

Hall of the House of Representatives
85th General Assembly - Regular Session, 2005
Amendment Form

Subtitle of House Bill No. 2748

"AN ACT TO AMEND VARIOUS ARKANSAS LAWS CONCERNING VOTING MACHINES
AND ELECTRONIC VOTING."

Amendment No. 1 to House Bill No. 2748.

Amend House Bill No. 2748 as originally introduced:

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 6-14-102(c), concerning school elections, is amended to read as follows:

(c)(1) In any election year, if no more than one (1) candidate for school district director presents a petition or notice in writing to the county board of election commissioners as required by § 6-14-111 and if there are no other ballot issues to be submitted to district electors for consideration, the board of directors of any school district, by resolution duly adopted, may request the county board of election commissioners to reduce the number of polling places or to open no polling places on election day so that the election can be conducted by absentee ballot and early voting only.

(2) The county board of election commissioners may provide that no polling places be open on election day so that the election can be conducted by absentee ballot and early voting only, if no more than one (1) candidate for school district director presents a petition or notice in writing to the county board of election commissioners as required by § 6-14-111, and if there are no other ballot issues to be submitted to district electors for consideration, if requested by resolution adopted by the board of directors of any school district.

(3) In a county that uses voting machines or electronic ~~voting~~ vote tabulating devices, the county board of election commissioners may choose to use paper ballots ~~for the election~~ counted by hand in combination with voting machines equipped for use by individuals with disabilities.

SECTION 2. Arkansas Code § 7-1-101 is amended to read as follows:
7-1-101. Definitions.

As used in this title, unless the context or chapter otherwise requires:

(1) "Administrator" means the administrative head of a long-term care or residential care facility licensed by the state who is authorized in writing by a patient of the long-term care or residential care facility to



deliver the application for an absentee ballot and to obtain or deliver the absentee ballot to the county clerk;

(2) "Audit log" means an electronically stored record of events and ballot images from which election officials may produce a permanent paper record with a manual audit capacity for a voting system using voting machines;

~~(2)(3)~~ "Authorized agent" means a person who is identified and authorized by an applicant who is medically unable to cast a ballot at a polling site due to unforeseen medical necessity as set forth in an affidavit from the administrative head of a hospital or long-term or residential care facility to deliver the application, obtain a ballot, and deliver the ballot on the day of the election to the county clerk;

~~(3) "Automatic tabulating equipment" means apparatus necessary to automatically examine and count votes as designated on vote cards and data processing machines which can be used for counting votes and tabulating results but shall not include those voting machines authorized under this title;~~

~~(4) "Candidate and issue labels" means the cards, paper, booklet, pages, or other material containing the names of offices and candidates and statements of measures to be voted on;~~

~~(5)(4)~~ "Canvassing" means examining and counting the returns of votes cast at a public election to determine authenticity;

~~(6)(5)~~ "Constitutional officers of this state" means the offices of the Governor, Lieutenant Governor, Secretary of State, Attorney General, Auditor of State, Treasurer of State, and Commissioner of State Lands;

~~(7)(6)~~ "Counting location" means a location selected by the county board of election commissioners with respect to all elections for the automatic processing or counting or both of votes;

~~(8)(7)~~ "Designated bearer" means any person who is identified and authorized by the applicant to obtain from the county clerk or to deliver to the county clerk the applicant's ballot;

~~(9)(8)~~ "Election official" or "election officer" means a person who is a member of the county board of election commissioners or a person who is a poll worker, having been designated by a county board of election commissioners to be an election clerk, election judge, or election sheriff;

~~(10)(9)~~ "Electronic ~~voting system~~ vote tabulating device" means a system of casting votes by use of marking devices and tabulating votes by use of automatic tabulating equipment or data processing equipment but shall not include those voting machines authorized under this title device used to electronically scan a marked paper ballot for the purposes of tabulation;

~~(11)(10)~~ "Fail-safe voting" means the mechanism established under the National Voter Registration Act of 1993 that allows voters who have moved within the same county to vote at their new precinct without having updated their voter registration records;

~~(12)(11)~~ "First-time voter" means any registered voter who has not previously voted in a federal election in the state;

~~(13)(12)~~ "General or special election" means the regular biennial or annual elections for election of United States, state, district, county, township, and municipal officials and the special elections to fill vacancies therein and special elections to approve any measure. The term as used in this act shall not apply to school elections for officials of school districts;

~~(14)~~(13) "Majority party" means that political party in the State of Arkansas whose candidates were elected to a majority of the constitutional offices of this state in the last-preceding general election;

~~(15)~~(14) "Marking device" means ~~either an apparatus in which vote cards are inserted and used in connection with a punch apparatus for piercing of vote cards by the voter or any approved device for marking a paper vote sheet~~ ballot with ink or other substances which will enable the votes to be tabulated by means of ~~automatic tabulating equipment~~ an electronic vote tabulating device;

~~(16)~~(15) "Minority party" means that political party whose candidates were elected to less than a majority of the constitutional offices of this state in the last-preceding general election or the political party which polled the second-greatest number of votes for the office of Governor in the last-preceding general election if all of the elected constitutional officers of this state are from a single political party;

~~(17)~~(16) "Party certificate" means a written statement or receipt signed by the secretary or chair of the county committee or of the state committee, as the case may be, of the political party evidencing the name and title proposed to be used by the candidate on the ballot, the position the candidate seeks, payment of the fees, and filing of the party pledge, if any, required by the political party;

~~(18)~~(17)(A) "Political party" means any group of voters which at the last-preceding general election polled for its candidate for Governor in the state or nominees for presidential electors at least three percent (3%) of the entire vote cast for the office.

(B) No group of electors shall assume a name or designation which is so similar in the opinion of the Secretary of State to that of an existing political party as to confuse or mislead the voters at an election.

(C) When any political party fails to obtain three percent (3%) of the total votes cast at an election for the office of Governor or nominees for presidential electors, it shall cease to be a political party;

~~(19)~~(18) "Polling site" means a location selected by the county board of election commissioners where votes are cast;

~~(20)~~(19) "Precinct" means the geographical boundary lines dividing a county, municipality, township, or school district for voting purposes;

~~(21)~~(20) "Primary election" means any election held by a political party in the manner provided by law for the purpose of selecting nominees of the political party for certification as candidates for election at any general or special election in this state;

~~(22)~~(21) "Qualified elector" means a person who holds the qualifications of an elector and who is registered pursuant to Arkansas Constitution, Amendment 51;

~~(23)~~(22) "Vacancy in election" means the vacancy in an elective office created by death, resignation, or other good and legal cause, arising prior to election to the office at a general or special election but arising subsequent to the certification of the ballot;

~~(24)~~(23) "Vacancy in nomination" means the circumstances in which the person who received the majority of votes at the preferential primary election or general primary election cannot accept the nomination due to death or notifies the party that he or she will not accept the nomination

due to serious illness, moving out of the area from which the person was elected as the party's nominee, or filing for another office preceding the final date for certification of nominations;

~~(25)~~(24)(A) "Vacancy in office" means the vacancy in an elective office created by death, resignation, or other good and legal cause arising subsequent to election to the office at a general or special election or arising subsequent to taking office and prior to the expiration of the term of office in those circumstances wherein the vacancy must be filled by a special election rather than by appointment.

(B) The phrase "vacancy in office" shall not apply to the election of a person at a general election to fill an unexpired portion of a term of office; ~~and~~

~~(26)~~ "Vote card" means a card upon which the voter casts his or her votes by the process of punching

(25) "Voting machine" means either:

(A) A direct recording electronic voting machine that:

(i) Records votes by means of a ballot display provided with mechanical or electro-optical components that may be actuated by the voter;

(ii) Processes the data by means of a computer program;

(iii) Records voting data and ballot images in internal and external memory components; and

(iv) Produces a tabulation of the voting data stored in a removable memory component and in a printed copy; or

(B) An electronic device for marking a paper ballot to be electronically scanned;

(26) "Voter-verified paper audit trail" means a contemporaneous paper record of a ballot printed for the voter to confirm his or her votes before the voter casts his or her ballot that:

(A) Allows the voter to verify the voter verified paper audit trail before the casting of the voter's ballot;

(B) Is not retained by the voter;

(C) Does not contain individual voter information;

(D) Is produced on paper that is sturdy, clean, and resistant to degradation; and

(E) Is readable in a manner that makes the voter's ballot choices obvious to the voter without the use of computer or electronic code; and

(27) "Voting system" means:

(A) The total combination of mechanical, electromechanical, or electronic equipment, including the software, firmware, and documentation required to program, control, and support the equipment that is used:

(i) To define ballots;

(ii) To cast and count votes;

(iii) To report or display election results; and

(iv) To maintain and produce any audit trail information; and

(B) The practices and documentation used to:

(i) Identify system components and versions of components;

- (ii) Test the system during its development and maintenance;
- (iii) Maintain records of system errors and defects;
- (iv) Determine specific system changes to be made to a system after the initial qualification of the system; and
- (v) Make available any materials to the voter, including, but not limited to, notices, instructions, forms, or paper ballots.

SECTION 3. Arkansas Code § 7-5-208 is amended to read as follows:
7-5-208. Paper ballots - Form.

(a) All election ballots provided by the county board of election commissioners of any county in this state for any election shall be alike and shall be printed in plain type.

(b) Each ballot shall be printed on paper with a perforated portion capable of being detached for use as the ballot stub.

