4-119), is amended to read as follows:

Section 4-119. Any registered voter may make application under oath to change political affiliation by executing a form prescribed by the Secretary of the State Election Board at any time. The county election board secretary in the applicant's county of residence shall process and approve any such application for political affiliation change upon receipt, except as provided in Section 4-110.1 of ~~Title 26 of the Oklahoma Statutes~~ this title and except during the period from ~~June 1~~ April 1 through August 31, inclusive, in any even-numbered year. The secretary shall process and approve such applications for change of political affiliation received or postmarked from ~~June 1~~ April 1 through August 31 in any even-numbered year after August 31.

SECTION 6. AMENDATORY 26 O.S. 2001, Section 5-110, as last amended by Section 8, Chapter 53, O.S.L. 2004 (26 O.S. Supp. 2010, Section 5-110), is amended to read as follows:

Section 5-110. Declarations of Candidacy provided herein must be filed with the secretary of the appropriate election board no earlier than 8:00 a.m. on the ~~first Monday in June~~ second Wednesday of April of any even-numbered year and no later than 5:00 p.m. on the next succeeding ~~Wednesday~~ Friday. Such Declarations of Candidacy may be transmitted by United States mail, but in no event shall the secretary of any election board accept such Declarations after the time prescribed by law.

SECTION 7. AMENDATORY 26 O.S. 2001, Section 5-115, as last amended by Section 4, Chapter 307, O.S.L. 2004 (26 O.S. Supp. 2010, Section 5-115), is amended to read as follows:

Section 5-115. Any candidate may withdraw as a candidate only upon the filing of a written notice of withdrawal as a candidate with the secretary of the election board which accepted such candidate's declaration of candidacy. Such notice shall be signed by the candidate or a lawfully appointed personal representative or a lawfully appointed special administrator of any deceased candidate, whose signature shall be notarized by a notary public, and shall be filed on or before 5:00 p.m. on the ~~Friday~~ second business day following the close of the filing period prescribed by law.

SECTION 8. AMENDATORY 26 O.S. 2001, Section 5-119, is amended to read as follows:

Section 5-119. ~~Said~~ The petition must be filed no later than 5:00 p.m. on the second business day following the close of the filing period.

SECTION 9. AMENDATORY 26 O.S. 2001, Section 12-103, as last amended by Section 3, Chapter 369, O.S.L. 2004 (26 O.S. Supp. 2010, Section 12-103), is amended to read as follows:

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

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

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

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

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

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

SECTION 10. AMENDATORY 26 O.S. 2001, Section 12-106, is amended to read as follows:

Section 12-106. A. Whenever a vacancy shall occur in the office of a member of the State Senate or the State House of Representatives, the vacancy shall be filled at a Special Election to be called by the Governor within thirty (30) days after the vacancy occurs; provided, no special election shall be called if the vacancy occurs after March 1 of any even-numbered year if the term of the office expires the same year.

B. If in an even-numbered year an incumbent State Senator with two (2) or more years remaining in the term for which elected shall file with the Oklahoma Secretary of State before ~~June 1~~ April 1 a resignation in writing which states that the resignation will not become effective immediately, but rather will become effective on some date certain that is after the General Election but before the convening of the next session of the Legislature, the vacancy shall be filled by a special election which shall be held in that even-numbered year on the same dates as the regular Primary Election, Runoff Primary Election and General Election. The filing period for the special election shall be the regular filing period prescribed in Section 5-110 of this title. The person elected in the General

Election of the special election shall take office on the date the resignation of the incumbent becomes effective and shall serve the remainder of the unexpired term.

