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Proposed Committee Substitute by the Committee on Rules  
Subcommittee on Ethics and Elections

A bill to be entitled

An act relating to the federal write-in absentee ballot; amending s. 101.6952, F.S.; authorizing absent uniformed services voters and overseas voters to use the federal write-in absentee ballot to vote in any federal and certain state or local elections, under certain circumstances; prescribing requirements for designating candidate choices; providing for the disposition of valid votes involving joint candidacies; allowing for abbreviations, misspellings, and other minor variations in the name of an office, candidate, or political party; authorizing the submission of multiple ballots under certain circumstances; detailing circumstances under which votes in federal, state, and local races on the federal write-in absentee ballot will be canvassed; amending s. 101.5614, F.S.; establishing certain canvassing procedures for federal write-in absentee ballots; amending s. 102.166, F.S.; directing the Department of State to adopt rules to determine what constitutes a valid vote on a federal write-in absentee ballot; providing restrictions; providing minimum requirements; amending s. 104.18, F.S., to conform; re-adopting subsection (5) of s. 102.166, F.S., to incorporate a cross-reference; providing an effective date.



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28 Be It Enacted by the Legislature of the State of Florida:

29

30 Section 1. Section 101.6952, Florida Statutes, is amended  
31 to read:

32 101.6952 Absentee ballots for absent uniformed services and  
33 overseas voters.—

34 (1) If an absent uniformed services voter's or an overseas  
35 voter's request for an official absentee ballot pursuant to s.  
36 101.62 includes an e-mail address, the supervisor of elections  
37 shall:

38 (a) Record the voter's e-mail address in the absentee  
39 ballot record;

40 (b) Confirm by e-mail that the absentee ballot request was  
41 received and include in that e-mail the estimated date the  
42 absentee ballot will be sent to the voter; and

43 (c) Notify the voter by e-mail when the voted absentee  
44 ballot is received by the supervisor of elections.

45 (2) (a) An absent uniformed services voter or an overseas  
46 voter who makes timely application for but does not receive an  
47 official absentee ballot may use the federal write-in absentee  
48 ballot to vote in any federal election and any state or local  
49 election involving two or more candidates.

50 (b)1. In an election for federal office, an elector may  
51 designate a candidate by writing in the name of a candidate.  
52 Except for a primary or special primary election, the elector  
53 may alternatively designate a candidate by writing in the name  
54 of a political party. A written designation of the political  
55 party shall be counted as a vote for the candidate of that  
56 party, if there is such a party candidate in the race.



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57       2. In an election for a state or local office, an elector  
58 may vote in the section of the federal write-in absentee ballot  
59 designated for nonfederal races by writing in the title of each  
60 office and by writing in the name of the candidate for whom the  
61 elector is voting. Except for a primary, special primary, or  
62 nonpartisan election, the elector may alternatively designate a  
63 candidate by writing in the name of a political party. A written  
64 designation of the political party shall be counted as a vote  
65 for the candidate of that party, if there is such a party  
66 candidate in the race.

67       (c) In the case of a joint candidacy, such as for the  
68 offices of President/Vice President or Governor/Lieutenant  
69 Governor, a valid vote for one or both qualified candidates on  
70 the same ticket shall constitute a vote for the joint candidacy.

71       (d) For purposes of this subsection and except where the  
72 context clearly indicates otherwise, such as where a candidate  
73 in the election is affiliated with a political party whose name  
74 includes the word "Independent," "Independence," or similar  
75 term, a voter designation of "No Party Affiliation" or  
76 "Independent," or any minor variation, misspelling, or  
77 abbreviation thereof, shall be considered a designation for the  
78 candidate, other than a write-in candidate, who qualified to run  
79 in the race with no party affiliation. If more than one  
80 candidate has qualified to run as a no party affiliation  
81 candidate, the designation shall not count for any candidate  
82 unless there is a valid, additional designation of the  
83 candidate's name.