(c) As ballots are printed, the portion that shall be used as the ballot stub shall be numbered consecutively from one (1) to the number which is the total amount of ballots provided for the election.

(d) On the back or outside of the ballot shall be printed the words "OFFICIAL BALLOT for ", followed by the appropriate designation for the particular election and its date.

(e)(1) The heading on the front or inner side of each ballot shall be: "OFFICIAL BALLOT ELECTION , ~~19~~ 20

Vote by placing an appropriate mark opposite the person for whom you wish to vote."

(2) If the ballot contains an initiated or referred amendment, act, or measure, the heading shall also contain these words - "Vote on amendments, acts, and measures by placing an appropriate mark above the amendment (or act or measure) either FOR or AGAINST."

(f) Beneath the heading on each paper ballot that will be counted by hand or on an electronic vote tabulating device at the courthouse or other central location there shall be printed instructions that inform the voter:

(1) Of the effect of casting multiple votes for an office; and

(2) How to correct the ballot before it is cast and counted, including, but not limited to, instructions on how to correct an error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct an error.

~~(f)~~(g)(1) Every ballot shall contain the name of each candidate who has been nominated or has qualified in accordance with law for each office. The names of the candidates shall be listed in a perpendicular column under the name of each office to be filled.

(2)(A) However, the names of all unopposed candidates for offices for which no notice has been filed within the time prescribed in § 7-5-205, except the names of all unopposed candidates for the office of mayor or circuit clerk, shall be grouped together on the ballot indicating the office and the name of the unopposed candidate for each office in a single column. At the top of the list of the names of all unopposed candidates there shall appear on the ballot the words "Unopposed Candidates", and to the right thereof there shall be a square in which the voter may cast a vote for all

the candidates by placing an appropriate mark, so that the votes may be separately counted and tabulated as required in § 7-5-205.

(B) The names of unopposed candidates for the office of mayor or circuit clerk shall be separately printed from any grouping of unopposed candidates, with a place in which the voter may cast a vote for each unopposed candidate for the office of mayor or circuit clerk by placing an appropriate mark, so that the votes may be separately counted and tabulated as required in § 7-5-315.

(3) In all elections except primary elections and municipal elections, at the bottom of each list of names for each position or office appearing on the ballot, there shall be a blank line or lines for possible write-in votes for that position or office. However, the blank line shall not appear on the ballot with respect to those offices and candidates for positions in which no person has qualified as a write-in candidate by filing his intentions to be a write-in candidate within the time prescribed in § 7-5-205.

(4) The order in which the names of the respective candidates shall appear on the ballots shall be determined by lot at a public meeting of the county board not less than thirty-five (35) days prior to the general elections. It is expressly understood and provided that the selection on the order of the ballot in all other elections shall be and remain as provided by law. For runoff elections, the ballot order for eligible candidates shall stay the same as for the previous election.

(5) Beside the name of each candidate in the general election shall be his or her party designation or the name "INDEPENDENT" if he or she represents no officially recognized party.

~~(g)~~(h) At the right of the name of each candidate and on the same line there shall be a square. Above each act, amendment, or measure to be voted on there shall be the words "FOR" and "AGAINST" - one (1) above the other with a square to the right of each word and on the same line. With respect to all offices and the candidates for those offices who are unopposed and have been grouped together in the manner provided in subsection ~~(f)~~ (g) of this section, the names of all those candidates and their respective offices shall appear under the heading of "Unopposed Candidates". The elector shall vote on each and all such candidates by casting a single vote in a square placed to the right of the heading "Unopposed Candidates" as provided in subdivision ~~(f)~~(g)(2) of this section.

~~(h)~~(i) Opposite the designation of each office there shall appear these words: "VOTE FOR". The number of persons required to fill the vacancy in office shall be placed in the blank space as:

"Justice of the Peace VOTE FOR TEN (10)."

SECTION 4. Arkansas Code § 7-5-301 is amended to read as follows:

7-5-301. ~~Inspection of election supplies~~ Acquisition, use, and cost of voting systems.

~~The election officials shall inspect the election supplies prior to the opening of the polls.~~

(a) The casting and counting of votes in all elections shall on and after the date of the first federal election in 2006 be by:

- (1) Voting machines selected by the Secretary of State;
- (2) Electronic vote tabulating devices in combination with

voting machines accessible to voters with disabilities to be selected by the Secretary of State; or

(3) Paper ballots counted by hand in combination with voting machines accessible to voters with disabilities selected by the Secretary of State.

(b)(1) All direct recording electronic voting machines in use on or after January 1, 2006, shall include a voter-verified paper audit trail, except for those direct recording electronic voting machines in use during the 2004 general election.

(2) All direct recording electronic voting machines purchased on or after the effective date of subsection shall include a voter verified paper audit trail.

(c)(1) The quorum court of each county shall by resolution choose a voting system containing voting machines or electronic vote tabulating devices, or both, or voting machines in combination with paper ballots counted by hand for use in all elections in the county.

(2) Any voting machine or electronic vote tabulating devices chosen by the quorum court shall be those selected by the Secretary of State.

(3) Any voting system used in elections for federal office shall comply with the requirements of the federal Help America Vote Act of 2002.

(d)(1) Voting machines and electronic vote tabulating devices shall be purchased pursuant to a competitive bidding process with consideration given to:

(A) Price;

(B) Quality; and

(C) Adaptability to Arkansas ballot requirements.

(2) The Secretary of State shall use a portion of the funds provided by the federal government and the state for the purpose of complying with the requirements of the federal Help America Vote Act of 2002 to purchase and distribute voting machines and electronic vote tabulating devices and other equipment necessary to the administration of elections.

(3) Each county shall bear the cost of acquiring any additional voting machines or electronic vote tabulating devices or other equipment necessary to the administration of elections.

(e) The Secretary of State or the county board of election commissioners shall not purchase or procure any voting machine or electronic vote tabulating device unless the party selling the machine or device shall:

(1) Guarantee in writing the machines for a period of one (1) year; and

(2) Provide, if deemed necessary by the county, personnel for supervision and training of county personnel for at least two (2) elections, one (1) primary and one (1) general.

(f) Each county shall provide polling places that are adequate for the operation of the voting system, including, but not limited to, access, if necessary, to a sufficient number of electrical outlets and telephone lines.

(g) Each county shall provide or contract for adequate technical support for the installation, set up, and operation of the voting system for each election.

(h)(1) The Secretary of State shall be responsible for the development, implementation, and provision of a continuing program to educate voters and election officials in the proper use of the voting system.

(2) Each county shall bear the cost, including transportation,

subsistence, and lodging, incurred by its election and registration officials in attending courses taught by or arranged by the Secretary of State for instruction in the use of the voting system.

(i) Electronic vote tabulating devices and voting machines, authorized as provided under this subchapter, may be acquired and used in any election upon the adoption of an ordinance by the quorum court of the county.

(j) The costs of using electronic vote tabulating devices and voting machines at all general and special elections, including, but not limited to, costs of supplies, technical assistance, and transportation of the systems to and from the polling places, shall be paid in accordance with § 7-5-104.

(k) The county board of election commissioners shall have complete control and supervision of voting machines and electronic vote tabulating devices at all elections.

(l) The county clerk shall have supervision of voting machines and electronic vote tabulating devices used for early voting in the clerk's designated early voting location.

(m)(1) The county board of election commissioners shall have the care and custody of all voting machines and all electronic vote tabulating devices while not in use.

(2) The county board of election commissioners shall be responsible for the proper preparation, use, maintenance, and care of the voting machines and the electronic vote tabulating devices during the period of time required for that election.

SECTION 5. Arkansas Code § 7-5-302 is amended to read as follows:

7-5-302. ~~Documents to be posted in polling area~~ Inspection of supplies and posting of documents.

(a) The election officials shall inspect the election supplies before the opening of the polls.

~~(a)~~(b) Before the polls open, the election officials shall post the following in a conspicuous place in the polling area:

(1) At least two (2) copies of instructions to voters, including instructions for fail-safe voting procedures; ~~and~~

(2) In general elections, at least two (2) copies of all constitutional amendments and acts to be voted upon; ~~and~~

(3) Clear, written instructions suitable for the instruction of voters illustrating the manner of voting on the voting machine.

SECTION 6. Arkansas Code § 7-5-310 is amended to read as follows:

7-5-310. Privacy - Assistance to ~~disabled~~ voters with disabilities.

(a) Each voter shall be provided the privacy to mark his or her ballot. Privacy shall be provided by each county board of election commissioners to ensure that voters desiring privacy are not singled out.

(b)(1) A voter shall inform the election officials at the time that the voter presents himself or herself to vote that he or she is unable to mark the ballot because he or she cannot read or write or because of physical, sensory, or other disability or other legal cause, ~~or that he or she is unable to complete the ballot without help.~~

(2) The ~~person~~ voter shall be directed to a voting machine equipped for use by persons with disabilities where he or she may elect to cast his or her ballot without assistance or may ~~be assisted~~ request assistance with either the paper ballot or the voting machine by:

- (A) Two (2) election officials; or
- (B) A person named by the voter.

~~(2)~~(3) If the voter is assisted by two (2) election officials, one (1) of the election officials shall observe the voting process and one (1) may assist the voter in marking the ballot according to the wishes of the voter without comment or interpretation.