SECTION 11. AMENDATORY 26 O.S. 2001, Section 12-108, as last amended by Section 4, Chapter 369, O.S.L. 2004 (26 O.S. Supp. 2010, Section 12-108), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

SECTION 13. AMENDATORY 26 O.S. 2001, Section 12-116, as amended by Section 6, Chapter 369, O.S.L. 2004 (26 O.S. Supp. 2010, Section 12-116), is amended to read as follows:

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

SECTION 14. AMENDATORY 26 O.S. 2001, Section 13-102, as amended by Section 19, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2010, Section 13-102), is amended to read as follows:

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

1. The dates of the election or elections;

2. The offices to be filled or the questions to be voted upon at such election or elections;

3. Qualifications for such offices;

4. Designation of which offices shall be filled by voting by ward and which offices shall be filled by voting at large;

5. Indication of whether the election will be partisan or nonpartisan;

6. For charter cities where the charter is silent, indication of any portion of state law which will apply; and

7. Any other information necessary for conducting said election or elections.

B. In the event that a municipality governed by charter schedules a regular or special election for a municipal office on the same date as an election involving state or federal offices, the filing period for such municipal office shall be scheduled on a Monday, Tuesday and Wednesday not less than fifteen (15) days nor more than twenty (20) days following the date of the resolution or order.

SECTION 15. AMENDATORY 26 O.S. 2001, Section 14-115.5, as amended by Section 22, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2010, Section 14-115.5), is amended to read as follows:

Section 14-115.5 To carry out the provisions of Sections 14-115 and 14-115.4 of this title, the secretary of the county election board shall designate one or more absentee voting boards, to be composed of two (2) members each, with each member to be of a different political affiliation. No later than ~~July 1~~ June 1 in each even-numbered year, the chair of the county central committees of the two political parties having the highest number of registered voters in the county shall each submit a list of ten names to the secretary. Such lists shall contain names of registered voters of the county, who may be members of the county election board, except the secretary, or precinct election boards. The secretary shall be confined to such list in designating membership on the absentee voting board or boards, unless all persons on such lists are ineligible or unwilling to serve. In the event the chair of the county central committee of a political party fails to submit a list as herein provided, the secretary shall appoint membership to such board or boards from the ranks of registered voters of such party within the county. Provided further, that in the event the list of

names of either or both parties is exhausted and additional absentee voting boards are needed, the secretary shall appoint additional members to such boards from the ranks of such party or parties in the county. Members of an absentee voting board shall be reimbursed for their expenses at the same rate as a precinct judge or clerk, as provided in Section 2-129 of this title. One member of each such board serving a nursing home or convalescent hospital shall be allowed mileage reimbursement at the rate prescribed for travel by state employees according to the State Travel Reimbursement Act.

SECTION 16. AMENDATORY 26 O.S. 2001, Section 14-118, as last amended by Section 1, Chapter 149, O.S.L. 2010 (26 O.S. Supp. 2010, Section 14-118), is amended to read as follows:

Section 14-118. A. When an application for an absentee ballot pursuant to Section 14-117 of this title is received by the secretary of a county election board, it shall be the duty of the secretary to transmit by United States mail, by facsimile device as defined in Section 1862 of Title 21 of the Oklahoma Statutes, or as provided in subsection B of this section the ballots which the elector has requested and is entitled to receive. When an application for an absentee ballot is received at least forty-five (45) days before an election involving state or federal offices, the absentee ballot shall be transmitted by mail, by electronic mail, or by other means of electronic communication, as provided in this section, or by facsimile device as provided in Section 14-118.1 of this title, not less than forty-five (45) days preceding the election. When an application for an absentee ballot for an election involving state or federal offices is received less than forty-five (45) days preceding the election, the absentee ballot shall be transmitted by mail, by electronic mail, or by other means of electronic communication, as provided in this section, or by facsimile device as provided in Section 14-118.1 of this title, within forty-eight (48) hours of receipt of the application.

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

1. Is a Federal Post Card Application registrant and is eligible to receive an absentee ballot as provided by law;

2. Provides an electronic mail address; and

3. Requests that balloting materials be sent by electronic mail.

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

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

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

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

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

SECTION 17. AMENDATORY 26 O.S. 2001, Section 20-101, as amended by Section 1, Chapter 174, O.S.L. 2003 (26 O.S. Supp. 2010, Section 20-101), is amended to read as follows:

Section 20-101. A. A Presidential Preferential Primary for recognized political parties shall be held on the first Tuesday in ~~February~~ March in each of the years in which the President and Vice President of the United States are to be elected.