84       (e) Any abbreviation, misspelling, or other minor variation  
85 in the form of the name of an office, the name of a candidate,



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86 or the name of a political party must be disregarded in  
87 determining the validity of the ballot.

88 (3) (a) An absent uniformed services voter or an overseas  
89 voter who submits a federal write-in absentee ballot and later  
90 receives an official absentee ballot may submit the official  
91 absentee ballot. An elector who submits a federal write-in  
92 absentee ballot and later receives and submits an official  
93 absentee ballot should make every reasonable effort to inform  
94 the appropriate supervisor of elections that the elector has  
95 submitted more than one ballot.

96 (b) A federal write-in absentee ballot may not be canvassed  
97 until 7:00 p.m. on the day of the election. Each federal write-  
98 in absentee ballot received by 7:00 p.m. on the day of the  
99 election will be canvassed pursuant to s. 101.5614(5) and s.  
100 101.68, unless the elector's official absentee ballot is  
101 received by 7:00 p.m. on election day. If the elector's official  
102 absentee ballot is received by 7:00 p.m. on election day, the  
103 federal write-in absentee ballot shall be invalid and the  
104 official absentee ballot shall be canvassed. The time shall be  
105 regulated by the customary time in standard use in the county  
106 seat of the locality.

107 (4) ~~(2)~~ For absentee ballots received from absent uniformed  
108 services voters or overseas voters, there is a presumption that  
109 the envelope was mailed on the date stated on the outside of the  
110 return envelope, regardless of the absence of a postmark on the  
111 mailed envelope or the existence of a postmark date that is  
112 later than the date of the election.

113 Section 2. Subsection (5) of section 101.5614, Florida  
114 Statutes, is amended to read:



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115 101.5614 Canvass of returns.-

116 (5) (a) If any absentee ballot is physically damaged so that  
117 it cannot properly be counted by the automatic tabulating  
118 equipment, a true duplicate copy shall be made of the damaged  
119 ballot in the presence of witnesses and substituted for the  
120 damaged ballot. Likewise, a duplicate ballot shall be made of an  
121 absentee ballot containing an overvoted race or a marked  
122 absentee ballot in which every race is undervoted which shall  
123 include all valid votes as determined by the canvassing board  
124 based on rules adopted by the division pursuant to s.

125 102.166(4). All duplicate ballots shall be clearly labeled  
126 "duplicate," bear a serial number which shall be recorded on the  
127 defective ballot, and be counted in lieu of the defective  
128 ballot. After a ballot has been duplicated, the defective ballot  
129 shall be placed in an envelope provided for that purpose, and  
130 the duplicate ballot shall be tallied with the other ballots for  
131 that precinct.

132 (b) A true duplicate copy shall be made of each federal  
133 write-in absentee ballot in the presence of witnesses and  
134 substituted for the federal write-in absentee ballot. The  
135 duplicate ballot must include all valid votes as determined by  
136 the canvassing board based on rules adopted by the division  
137 pursuant to s. 102.166(4). All duplicate ballots shall be  
138 clearly labeled "duplicate," bear a serial number which shall be  
139 recorded on the federal write-in absentee ballot, and be counted  
140 in lieu of the federal write-in absentee ballot. After a ballot  
141 has been duplicated, the federal write-in absentee ballot shall  
142 be placed in an envelope provided for that purpose, and the  
143 duplicate ballot shall be tallied with other ballots for that



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144 precinct.

145 Section 3. Subsection (4) of section 102.166, Florida  
146 Statutes, is amended to read:

147 102.166 Manual recounts of overvotes and undervotes.—

148 (4) (a) A vote for a candidate or ballot measure shall be  
149 counted if there is a clear indication on the ballot that the  
150 voter has made a definite choice.