~~(3)~~(4) If the voter is assisted by one (1) person named by the voter, he or she may assist the voter in marking the ballot according to the wishes of the voter without any comment or interpretation.

~~(4)~~(5) It shall be the duty of the election officials at the polling site to make and maintain a list of the names of all persons assisting voters.

(c) Any voter because of physical, sensory, or other disability who presents himself or herself for voting and who then informs an election official at the polling site that he or she is unable to stand in line for extended periods of time shall be entitled to and assisted by an election official to advance to the head of any line of voters then waiting in line to vote at the polling site.

SECTION 7. Arkansas Code § 7-5-319 is amended to read as follows:
7-5-319. Recount.

(a)(1) Any candidate voted for who may be dissatisfied with the returns from any precinct shall have a recount of the votes cast therein upon the candidate's presenting the county board of election commissioners with a petition requesting the recount.

(2) When the number of outstanding absentee ballots of overseas voters is not sufficient to change the results of the election, the candidate must present the petition no later than two (2) days after the county board declares preliminary and unofficial results of the election, including a statement of the number of outstanding absentee ballots of overseas voters.

(3) When the number of outstanding absentee ballots of overseas voters is sufficient to potentially change the results of the election, the candidate must present the petition at any time before the county board finally completes the canvass of the returns of the election and certifies the result.

(b) At the time that the petition requesting the recount is presented, the county board shall provide to the candidate requesting the recount a copy of the test results on the voting machines and the electronic vote tabulating devices performed pursuant to §§ 7-5-504(20) and 7-5-611(e) and (d) to the candidate requesting the recount. Only one (1) recount per candidate per election shall be permitted. The county board shall certify the results of the last recount. The county board may upon its own motion conduct a recount of the returns from any or all precincts.

(c) For any recount of an election in which ballots are cast using a direct recording electronic voting machine with a voter-verified paper audit trail, the voter-verified paper audit trail shall serve as the official ballot to be recounted.

~~(e)~~(d) The For the recount of an election in which paper ballot are used, the county board shall open the package containing the ballots and recount the ballots in the manner prescribed by law for the count to be made by the election officials in the first instance or, if there is a determination by the county board that the voting machine or ~~automated~~

~~tabulating equipment~~ electronic vote tabulating device may be malfunctioning, it may recount the ballots by any manner prescribed by law.

~~(d)~~(e) The result as found upon the recount, if it differs from that certified by the election officials, shall be included in the canvass as the vote for the particular precinct for which the recount was ordered and made.

~~(e)~~(f) After the recount is completed, the ballots shall again be sealed and kept as provided by law.

~~(f)~~(g)(1) The costs for any recount must be borne by the candidate petitioning for it, and payment of the costs must be made to the county board prior to the recount in an amount determined by the county board.

(2) In the event that the outcome of the election is altered by recount, the costs of the recount shall be refunded to the candidate who petitioned for the recount.

~~(g)~~(h) The costs of any recount shall be based on the actual costs incurred to conduct the recount, but in no instance shall the amount charged to conduct a recount exceed the rate of twenty-five cents (25) per vote cast in the precincts where the recount is requested or a total of two thousand five hundred dollars (\$2,500) for the entire county, whichever is less.

~~(h)~~(i) Within forty-eight (48) hours after a petition for recount is filed, the county board of election commissioners shall notify all candidates whose election could be affected by the outcome of the recount.

SECTION 8. Arkansas Code § 7-5-413 is amended to read as follows:

7-5-413. Voting machines —~~Discretionary use~~ - Related duties.

~~(a) In any election in which voting machines are to be used in all or part of the election precincts, the appropriate authority charged with holding the election shall, within its discretion, determine by proper resolution or order whether or not voting machines shall be used for early voting by personal appearance at the election.~~

~~(b)(a) If it is determined by that authority that voting machines shall be used for early voting by personal appearance, a At least one(1) voting machine or machines equipped for use by individuals with disabilities shall be placed in the office of the clerk who is to conduct the county clerk's designated location for early voting for the election in accordance with this subchapter and at any off-site polling locations established by the county board. The clerk shall follow the legal requirements for voting set forth in Arkansas Constitution, Amendment 51, insofar as applicable to early voting. Those persons entitled under the law to vote early by personal appearance at the clerk's office shall cast their votes on voting machines systems under the laws applicable to early voting, and the clerk or election official shall enter on a list the name of each voter at the time he or she votes.~~

~~(e)(b) After the regular business hours, the clerk at the clerk's designated early voting location or the election official at any off-site polling place shall seal secure the machines against further voting at the close of each day's voting in the presence of authorized poll watchers, if any, and the seal shall be broken by the clerk in the presence of the authorized watchers, if any, the following morning when the voting begins. Voting early by machine will be concluded on the day before election day at the time the county clerk's office regularly closes. When early voting is concluded, the clerk or the election official shall lock and seal secure the~~

machines against further voting.

~~(d)(c)~~ At the time designated by law for the closing of the polls on election day, a set of election officials for the machines used for early voting shall ~~open the machines and~~ canvass the vote in the manner provided for regular polling sites. After the canvass has been made, the machines shall be ~~locked and sealed~~ secured and shall remain ~~locked against inaccessible to voting for the same period as required for other machines used in the election.~~ The results of the canvass shall be returned to the county board of election commissioners to be tabulated and canvassed with and in the same manner as the returns of other election precincts.

~~(e)(d)~~ Any candidate or political party may be present in person or by representative designated in writing during the progress of early voting and at the canvass of the results in any election for the purpose of determining whether or not the votes in any election are fairly and accurately cast and counted.

SECTION 9. Arkansas Code § 7-5-501 is repealed.

~~7-5-501. Acquisition—Places of installation.~~

~~(a) Voting machines authorized as set forth in this section and §§ 7-5-604 and 7-5-605 may be acquired and used in any election conducted in a municipality or county upon the adoption of an ordinance therefor by the governing body of the municipality or the quorum court of the county.~~

~~(b) If it shall be impossible to supply every polling site with voting machines at any election following the adoption of the machines by a county or city, then as many machines may be supplied as it is possible to procure, and the machines shall be used in precincts of the county designated by the county board in elections. The county board of election commissioners may authorize the use of an alternate method of voting at a polling site if the board determines that it is impractical to supply every election precinct with a voting machine.~~

~~(c)(1) In municipalities or counties which acquired voting machines or electronic voting systems or which voted to do so before April 6, 1979, nothing in this section and §§ 7-5-604 and 7-5-605 or present laws shall prohibit those municipalities or counties from using any method of voting authorized by law, whether singly or in combination with any other authorized voting method. However, except as authorized under subdivision (c)(2) of this section, no municipality or county shall implement the method of voting and vote counting which was in use prior to the election that authorized voting machines or electronic voting systems without an election authorizing that change.~~

~~(2) The county board may authorize the use of an alternate method of voting if the board determines that the voting machines or electronic voting system currently in use is likely to malfunction or to cause questionable results due to the operational limits of the machines or system.~~

SECTION 10. Arkansas Code § 7-5-503 is amended to read as follows:

7-5-503. Examination and approval of machines by State Board of Election Commissioners.

(a) Any person or corporation selling voting machines may apply to exhibit machines to the State Board of Election Commissioners.

(b) The state board shall examine the machine and file a report in the

office of the Secretary of State of its accuracy, efficiency, and capacity.

(c) If the kind of machine examined complies with the requirements of § 7-5-504 and can be safely used by voters at elections under the conditions prescribed, the machine shall be deemed approved by the state board, and machines of its kind may be adopted for use at elections ~~as provided in this subchapter~~ if selected for use by the Secretary of State. When the machine has been approved, any improvement or change that does not impair its accuracy, efficiency, or capacity shall not render necessary a reexamination or reapproval.

(d) A form of voting machine not approved cannot be used at any election.

~~(e) The state board shall make the examination at the State Capitol Building in Little Rock.~~

SECTION 11. Arkansas Code § 7-5-504, as amended by Act 654 of 2005, is amended to read as follows:

7-5-504. Machine specifications.