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

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

SECTION 18. AMENDATORY 26 O.S. 2001, Section 20-102, as amended by Section 24, Chapter 485, O.S.L. 2003 (26 O.S. Supp. 2010, Section 20-102), is amended to read as follows:

Section 20-102. A. Candidates for the nomination for President of the United States shall file with the Secretary of the State Election Board. Such candidates shall be members of political parties recognized under the laws of the State of Oklahoma and shall have filed a statement of candidacy with the Federal Election Commission and shall have raised and expended not less than Five Thousand Dollars ($5,000.00) for said office. The candidates shall be required to swear an oath or affirm that they meet the aforementioned qualifications, and their signatures shall be witnessed by a notary public. Such filing beginning at 8:00 a.m. on the first Monday in December and ending at 5:00 p.m. on the next succeeding Wednesday, or at a time prescribed by the State Election Board for a Presidential Preferential Primary to be held on a date other than the first Tuesday in ~~February~~ March. A statement of candidacy must be accompanied by a petition supporting a candidate's filing signed by one percent (1%) of the registered voters in each congressional district eligible to vote for a candidate or one thousand (1,000) registered voters in each congressional district eligible to vote for a candidate, whichever is less, as reflected by the latest January 15 registration report; or by a cashier's check or certified check in the amount of Two Thousand Five Hundred Dollars ($2,500.00). ~~Such check shall be forfeited unless a candidate receives more than fifteen percent (15%) of the votes cast.~~ The State Election Board shall cause the names of all candidates who have filed within the proper time to be printed on the official ballots. The ballots shall be prepared as provided for by law. Voters shall be restricted to one vote for the candidate of his or her choice of the political party in which the voter is registered.

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

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

SECTION 19. AMENDATORY 11 O.S. 2001, Section 16-102, as amended by Section 25, Chapter 545, O.S.L. 2004 (11 O.S. Supp. 2010, Section 16-102), is amended to read as follows:

Section 16-102. A. The provisions of Section 16-101 et seq. of this title shall not apply to any municipality which is governed by charter; provided, that elections for such municipalities which shall be conducted by the county election board shall be scheduled only on an election date identified by ~~Section~~ subsection B of Section 3-101 of Title 26 of the Oklahoma Statutes. However, such a municipality may, by indicating in its resolution calling an election, choose to follow any provision of state law governing elections conducted by a county election board when the municipality's charter or ordinances are silent on the matter addressed by such provision. In such instance, if the municipal election or any substantial portion thereof is not conducted by a county election board, the duties required of the county election board or its secretary shall be performed by the municipal authority designated by the municipal governing body and nothing herein shall be construed to require the county election board to perform any such duties. The residency requirements of Sections 16-109 and 16-110 of this title shall apply to all municipalities except to the extent that such residency requirements are governed by municipal charter.

B. The provisions of Sections 16-101 through 16-114 of this title shall not apply to any municipality subject to the provisions of the Oklahoma Town Meeting Act; provided, Section 16-103.1 of this title shall apply to such municipalities.

C. In the event that a municipality governed by charter schedules a regular or special election for a municipal office on the same date as an election involving state or federal offices, the filing period for such municipal office shall be scheduled on a

Monday, Tuesday and Wednesday not less than fifteen (15) days nor more than twenty (20) days following the date of the resolution or order.

SECTION 20. REPEALER Section 9, Chapter 485, O.S.L. 2003, as amended by Section 21, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2010, Section 14-104.1), is hereby repealed.

SECTION 21. This act shall become effective November 1, 2011.

Passed the House of Representatives the 3rd day of May, 2011.

Presiding Officer of the House
of Representatives

Passed the Senate the 7th day of April, 2011.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Governor this 4th

day of May, **20** 11,

at 5:21 **o'clock** P **M.**

By: Jessica R Rogers

Approved by the Governor of the State of Oklahoma the 10th **day of**

May, **20** 11, **at** 11:42 **o'clock** A **M.**

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

10th **day of** May, **20** 11,

at 2:49 **o'clock** P **M.**

By: Michelle R Day