151 (b) The Department of State shall adopt specific rules for  
152 the federal write-in absentee ballot and for each certified  
153 voting system prescribing what constitutes a "clear indication  
154 on the ballot that the voter has made a definite choice." The  
155 rules shall be consistent, to the extent practicable, and may  
156 not:

157 1. Exclusively provide that the voter must properly mark or  
158 designate his or her choice on the ballot; or

159 2. Contain a catch-all provision that fails to identify  
160 specific standards, such as "any other mark or indication  
161 clearly indicating that the voter has made a definite choice."

162 (c) The rule for the federal write-in absentee ballot must  
163 address, at a minimum, the following issues:

164 1. The appropriate lines or spaces for designating a  
165 candidate choice and, for state and local races, the office to  
166 be voted, including the proximity of each to the other and the  
167 effect of intervening blank lines.

168 2. The sufficiency of designating a candidate's first or  
169 last name when no other candidate in the race has the same or a  
170 similar name.

171 3. The sufficiency of designating a candidate's first or  
172 last name when an opposing candidate has the same or a similar



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173 name, notwithstanding generational suffixes and titles such as  
174 "Jr.," "Sr.," or "III." The rule should contemplate the  
175 sufficiency of additional first names and first initials, middle  
176 names and middle initials, generational suffixes and titles,  
177 nicknames, and, in general elections, the name or abbreviation  
178 of a political party.

179 4. Candidate designations containing both a qualified  
180 candidate's name and a political party, including where the  
181 party designated is the candidate's party, is not the  
182 candidate's party, has an opposing candidate in the race, or  
183 does not have an opposing candidate in the race.

184 5. Situations where the abbreviation or name of a candidate  
185 is the same as the abbreviation or name of a political party to  
186 which the candidate does not belong, including where the party  
187 designated has another candidate in the race or does not have a  
188 candidate in the race.

189 6. The use of marks, symbols, or language, such as arrows,  
190 quotation marks, or the word "same" or "ditto," to indicate that  
191 the same political party designation applies to all listed  
192 offices.

193 7. Situations where an elector designates the name of a  
194 qualified candidate for an incorrect office.

195 8. Situations where an elector designates an otherwise  
196 correct office name that includes an incorrect district number.

197 Section 4. Section 104.18, Florida Statutes, is amended to  
198 read:

199 104.18 Casting more than one ballot at any election.—Except  
200 as provided in s. 101.6952, whoever willfully votes more than  
201 one ballot at any election commits ~~is guilty of~~ a felony of the



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202 third degree, punishable as provided in s. 775.082, s. 775.083,  
203 or s. 775.084.

204 Section 5. Subsection (5) of section 102.166, Florida  
205 Statutes, is reenacted to read:

206 102.166 Manual recounts of overvotes and undervotes.—

207 (5) Procedures for a manual recount are as follows:

208 (a) The county canvassing board shall appoint as many  
209 counting teams of at least two electors as is necessary to  
210 manually recount the ballots. A counting team must have, when  
211 possible, members of at least two political parties. A candidate  
212 involved in the race shall not be a member of the counting team.

213 (b) Each duplicate ballot prepared pursuant to s.  
214 101.5614(5) or s. 102.141(7) shall be compared with the original  
215 ballot to ensure the correctness of the duplicate.

216 (c) If a counting team is unable to determine whether the  
217 ballot contains a clear indication that the voter has made a  
218 definite choice, the ballot shall be presented to the county  
219 canvassing board for a determination.

220 (d) The Department of State shall adopt detailed rules  
221 prescribing additional recount procedures for each certified  
222 voting system which shall be uniform to the extent practicable.

223 The rules shall address, at a minimum, the following areas:

224 1. Security of ballots during the recount process;

225 2. Time and place of recounts;

226 3. Public observance of recounts;

227 4. Objections to ballot determinations;

228 5. Record of recount proceedings; and

229 6. Procedures relating to candidate and petitioner  
230 representatives.





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Section 6. This act shall take effect July 1, 2011.