No make of voting machines shall be approved for use unless it is so constructed that:

(1) It will ensure secrecy to the voter in the act of voting;

(2) It shall provide facilities for voting for or against as many questions as may be submitted;

(3) It shall permit the voter to vote separately for the candidate of his or her choice for each office or position to be voted upon and to vote separately on each issue to be decided by election;

(4) It shall permit the voter to vote for as many persons for an office for whom he or she is lawfully entitled to vote, but no more;

(5) It shall prevent the voter from voting for the same candidate or question more than once;

(6) It shall permit the voter to verify in a private and independent manner the votes selected by the voter on the ballot before the ballot is cast;

(7) It shall provide the voter with the opportunity in a private and independent manner to change the ballot or correct any error before the ballot is cast;

(8) It shall include a voter-verified paper audit trail, except as provided under § 7-5-301(b);

(9) If the voter is legally entitled to select only one (1) candidate for an office but the voter selects more than one (1) candidate for the office, it shall notify the voter before the ballot is cast that he or she has selected more than one (1) candidate for the office on the ballot, notify the voter of the effect of casting multiple votes for the office, and provide the voter with the opportunity to correct the ballot before the ballot is cast;

~~(6)~~(10) It shall permit the voter to vote for or against any question on which he or she may have the right to vote, but no other;

~~(7)~~ When used in primary elections, it shall be so equipped that the election officials can lock out all candidate counters except those of the voter's party by a single adjustment on the outside of the machine;

~~(8)~~(11) It shall be so equipped and constructed that at all elections all unused vote indicators or devices may be effectively locked out ~~against use~~ It shall be capable of being programmed to display for voting

purposes only the voter's proper ballot;

~~(9)~~(12) It shall correctly register and record and accurately count all votes cast for any and all persons and for or against any and all questions;

~~(10)~~(13) It shall be provided with a ~~protective counter or tabulator or protective devices~~ device to prevent any unauthorized operation of the machine before or after the election;

~~(11)~~(14) It shall be provided with a counter or tabulator which shall show at all times during the election how many persons have voted;

~~(12)~~(15) The machine shall be so equipped and constructed ~~with a lock or locks which cannot so that it can~~ be made ~~inoperative so that after the polls have opened, if at any time for any reason the results are exposed, further operation of the machine will be automatically prevented~~ inaccessible to further voting after the polls have closed and all voters who were in line at the time the polls closed have voted;

~~(13)~~ Each precinct shall be supplied with a mechanical model illustrating the manner of voting on the machine and suitable for the instruction of voters;

~~(14)~~ It will permit a voter to vote for all the candidates for presidential electors of any party by one (1) operation;

~~(15)~~(16) It ~~will~~ shall permit a voter to vote in any election for any person for whom he or she wishes to vote when the person's name does not appear upon the voting machine;

~~(16)~~(17) It bears a number that will distinguish it from any other machine;

~~(17)~~(18) It shall be provided with a ~~lighting device which shall give sufficient light to enable voters while voting to read the ballots and which shall be suitable for use by the commissioners or committee in examining the counters or tabulators, and it shall be provided with a screen, hood, or curtain~~ partition which shall be so made and adjusted as to conceal the voter while voting allow the voter to vote a secret ballot;

~~(18)~~(19) It may be either manually or electrically operated. An electric machine ~~must~~ shall be capable of being operated either manually or from an alternate power source should the need arise;

~~(19)~~(20) The frames in which ballot labels are placed shall be constructed with transparent protective devices in order that the names thereon cannot be mutilated or altered It shall permit voters with disabilities to vote unassisted if they so desire; and

~~(20)~~(21) It may be equipped with a device which embosses, prints, or photographs the numbers registered on the counters. The device shall produce a proof sheet prior to the opening of the polls to provide accurate proof of machine setup and a return record in a minimum of three ~~(3)~~ copies which provides totals for each candidate, question, amendment, and public counter, and the serial number of the machine It shall be:

(A) Qualified by the National Association of State Election Directors or another authorized federal agency;

(B) Approved by the State Board of Election Commissioners;
and

(C) Selected by the Secretary of State; and

~~(21)~~(A) If the machine is a direct read electronic voting machine, it shall include a voter verified paper audit trail as provided under § 7-5-532.

SECTION 12. Arkansas Code § 7-5-505 is repealed.

~~7-5-505. Guarantee and supervisory personnel required.~~

~~The State Board of Election Commissioners or the county board of election commissioners shall purchase or procure no voting machines unless the party selling them shall guarantee, in writing, the machines for a period of five (5) years and provide personnel for supervision and training of county personnel for at least two (2) elections, one (1) primary and one (1) general.~~

SECTION 13. Arkansas Code § 7-5-506 is repealed.

~~7-5-506. Purchase by sealed bid — Uniformity of machines.~~

~~(a) Machines shall be bought on sealed bids with consideration given for price, quality, and adaptability to Arkansas ballot requirements. The machines must be of a type approved by the State Board of Election Commissioners.~~

~~(b) All machines in any county or city must be of the same type, except as otherwise provided by law.~~

SECTION 14. Arkansas Code § 7-5-507 is amended to read as follows:

~~7-5-507. Shipment — Demonstration - Assistance in operating machine.~~

~~(a) The companies that obtain contracts to sell mechanical voting machines shall ship the machines to the county board of election commissioners of the county in which the machines are to be used, with the cost of shipment to be borne by the manufacturer.~~

~~(b)(a)~~ The manufacturer shall, prior to the first election at which the machines are placed in use, demonstrate the machine to the election officials. The date for the demonstration shall be set by the county board.

~~(c)(b)~~ On the date of the first election at which voting machines are used, manufacturers shall make employees available in each county where the machines are in operation to assist the county board in any manner that will expedite voting and provide efficient operation of voting machines. After the first election, the county board shall obtain the assistance needed in operating the machines, and the county board shall collect and pay expenses for this assistance as it would for any other election cost.

~~(d) The county board shall have complete control and supervision of machines at all elections.~~

SECTION 15. Arkansas Code § 7-5-508 is repealed.

~~7-5-508. Custody and use of machines — Costs.~~

~~(a) The county board of election commissioners shall have the care and custody of all machines while not in use and during elections for which they are responsible. Voting machines, when provided to any county or city, shall be used at any and all elections and primary elections, municipal, county, district, or state, held in that county, or any part thereof, designated for voting, registering, and counting votes. The authority charged with holding the election shall be responsible for the proper preparation, use, maintenance, and care of the machines during the period of time required for that election.~~

~~(b) The cost of preparing voting machines for all elections at which~~

~~they are to be used, excluding primary elections, including the cost of all necessary supplies and technical assistance required in preparing the machine and the cost of transporting voting machines to and from the polling sites in each county, shall be paid from the county general fund by the county in which the machines are used.~~

SECTION 16. Arkansas Code § 7-5-509 is amended to read as follows:
7-5-509. Machines used for demonstration.

(a) ~~Where voting machines are to be used, the~~ The county board of election commissioners may designate suitable times and places where voting machines shall be exhibited for the purpose of giving instructions in their use to all voters who apply for instruction.

(b) At least one (1) machine for demonstration purposes shall, when practical, be placed in each precinct not more than twenty-five (25) days nor less than ten (10) days before each election. The location of voting machines for demonstration shall be in accessible public buildings. The voting machines used for demonstration shall ~~contain ballot labels~~ display sample ballots showing the title of offices to be filled and, as far as practicable, the names of the candidates in the next election.

(c) No voting machine which is to be assigned for use in any election shall be used for instruction after having been prepared and ~~sealed~~ secured for the election. Machines shall not be used for demonstration purposes during the time that the polls are open on election day or if the demonstration shall in any way interfere with the proper adjustment, ~~sealing~~ securing, or use of the machine in the election.

SECTION 17. Arkansas Code § 7-5-511 is repealed.

~~7-5-511. Ballot label — Definition — Form — Contents.~~

(a) ~~The portion of cardboard, paper, or other material placed on the front of the machine containing the names of the candidates, a statement of a proposed constitutional amendment, or other question or proposition to be voted on shall be known as a "ballot label".~~

(b) ~~The ballot label shall be printed and furnished by the county board of election commissioners in all elections. It shall be printed in dark ink in plain and clear type on clear white material of a size that will fit the machine. Office titles may be printed in red.~~

(c) ~~Where voting machines are used in primary elections where more than one (1) party is voting, political parties may be distinguished by the use of differently colored labels. The party name or other designation shall be prefixed to the list of candidates of every party.~~

(d) ~~In general and primary elections the names of unopposed justices of the peace shall be listed on the ballot together as "UNOPPOSED JUSTICE OF PEACE", and one (1) vote indicator or device shall be used to cast a vote for all.~~

(e) ~~In all party primaries, the names of all candidates for nomination to the same office or position shall be listed on the voting machine ballot label, as defined in this section, as follows:~~

(1) ~~If the voting machine is adapted to the listing of offices or positions in horizontal lines, the names of all candidates for nomination to the same office or position shall be listed on the voting machine ballot label in a single vertical line;~~

(2) ~~If the voting machine is adapted to listing offices or~~

~~positions in vertical lines, the names of all candidates for nomination to the same office or position shall be listed on the ballot label in a single horizontal line; and~~

~~(3) All such names shall be of the same size print.~~

~~(f) In all general and special elections, the names of all candidates for the same office or position shall be listed on the voting machine ballot label, as defined in this section, as follows:~~

~~(1) If the voting machine is adapted to the listing of offices or positions in horizontal lines, the names of all candidates for the same office or position shall be listed on the voting machine ballot label in a single vertical line with the names of all nominees of each political party and all independent candidates grouped together on the same respective horizontal lines;~~

~~(2) If the voting machine is adapted to listing offices or positions in vertical lines, the names of all candidates for the same office or position shall be listed on the ballot label in a single horizontal line with the names of all nominees of each political party and all independent candidates grouped together on the same respective vertical lines; and~~

~~(3) All such names shall be of the same size print.~~

SECTION 18. Arkansas Code § 7-5-512 is amended to read as follows:

7-5-512. Certification of ~~label~~ ballot styles - Equipment furnished to polling sites.

~~(a) In all elections whether state, district, or municipal, wherein voting machines are used, it~~ It shall be the duty of the county board of election commissioners to prepare and certify the ballot ~~label~~ styles ~~to be used in for~~ the voting machine.

