Stricken language would be deleted from and underlined language would be added to present law.

A Bill

SENATE BILL 524

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING ELECTRONIC VOTING EQUIPMENT; TO AUTHORIZE THE STATE BOARD OF ELECTION COMMISSIONERS TO PERFORM POST ELECTION AUDITS OF VOTES TABULATED ELECTRONICALLY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING ELECTRONIC VOTING EQUIPMENT; AND TO AUTHORIZE THE STATE BOARD OF ELECTION COMMISSIONERS TO PERFORM POST ELECTION AUDITS OF VOTES TABULATED ELECTRONICALLY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 7-4-101(f), concerning powers and duties of the State Board of Election Commissioners, is amended to add additional subsections to read as follows:

(12) Conduct post-election audits under § 7-4-121; and
(13) Formulate, adopt, and promulgate rules to establish procedures for post-election audits conducted under § 7-4-121.

SECTION 2. Arkansas Code Title 7, Chapter 4, Subchapter 1, is amended to add an additional section to read as follows:

7-4-121. Election audits.

(a)(1) The State Board of Election Commissioners shall audit the
results of each general election to ensure the integrity and accuracy of the
can be audited:

(2) When conducting a post-election audit of the election
results the State Board of Election Commissioners shall:

(A) Select by lot the counties, polling sites, early voting
locations, and vote centers to be audited;

(B) Select a sufficient number of early voting locations, polling sites, and vote centers to obtain a meaningful sample;

(C) Select the counties to be audited no less than sixty
(60) days following the date of the general election;

(D) Conduct the audit by using the voter verified paper
audit trail;

(E) (i) Compile a report detailing the findings of this audit.

(ii) The report filed under this subdivision
(a)(2)(E):

(a) Is not a recount;

(b) Has no legal effect on the outcome of any
election subject to the audit; and

(c) Shall be made public and disseminated to
any person upon request; and

(F) Securely maintain any county election records obtained
for the purpose of conducting an audit.

(3) The Secretary of State may, at his or her discretion, provide
additional staff to assist in conducting any audit under this subsection.

(b)(1) The State Board of Election Commissioners may conduct an audit
of a county’s election procedures if, upon review of information obtained
through the State Board of Election Commissioners complaint process or
obtained by an election monitor, the board finds by majority vote that:

(A) A high probability exists that election laws were
violated; and

(B) There is a substantial likelihood that additional
violations have occurred, but that the present information available to the
board is insufficient to discover those violations.

(2) An audit of a county’s election process shall be conducted in
accordance with the following:
(A) The State Board of Election Commissioners shall notify the county board of election commissioners and the county clerk that an audit under this section will be conducted no more than one hundred eighty (180) days after the election to be audited;

(B) The audit shall conclude no later than ninety (90) days after notice is given under subdivision (b)(2)(A) of this section;

(C) The State Board of Election Commissioners shall not audit more than three (3) counties for each election; and

(D) Following the audit, the State Board of Election Commissioners shall compile a report detailing the findings of the audit.

(3) If the State Board of Election Commissioners finds a substantial failure to comply with election law while conducting the audit, the State Board of Election Commissioners:

(A) May require the election officers for the audited county to attend supplemental election training; and

(B) Shall report any violation of criminal law or financial discrepancies discovered in this course and furtherance of the audit to proper authorities.

(c)(1) The county clerk, county board or election commissioners, or other county election official for a county that is audited under this section shall provide documents, records, or access to election equipment requested by the State Board of Election Commissioners to the State Board of Election Commissioners upon request.

(2) If the county clerk, county board of election commissioners, or other county election official of the county willfully fails to comply with a request made under subdivision (c)(1) of this section, and the State Board of Election Commissioners is not able to obtain the requested information through other means, the State Board of Election Commissioners may:

(A) Find that the county in violation of subdivision (c)(1) of this section has forfeited reimbursement of state funded election expenses for a period of up to two (2) years; and

(B) Elect to withhold reimbursement of state funded election expenses to the county for a period of up to two (2) years.

SECTION 3. Arkansas Code § 7-5-702(a), concerning preservation of
ballots, stubs, certificates, and other election materials, is amended to add an additional subdivision to read as follows:

(3) The results of the election will be audited by the State Board of Election Commissioners under § 7-4-121.

SECTION 4. Arkansas Code § 7-5-702(c) and (d), concerning preservation of ballots, stubs, certificates, and other election materials, are amended to read as follows:

(c) During the time the ballots may be retained or stored, the package containing them shall not be opened by anyone unless directed:

(1) Directed to do so by some competent tribunal before which an election contest or prosecution is pending in which the ballots are to be used as evidence; or

(2) Upon written instruction signed by the Director of the State Board of Election Commissioners under § 7-4-121.

(d) For twenty (20) days, the county treasurer board of election commissioners shall retain the custody of ballot stubs in an appropriately marked, sealed container delivered to him or her the county board of election commissioners from the several precincts, after which time they shall be stored in a secure location in the county courthouse or other county storage facility unless an:

(1) An election contest has been filed; or

(2) A criminal prosecution has been initiated in connection with the election; or

(3) Upon written instruction signed by the Director of the State Board of Election Commissioners under § 7-4-121.

SECTION 5. TEMPORARY LANGUAGE. DO NOT CODIFY. Application.

(a)(1) The State Board of Election Commissioners shall conduct the initial audit of the results of the general election under this act after the 2020 general election as a pilot program.

(2) For each election system utilizing a ballot marking device and tabulator in operation for the 2020 election, the State Board of Election Commissioners shall:

(A) Conduct an audit of at least one (1) county with a population of more than one hundred thousand (100,000) people;

(B) Conduct an audit of at least four (4) counties with a
population of less than one hundred thousand (100,000) people; and

    (C) Conduct the audits in a manner that effectuates at
least one (1) audit from a county in each of the congressional districts of
this state.

(b) The State Board of Election Commissioners shall develop a
comprehensive plan to audit the state's election equipment based on the
experience gained through this pilot program.