~~(b) In addition, it shall furnish the following paraphernalia for each polling site:~~

~~(1) Two (2) or more diagrams or sample ballot labels~~ ballots of suitable legible size representing the part of the face of the voting machine for each ballot style that will be in use in the election and accompanied by illustrated directions for voting on the machine. The ~~diagrams~~ sample ballots and directions shall be posted prominently ~~outside the enclosed space~~ within the polling site; and

~~(2) An envelope for keeping the keys to the machine during the election, for the return of the keys, and such other~~ Any election materials and supplies as may be necessary, or as may be required by law; ~~and~~

~~(3) Suitable tabulation blanks as a substitute for the or tally sheets provided for in elections where voting machines are not used.~~

~~(c) This equipment~~ The voting machine shall be delivered by the county board to the election officials at each polling site.

~~(d) The county board of election commissioners shall supply each precinct with clear, written instructions suitable for the instruction of voters illustrating the manner of voting on the machine.~~

SECTION 19. Arkansas Code § 7-5-513 is amended to read as follows:

7-5-513. Machine breakdown - Delivery of ballot materials.

The county board of election commissioners in any county in which voting machines are to be used shall be ready at any time on election day to deliver to any precinct in the county, town, or city ballots, ballot boxes, replacement voting machines if available, or other necessary equipment

required by law for voting ~~by paper ballot~~, upon notice that any voting machine is out of order or fails to work.

SECTION 20. Arkansas Code § 7-5-515 is amended to read as follows:

7-5-515. Preparation of machines for election.

(a) Immediately upon the proper certification of candidates and questions ~~for any general election~~, the county board of election commissioners shall prepare the voting machines, ~~put them in order, insert the proper ballot labels~~ oversee their programming, and test and adjust the voting machines for the election. ~~In preparing the machines, the county board must lock out against use on each machine the vote indicators or other devices which will not be used in the election.~~

(b) In performing this function, the county board may be assisted by ~~mechanics or~~ experts appointed or employed by the county board.

~~(c) [Repealed].~~

(c)(1) At least five (5) days prior to the election day, the county board, with respect to all elections, shall have the machines tested to ascertain that the voting system will correctly count the votes cast for all offices on all measures.

(2) Public notice of the time and place of the test shall be given at least forty-eight (48) hours prior to the test by publication one (1) time in one (1) or more daily or weekly newspapers published in the town, city, or county using the machines if a newspaper is published in the town, city, or county.

(3) The test shall be open to representatives of the political parties, candidates, media, and the public.

(4) The test shall be conducted by processing a preaudited group of test ballots that are to be voted on the machines so as to record a predetermined number of valid votes for each candidate and on each measure. The test shall include for each office one (1) or more ballots which have votes in excess of the number allowed by law in order to test the ability of the machines to reject the votes.

(5) If any error is detected, the cause shall be ascertained and corrected and an errorless count shall be made before the machine is approved.

(d) After completion of the test, the ballots and programs used shall be sealed, retained, and disposed of as provided by law.

(e) After completion of the test, the county board of election commissioners shall certify the accuracy of the voting system and file the test results with the county clerk.

SECTION 21. Arkansas Code § 7-5-517 is amended to read as follows:

7-5-517. ~~Locking and sealing of~~ Securing machines—Keys - Certification.

(a) When a voting machine has been properly prepared by the county board of election commissioners and examined by the representatives of the candidates or the candidate himself or herself, it shall be ~~locked against~~ made inaccessible to voting and sealed with a numbered seal.

(b) ~~The keys~~ Any device required to activate the machine shall be placed in ~~an envelope~~ a package on which shall be written the serial number and the precinct location of the voting machine, ~~the number of the seal,~~ and the number registered on the protective counter or device, and the ~~envelope~~

package shall be sealed in the presence of the representatives of the candidates or the candidates themselves.

(c) The county board of election commissioners shall then, in the presence of the candidates or their representatives, certify as to the serial numbers of the machines, that all ~~of the public candidate and~~ question counters are set at zero (000), and as to the ~~number of the seal and the~~ number registered on the protective counter of the machine.

(d) ~~The envelope holding the keys~~ Any activator pack or device required for voting on the voting machines shall be kept by the county board until turned over for delivery to the election officials with the election equipment at the polling site ~~on~~ for election day.

SECTION 22. Arkansas Code § 7-5-518 is amended to read as follows:

7-5-518. Machines ~~locked~~ inactivated until polls open - Adjustment of counters.

(a) The voting machine shall remain ~~locked~~ inactivated against voting until the polls are formally opened and shall not be operated except by voters for voting.

(b)~~(1)~~ If any counter or tabulator ~~except the protective counter~~ is found not to register zero (000), the election officials shall immediately notify the county board of election commissioners, who shall, ~~if practicable,~~ cause the counters to be adjusted at zero (000).

~~(2) If it shall be impractical to readjust the counters before the time set for opening the polls, the election officials shall immediately make a written statement of the designating letter and number on each counter, together with the number registered, and shall post it upon the walls of the polling room, where it shall remain throughout the election day. In filling out the tabulation sheets, they shall subtract that number from the number then registered.~~

(c)~~(1)~~ If the machine is provided with a device for embossing, printing, or photographing candidate and question counters, thereby producing a "return record" of total votes cast, in lieu of opening the counter compartment door, ~~the~~ The election officials shall ~~proceed to operate the mechanism provided to produce one (1) "before election proof sheet" printout from each machine~~ showing whether the candidate and question counters register zero (000) and shall sign ~~the prescribed certificate and post the proof sheet printout~~ upon the wall of the polling room, where it shall remain throughout the election day. ~~In completing the return record, they shall subtract that number, if any, from the number then registered.~~

(2) The certified printout shall be filed with the election returns.

SECTION 23. Arkansas Code § 7-5-519 is repealed.

~~7-5-519. Unlocking machine for vote - Custody of keys.~~

~~When the machine has been unlocked and opened for voting, the keys shall be placed in the envelope provided. The envelope shall then be sealed and signed by each of the election officials. The keys shall not be used during the election except in an emergency, and then only under supervision of the county board of election commissioners. The envelope shall be kept with the other election equipment at the polling site.~~

SECTION 24. Arkansas Code § 7-5-520 is amended to read as follows:

~~7-5-520. Voter instruction using mechanical model~~ Instructions for voters using voting machines.

~~The mechanical demonstrator model, during the election, shall be located on the election officials' table. Each~~ During the election, each voter shall, before ~~entering the machine voting,~~ be instructed regarding ~~it's the operation of voting machines and such instructions illustrated on the model, and the voter shall be given the opportunity to operate the model.~~ The voter's attention shall also be called to the ~~diagram of the face of the machine sample ballot,~~ so that the voter shall become familiar with the ~~locations of the questions, the names of the offices, and the names of the candidates.~~

SECTION 25. Arkansas Code § 7-5-521 is amended to read as follows:

7-5-521. Arrangement of polling place.

(a) The exterior of the voting machine and every part of the polling place shall be in plain view of the election officials.

(b) The machine shall be placed so that no person can see or determine how the voter casts his or her vote ~~and so that no person can see or determine from the outside of the room how the voter casts his vote.~~

(c) After the opening of the polls, the election officials shall not allow any person to pass to the part of the room where the machine is situated, except for the purpose of voting.

SECTION 26. Arkansas Code § 7-5-522 is amended to read as follows:

7-5-522. Voting procedure.

(a)(1) Where a voter presents himself or herself for the purpose of voting, the election officials shall ascertain whether he or she is properly qualified and registered pursuant to § 7-5-305.

(2) In preparing the machines, the election official shall ensure that each voter will have access only to the proper ballot.

(b) Only one (1) voter at a time shall be permitted to ~~enter~~ approach a voting machine ~~booth~~. Having cast his or her vote, the voter shall at once ~~emerge from the booth~~ move away from the voting machine and leave the polling room by the exit provided.

~~(c) No voter shall remain in the voting booth longer than five (5) minutes if voters are waiting in line. If voters are waiting in line, it shall be the duty of the election officials to require the voter to leave the voting booth after five (5) minutes have elapsed. If any voter fails to leave the booth after having been notified that five (5) minutes have elapsed, the election officials shall cause him to be removed by police, peace officer, or bailiff if necessary.~~

~~(d)(c) No voter after having emerged from~~ left the voting machine ~~booth~~ shall be permitted to ~~reenter it on any pretext whatever~~ return to the voting machine except to complete the voting process.

SECTION 27. Arkansas Code § 7-5-523 is amended to read as follows:

7-5-523. Assistance to ~~disabled~~ voters with disabilities.

(a)(1) A voter shall inform the election officials at the time that the voter presents himself or herself to vote that the voter is unable to cast his or her ballot by voting machine because the voter cannot read or write or because of physical, sensory, or other disability or other legal cause, or that he or she is unable to complete the ballot without help and

needs the assistance of some other person in casting his or her ballot. That voter may be assisted by:

- (A) Two (2) election officials; or
- (B) A person named by the voter.

(2) If the voter is assisted by two (2) election officials, one (1) of the election officials shall observe the voting process and one (1) may assist the voter in operating the machine so as to vote the ballot in accordance with the wishes of the voter without comment or interpretation ~~and shall be permitted to keep the curtain closed no longer than five (5) minutes.~~

(3) If the voter is assisted by one (1) person named by the voter, he or she may assist the voter in operating the machine so as to vote the ballot in accordance with the wishes of the voter without comment or interpretation ~~and shall be permitted to keep the curtain closed no longer than five (5) minutes.~~

(4) The laws of this state with respect to assisting persons with disabilities in the casting of votes upon printed ballots shall govern, insofar as is practicable, the assistance of a voter in casting his or her ballot by voting machine.

(5) It shall be the duty of the election officials at the polling site to make and maintain a list of the names of all persons assisting voters.

(b) A voter with a disability who requests to cast his or her ballot on a voting machine without assistance shall be provided with an audio or other device that shall be used in conjunction with the voting machine so that the voter may cast a secret ballot without assistance.

~~(b)(c)~~ Any voter who because of physical, sensory, or other disability who presents himself or herself for voting by voting machine and who then informs election officials at the polling site that he or she is unable to stand in line for extended periods of time shall be entitled to be assisted by an election official to advance to the head of any line of voters then waiting in line to vote at the polling site.

SECTION 28. Arkansas Code § 7-5-525 is amended to read as follows:
7-5-525. ~~Irregular or write-in~~ Write-in ballots votes.

(a) ~~Ballots voted~~ Votes for any person whose name does not appear on the voting machine as a qualified candidate for office are referred to in this section as ~~irregular or write-in ballots votes~~.

(b)(1) ~~The irregular or write in ballots shall be deposited, written, or affixed in or upon the device provided upon the machine for that purpose. An irregular or~~ The voting machine shall be programmed to allow a voter to enter the name of a qualified write-in candidate on the ballot.

(2) A write-in ballot vote must shall be cast in the appropriate place on the machine ballot, or the ballot vote for that candidate shall be void and not counted.

(c) ~~Irregular or write-in~~ Write-in ballots votes shall not be counted in primary elections.

SECTION 29. Arkansas Code § 7-5-526 is amended to read as follows:
7-5-526. Closing of polls - ~~Locking~~ Securing machines - Election officials' certificate.

(a) At the official time for closing the polls and upon termination of

the voting, the election officials shall announce that the polls have closed and shall ~~lock the machine or machines against~~ remove the activation packs or devices from the voting machines to make them inaccessible to further voting in the presence of all persons authorized to be present.

(b) At the same time, the election officials shall sign a certificate provided by the county board of election commissioners stating that the machines were ~~locked and sealed~~ made inaccessible to further voting and giving the exact time, and the number of votes shown on the public counters ~~which shall be the total number of votes cast on the machines in the particular precinct, the number on the seal, and the number registered on the protective counters.~~

SECTION 30. Arkansas Code § 7-5-527 is amended to read as follows:

7-5-527. Exposure of count - ~~Tabulation~~ - Verification - Return Record - Official signatures.

(a)~~(1)~~ The election officials shall then expose the count in the presence of all persons authorized to be present.

~~(2) The election officials or the one (1) of them who has been selected by the others to preside shall read in the order in which the office or questions are arranged on the machine, and announce in a loud and audible voice the indicated number on each counter for each candidate's name and the totals as shown by the counter numbers.~~

~~(3) In the same manner, he shall announce the results on each question that may have been up for vote.~~

~~(4) The vote, as so registered, counted, and tabulated, shall be entered on the proper tabulation blanks in ink by the election officials. The entries shall be made in the same order in the space provided next to the name, officer, or question voted on.~~

~~(5) The figures shall again be verified by being called off in the same manner from the counters of the machine by an election official of the minority party at that particular precinct.~~

(b) It is the intention of this section to accord a full, complete, and public view of the result of the election count from each voting machine to all election officials and designated watchers for the candidates or parties.

(c)(1) ~~If the machine is provided with a device for embossing, printing, or photographing candidate and question counters, it shall not be necessary to open the doors concealing the counters.~~

~~(2) The election official shall proceed to operate the mechanism to produce the return record in a minimum of three (3) copies, remove the write in sheet, if any, and record write in votes on the return record. The write in sheet shall be attached to the return record and become a part thereof.~~

~~(3)(2)(A) The return record shall be deemed the official statement of canvass count for that machine.~~

(B) One (1) copy of the completed return record for that machine shall be posted upon the wall of the polling room for all to see.

~~(4) In a precinct with one (1) machine, the return record shall constitute the tabulation sheet.~~

~~(5) In a precinct with more than one (1) machine, the tabulation sheet shall be completed as prescribed in this section, and one (1) return record for each machine shall be attached thereto and become a part of the~~

~~tabulation sheet.~~

(d) The election officials shall sign the ~~tabulation blanks or~~ machine return record produced by the device.

~~(e)(1) The counter compartments of the voting machines shall remain open throughout the time of the making of all statements and certificates. The activation pack or device used to collect votes from each voting machine and all certified return records shall be placed in a package that shall be sealed and signed by all the election officials and any watchers that may desire to affix a signature.~~

~~(2)(A) The sealed package shall be immediately returned to the county board of election commissioners by one (1) of the election officials selected for this purpose, accompanied by those of the other election officials and watchers who desire to join the election official.~~

~~(B) The election official shall obtain a receipt for the sealed package.~~

~~(f) The signing of the precinct voter registration list and all the other matters necessary shall be done as provided by law for elections where voting machines are not used.~~

SECTION 31. Arkansas Code § 7-5-529 is amended to read as follows:

~~7-5-529. Machine locked after tabulation - Certificates, keys, etc.~~
Tabulation of returns.

~~(a) After tabulation of the count, the doors of the voting machines shall be locked, sealing the operating levers of the machines so that the voting and counting mechanisms will be prevented from further operation. The county board of election commissioners shall compile countywide totals from the activation pack or device used to collect votes from each voting machine.~~

~~(b) All tabulation blanks, certificates, and statements shall be forwarded or delivered to the proper officials as is provided by law. Prior to certification of the official election results, the county board of election commissioners shall manually compile countywide totals from the polling location's certified return records and verify that they match the electronically derived totals from the activation pack or device used to collect votes from each machine.~~

~~(c) The keys of the voting machines shall be placed in an envelope which shall be sealed and signed by all of the election officials and any watchers that may desire to affix a signature. One (1) of the election officials selected for this purpose, accompanied by those of the other election officials and watchers who so desire, shall deliver to the county board of election commissioners the envelope containing the keys, obtaining a receipt for it.~~

SECTION 32. Arkansas Code § 7-5-530 is amended to read as follows:

~~7-5-530. Machines released to officials - Impounding upon election contest or recount.~~

~~(a) Immediately after the completion of the tabulation of the returns and the sealing securing of the voting machines, the machines shall be released to the proper officials designated by the county board of election commissioners.~~

~~(b) Upon the return of the voting machines, the county board of election commissioners shall produce an audit log from each machine used in the election.~~

~~(b)~~(c) In the event that there is an election contest filed, the judge of the court that has jurisdiction may order the county sheriff to impound the machines audit logs and the voter-verified paper audit trail alleged in the contest to be in question, and the sheriff shall take them into his custody and store them in a place under lock and key awaiting further orders of the court.

~~(e)~~(d) In the event that any candidate in any election in which the machines have been utilized or any voter who questions the count of any question posed at any election gives written notice to the county board that he or she desires a recount ~~of certain machines and so designates the machines in his written notice~~, then the applicable county board shall designate the sheriff of the county to so place ~~those questioned machines~~ the audit logs and voter-verified paper audit trails in his or her custody and store them in a place to which only he or she shall have access awaiting further orders of the applicable county board or court.

SECTION 33. Arkansas Code § 7-5-531 is amended to read as follows:

7-5-531. Retention of audit data -- Machines to remain ~~sealed~~ secured until results are certified except on court order.

(a) All audit logs and voter verified paper audit trails produced by a voting machine shall remained secured for a period of two (2) years.

(b)(1) All voting machines used in any election shall remain locked and sealed until the election results are certified unless the machines are ordered opened and the seals broken sooner, secured for a period of at least three (3) days following the election unless the machines are ordered to be activated sooner by and on the authority of an order of a court of competent jurisdiction, in the event that the issue of the election should be in judicial controversy.

(2) Should no order be entered, it shall be the duty of the county board of election commissioners to ~~break the seals and open the machines immediately~~ clear the machines for future elections after the results of the election have been certified.

SECTION 34. Arkansas Code § 7-5-601 is amended to read as follows:

7-5-601. Purpose.

The purpose of this subchapter is to authorize the use of electronic ~~voting systems~~ vote tabulating devices in which the voter records his or her votes by means of marking or punching one (1) or more vote cards, which are ~~so~~ a paper ballot which is so designed that votes may be counted by data processing machines an electronic scanner at one (1) or more counting places. ~~In the enactment of this subchapter, the General Assembly recognizes that existing laws authorize the use of paper ballots or voting machines in elections of this state and that it is not the intention of this subchapter to repeal or modify any of those laws. It is the purpose of this subchapter to establish a~~ This method of marking vote cards and ballots and electronically tabulating election results which shall be in addition to and supplemental to the existing systems of voting by paper ballot, or by voting machines as defined in Act 53 of 1963 [repealed].

SECTION 35. Arkansas Code § 7-5-603 is amended to read as follows:

7-5-603. Penalty.

Persons violating the provisions of this subchapter shall be subject to

the same fine and imprisonment as is provided by law for violating the comparable provisions of the laws of this state regarding voting by ~~paper ballot~~ other voting methods.

SECTION 36. Arkansas Code § 7-5-604 is amended to read as follows:
7-5-604. Authorization - Election laws applicable.

(a) ~~Electronic voting~~ Voting systems that include electronic vote tabulating devices may be used in elections, provided that the systems ~~enable the voter to cast a vote in secrecy for all offices and all measures on which he is entitled to vote and that the automatic tabulating equipment may be set to reject all votes for any office or measure when the number of votes therefor exceeds the number which the voter is entitled to cast or when the voter is not by law entitled to cast a vote for the office or measure~~ shall:

(1) Enable the voter to cast a vote in secrecy;

(2) Enable the voter to vote for all offices and measures on which he or she is entitled to vote;

(3) Permit the voter to verify in a private and independent manner the votes selected by the voter on the ballot before the ballot is cast;

(4) Provide the voter with the opportunity in a private and independent manner to change the ballot or correct any error before the ballot is cast;

(5)(A) Notify the voter that he or she has selected more than one (1) candidate for the office, notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office, and provide the voter with the opportunity to correct the ballot before the ballot is cast if the voter is legally entitled to select only one (1) candidate for an office but the voter selects more than one (1) candidate for the office.

(B) Electronic vote tabulating devices used to cast and count votes at the polling place shall be programmed to reject ballots containing overvotes as described in this section.

(C) When votes are cast at polling places and are to be counted by hand or at the courthouse or other central counting location, the county board of election commissioners shall provide a voter education program to inform the voters:

(i) Of the effect of casting multiple votes for an office; and

(ii) How to correct the ballot before it is cast, including, but not limited to, instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error;

(6)(A) Notify the voter that the voter has selected more than the allowed number of candidates for the office on the ballot, notify the voter before the ballot is cast and counted of the effect of casting more than the allowed number of votes for that office, and provide the voter with the opportunity to correct the ballot before the ballot is cast if the voter is legally entitled to select multiple candidates for an office but the voter selects more than the number of candidates he or she is legally entitled to select.

(B) Electronic vote tabulating devices used to cast and count votes at the polling places shall be programmed to reject ballots

containing overvotes as described in this section.

(C) When votes are cast at polling places and are to be counted by hand or at the courthouse or other central counting location, the county board of election commissioners shall provide a voter education program to inform the voters:

(i) Of the effect of casting more votes than the voter is legally entitled to cast for an office; and

(ii) How to correct the ballot before it is cast, including, but not limited to, instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error;

(7) Permit the voter to vote:

(A) At any election for all persons and officers for which he or she is lawfully entitled to vote and no others;

(B) For as many persons for an office as he or she is entitled to vote for;

(C) For or against any question upon which he or she is entitled to vote; and

(D) By means of a single device, if authorized by law, for all candidates for one (1) party or to vote a split ticket as he or she desires;

(8) Permit the voter, by one (1) mark to vote for the candidates for that party for president, vice-president, and their presidential electors at presidential elections;

(9) Generate a printed record at the beginning of its operation which verifies that the tabulating elements for each candidate position and each question and the public counter are all set to zero (000); and

(10) Generate a printed record at the finish of its operation of the total number of voters whose ballots have been tabulated, the total number of votes cast for each candidate whose name appears on the ballot, the total number of votes cast for or against any question appearing on the ballot, and the total number of undervotes and overvotes by contest.

(b) So far as applicable, the procedures provided by law for voting by other means and the conduct of the election in regard thereto by the election officials, not otherwise inconsistent with this subchapter, shall apply to the system of ~~electronic voting and~~ vote tabulation as authorized in this subchapter.

SECTION 37. Arkansas Code § 7-5-605 is repealed.

~~7-5-605. Adoption by ordinance — Costs.~~

~~(a) Electronic voting systems, authorized as set forth in this subchapter, may be acquired and used in any election conducted in a municipality or county upon the adoption of an ordinance by the governing body of the municipality or the quorum court of the county.~~

~~(b) The costs of using electronic voting systems at all general and special elections, including costs of supplies, technical assistance, and transportation of the systems to and from polling places, shall be paid by the municipality or county in which the systems are used from the municipal or county general funds or from such other source of public funds as may be available.~~

SECTION 38. Arkansas Code § 7-5-606 is amended to read as follows:

7-5-606. Approval of equipment - Specifications.

(a) The State Board of Election Commissioners may promulgate rules for the administration of this subchapter and shall approve the marking devices and ~~automatic tabulating equipment used in electronic voting systems~~ vote tabulating devices.

(b)(1) Any person or company wishing to exhibit marking devices and ~~automatic tabulating equipment used in electronic voting systems~~ vote tabulating devices, hereinafter referred to in this section as "~~devices and systems~~", may file written application with the ~~Secretary of State~~ Board of Election Commissioners and request an opportunity to exhibit and demonstrate devices and systems.

(2) The state board shall ~~meet annually on the Tuesday after the first Monday in April for the purpose of reviewing devices and systems if a written application shall have been received by the Secretary of State, at least fifteen (15) days prior to the date of the meeting, in writing by ordinary mail addressed to each member of the board and to each person or company applying to exhibit and demonstrate any device or system~~ examine the electronic vote tabulating device and file a report in the office of the Secretary of State of its accuracy, efficiency, and capacity.

(3) ~~After reviewing each device and system demonstrated, the state board shall, by majority action of the membership of the state board, make a determination as to whether the device and system comply with the provisions of this subchapter and with the rules promulgated by the state board pursuant to this subchapter. The state board shall either approve or reject each device and system and file a report of the action, in writing, with the Secretary of State. The report shall be filed with the Secretary of State within ten (10) days following an annual meeting. A copy shall be furnished, upon written request, to each person or company whose device or system was exhibited and demonstrated to the state board.~~

~~(4)~~(3) If the state board shall reject any device or system, the reasons shall be stated in the report filed with the Secretary of State.

~~(5)~~(4) Any person or company aggrieved by any finding or ruling of the state board may appeal to the Circuit Court of Pulaski County within sixty (60) days from the date the report of the state board is filed with the Secretary of State.

(c) After any device ~~or system shall have~~ has been approved, it shall not be necessary that it be exhibited and approved again by the state board unless there shall be a change or modification in the device ~~or system~~ which renders it incapable of marking ~~vote cards~~ ballots or tabulating votes in the same method of procedure approved by the state board.

(d) ~~Any device or system~~ Electronic vote tabulating devices not approved by the state board may not be used in any lawful election in this state.

(e) No marking device or ~~automatic tabulating equipment~~ electronic vote tabulating device shall be approved unless it fulfills the ~~following~~ requirements of this section and the federal Help America Vote Act of 2002+.

(1) ~~It shall permit and require voting in absolute secrecy;~~

(2) ~~It shall permit each elector to vote at any election for all persons and officers for whom and for which he is lawfully entitled to vote, and no others; to vote for as many persons for an office as he is entitled to vote for; to vote for or against any question upon which he is entitled to vote; and to vote by means of a single device, if authorized by law, for all~~

~~candidates for one (1) party or to vote a split ticket as he desires;~~

~~(3) It shall permit each elector, at presidential elections, by one (1) punch or mark to vote for the candidates of that party for president, vice president, and their presidential electors;~~

~~(4) It shall comply with all other requirements of the election laws of this state so far as they are applicable and with the rules promulgated by the state board which are in furtherance of the purposes of this subchapter.~~

SECTION 39. Arkansas Code § 7-5-607 is amended to read as follows:
7-5-607. Arrangement of polling place.

In precincts where an electronic ~~voting system~~ vote tabulating device is used, sufficient space shall be provided for the use of the ~~system device~~, and it shall be arranged in such a manner as to assure secrecy in voting.

SECTION 40. Arkansas Code § 7-5-608 is amended to read as follows:
7-5-608. Sample ~~voting materials~~ ballots.

~~The officials charged with the duty of providing ballots, vote cards, or candidate and issue labels for any polling site shall provide therefor sample ballots, vote cards, or candidate and issue labels which shall be exact copies of the official ballots, vote cards, and candidate and issue labels which are caused to be printed by them. These materials shall be arranged in the form of a diagram showing the print of the marking device as it will appear after the ballots are arranged therein for voting on election day. The example materials Sample ballots, marked with the word "Sample", shall be posted by the election officials in a conspicuous place in the voting room and shall be there open to public inspection during the whole of election day.~~

SECTION 41. Arkansas Code § 7-5-609 is amended to read as follows:
7-5-609. ~~Voting materials~~ — Spoiled ~~vote cards~~ ballots.

~~(a) Whether placed on the candidate and issue label or on the marking device, voter information shall, as far as practicable, be in the order of arrangement provided by law for paper ballots except that the information may be in vertical or horizontal rows, or in a number of separate pages.~~

~~(b) Vote cards and candidate and issue labels for all questions must be provided in the same manner and must be arranged on or in the marking device in the places provided for that purpose.~~

~~(c) Any voter who spoils his vote card his or her ballot or makes an error may return it to the election officials and secure another, not to exceed three (3) in all.~~

SECTION 42. Arkansas Code § 7-5-610 is amended to read as follows:
7-5-610. Write-in ballots.

~~Where necessary, a separate write-in ballot, which may be in the form of a paper ballot, card, or envelope in which the elector places his vote card after voting, shall be provided in In all elections to in which write-in candidacies are allowed, the ballot shall permit electors to write in the names of persons who have qualified as write-in candidates and whose names are not on the ballot ~~or candidate and issue labels~~.~~

SECTION 43. Arkansas Code § 7-5-611 is amended to read as follows:

7-5-611. Preparation of ~~equipment~~ electronic vote tabulating devices -
Test - Disposition of voting materials.

(a)(1) The county board of election commissioners with respect to all elections, shall cause the ~~marking devices to be put in order, set, adjusted, and made ready for voting when delivered~~ electronic vote tabulating devices used for voting to be properly programmed and tested before delivery to the election precincts.

~~(b) Before the opening of the polls, the election officials shall compare the candidate and issue labels used in the marking device with the sample ballots furnished, shall see that the names, numbers, and letters thereon agree, and shall certify thereto on forms provided for this purpose. The certification shall be filed with the election returns.~~

~~(c)(1)(2)~~ Within At least five (5) days prior to the election day, the county board with respect to all elections, shall have the ~~automatic tabulating equipment~~ electronic vote tabulating devices tested to ascertain that the ~~equipment~~ devices will correctly count the votes cast for all offices and on all measures.

~~(2)(3)~~ Public notice of the time and place of the test shall be given at least forty-eight (48) hours prior thereto by publication one (1) time in one (1) or more daily or weekly newspapers published in the town, city, or county using the ~~equipment~~ devices, if a newspaper is published therein.

~~(3)(4)~~ The test shall be open to representatives of the political parties, candidates, the press, and the public.

~~(4)(5)(A)~~ The test shall be conducted by processing a ~~preaudited group of vote cards so punched or predetermined results from a group of ballots~~ marked as to record a predetermined number of valid votes for each candidate and on each measure for each precinct or voting location.

(B) Prior to the start of the test, a printout shall be generated to show that no votes are recorded on the electronic vote tabulating device.

(C) The test shall include for each office one (1) or more ~~vote cards~~ ballots which have votes in excess of the number allowed by law in order to test the ability of the ~~automatic tabulating equipment~~ electronic vote tabulating devices to reject such votes.

~~(5)(6)~~ If any error is detected, the cause shall be ascertained and corrected, and an errorless count shall be made before the ~~automatic tabulating equipment is approved~~ electronic vote tabulating device or devices are certified for use in the election.

~~(d)(7)~~ The test shall be repeated immediately before the start and immediately upon the close of the official count of the votes, in the same manner as set forth above, and may be repeated during the count of votes if the election officials deem it necessary. Upon completion of the testing, the electronic vote tabulating devices shall be cleared of any votes cast during the test.

~~(e)(8)~~ After completion of the count, the programs used, the vote cards, and the candidate and issue labels shall be sealed, retained, and disposed of as provided for paper ballots test, the county board of election commissioners shall certify the accuracy of the voting system and file the test results with the county clerk.

(b)(1) Before the opening of the polls, the election officials shall generate a printout from the electronic vote tabulating device or devices to

verify that the candidates and measures are correct for the location and that no votes are recorded on the electronic vote tabulating device or devices.

(2) The election officials shall sign and post the printout upon the wall of the polling room where it shall remain throughout the election day.

(3) The certified printout shall be filed with the election returns.

SECTION 44. Arkansas Code § 7-5-613 is amended to read as follows:
7-5-613. Counting ~~vote cards~~ ballots and write-in votes.

In precincts where an electronic ~~voting system~~ vote tabulating device is used, as soon as the polls are closed:

~~(1) The election officials shall secure the marking devices against further voting;~~

~~(2)(1) They~~ The election officials shall thereafter open the vote card box and count the number of vote cards or envelopes containing vote cards that have been cast to determine that the number of vote cards does not ~~exceed~~ compare the total number of voters indicated by the electronic vote tabulating device with the list of voters to ensure that the number recorded by the tabulator is the same as the number of voters shown on the list of voters who received ~~vote cards~~ a ballot at the polling site. If ~~there is an excess~~ the totals are different, this fact shall be reported in writing to the county board of election commissioners, with the reasons ~~therefor~~ if known; and

~~(3) The total number of voters shall be entered on the tally sheets;~~

~~(4)(2)~~ The election officials shall count the write-in votes and prepare a return of the votes on forms provided for that purpose; .

~~(5) If vote cards are used, all cards on which write in votes have been recorded shall be numbered serially, starting with the number one (1), and the same number shall be placed on the vote card of the voter; and~~

~~(6) The election officials shall compare the write in votes with the votes cast on the vote cards. If the total number of votes for an office exceeds the number allowed by law, then a notation to that effect shall be entered on the back of the vote cards, and if the votes are to be tabulated at a central location, they shall be returned to the counting location in an envelope marked "defective vote cards". Such invalid votes shall not be counted. So far as applicable, provisions of laws relating to defective paper ballots shall apply to defective vote cards under this subchapter.~~

SECTION 45. Arkansas Code § 7-5-614 is amended to read as follows:

7-5-614. ~~Alternative locations~~ Locations for vote tabulation -
Procedures.

(a)(1) The tabulation of votes of a precinct ~~in which an~~ may be by electronic ~~voting system~~ vote tabulating devices as defined in this subchapter is used ~~may be by automatic tabulating equipment~~ at a central counting location or at the polling ~~site~~ sites.

(2) Provisional ballots and absentee ballots shall be processed and counted at the courthouse or other central counting location in the county.

~~(2)(3)~~ The county board of election commissioners with respect to all elections shall give notice of the location within the county of each

place at which votes will be counted by electronic ~~voting equipment~~ vote tabulating devices, and of the names or numbers of all precincts whose votes will be counted at each location, by posting the notice in a conspicuous place in the county courthouse at least three (3) days prior to each election.

(b) ~~If the votes are to be tabulated~~ For the tabulation of provisional and absentee ballots at a central location beginning on election day:

(1) The election officials shall place all ~~vote cards~~ ballots that have been cast in the container provided for the purpose. This container shall be sealed and delivered to the county board of election commissioners forthwith by the election officials together with the unused, void and defective ~~vote cards and returns~~ ballots; and

(2) All proceedings at the counting location shall be under the direction of at least two (2) election officials named by the county board of election commissioners with respect to all elections. In all elections, when possible, the election officials shall represent the majority party and the minority party.

~~(c) If the votes are to be tabulated at the polling site:~~

~~(1) The election officials shall proceed to tabulate, or direct the tabulation thereof, in the same manner and under the same restrictions as is provided in this section for tabulation by the election officials at a central location so far as is practical.~~

~~(2) All tabulating proceedings shall be under the direction of the election officials at the polling site.~~

~~(3) The equipment used shall have:~~

~~(A) An element which generates a printed record at the beginning of its operation which verifies that the tabulating elements for each candidate position and each question and the public counter are all set to zero (000); and~~

~~(B) An element which generates a printed record at the finish of its operation of the total number of voters whose ballots have been tabulated, the total number of votes cast for each candidate whose name appears on the ballot, and the total number of votes cast for or against any question appearing on the ballot.~~

SECTION 46. Arkansas Code § 7-5-615 is amended to read as follows:

7-5-615. Tabulation of votes - Defective vote cards - Certification of returns.

(a) The counting of votes by electronic vote tabulating equipment devices at the courthouse or other central counting location shall be open to the public, and any candidate or political party may be present in person or by representative designated in writing pursuant to § 7-5-312 ~~and shall have the same right to view the counting as is authorized by law for viewing the counting of paper ballots.~~

(b) No person except those employed and authorized for that purpose shall touch any ~~vote card, vote card container,~~ ballot or return.

(c) The election officials at the counting place and all persons operating the electronic vote tabulating equipment devices shall take the same oath required by law for election officials before entering upon their duties.

(d) If any ~~vote card~~ ballot is damaged or defective so that it cannot properly be counted by the ~~automatic~~ electronic vote tabulating equipment

device, a true duplicate copy shall be made of the damaged ~~vote card~~ ballot in the presence of tabulation election officials if the votes are tabulated at a central location ~~or in the presence of or by the election officials at the polling site if the votes are tabulated at the polling site~~. The duplicate shall be substituted for the damaged ~~vote card~~ ballot. ~~A duplicate vote card shall be made of a defective vote card which shall not include the valid votes~~. All duplicate ~~vote cards~~ ballots shall be clearly labeled "duplicate", ~~shall bear a serial number which shall be recorded on the damaged or defective vote card~~, and shall be counted in lieu of the damaged or defective ~~vote card~~ ballot.

(e) The return printed by the ~~automatic~~ electronic vote tabulating ~~equipment~~ device, to which has been added the return of write-in, early and absentee votes, shall constitute the official return of each precinct. All returns shall be certified by the election officials in charge of the tabulation thereof in the ~~same manner as is provided by law for the certification of election returns of votes cast by paper ballots~~.

(f) Upon completion of the count, the returns shall be open to the public.

SECTION 47. Arkansas Code § 7-5-702(a), concerning the retention of ballots and certificates, is amended to read as follows:

(a) The county board of election commissioners shall retain the custody of and safely keep in a sealed container appropriately marked in a secure location in the county courthouse or other county storage facility all ballots and certificates returned to it from the several precincts for a period of twenty (20) days, after which time the ballots and certificates shall be stored in a secure location in the county courthouse or other county storage facility for a period of two (2) years from the date of the election, unless the county board shall be sooner notified in writing that:

(1) The election of some person voted for at the election and declared to have been elected has been contested; or

(2) Criminal prosecution has been begun before a tribunal of competent jurisdiction against any officer of election or person voting thereat for any fraud in the election.

SECTION 48. This act shall become effective on January 1, 2006."

The Amendment was read _____
By: Representative Mahony
MBM/JGH - 03-23-2005 13:25
MBM318

Chief Clerk