

1 State of Arkansas
2 93rd General Assembly
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4

As Engrossed: S2/3/21

A Bill

SENATE BILL 217

5 By: Senator C. Tucker
6

For An Act To Be Entitled

8 AN ACT TO CLARIFY, CREATE ACCOUNTABILITY AND
9 UNIFORMITY FOR, AND SIMPLIFY ABSENTEE BALLOT
10 PROCESSES; TO ENCOURAGE AND ASSIST LAW ENFORCEMENT
11 INVESTIGATION OF VOTER FRAUD; TO AMEND ELECTION LAW
12 CONCERNING ABSENTEE BALLOTS; TO AMEND ELECTION LAW;
13 AND FOR OTHER PURPOSES.
14
15

Subtitle

16 AN ACT TO CLARIFY, CREATE ACCOUNTABILITY
17 AND UNIFORMITY FOR, AND SIMPLIFY ABSENTEE
18 BALLOT PROCESSES; TO ENCOURAGE AND ASSIST
19 LAW ENFORCEMENT INVESTIGATION OF VOTER
20 FRAUD; AND TO AMEND ELECTION LAW
21 CONCERNING ABSENTEE BALLOTS.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code § 6-14-115(a)(1)(B)(ii), concerning school
28 district election returns, canvass, appeal, and filing, is amended to read as
29 follows:

30 (ii) Declare preliminary ~~and unofficial results~~
31 counts of the county's election as soon as they are available; and
32

33 SECTION 2. Arkansas Code § 7-5-319(a)(2) and (3), concerning election
34 recounts, are amended to read as follows:

35 (2) When the number of outstanding absentee ballots ~~of overseas~~
36 ~~voters~~ is not sufficient to change the results of the election, the candidate



1 must present the petition no later than two (2) days after the county board
2 of election commissioners declares preliminary ~~and unofficial results~~ counts
3 of the election, including a statement of the number of outstanding absentee
4 ballots ~~of overseas voters~~.

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

10
11 SECTION 3. Arkansas Code § 7-5-404(b)(2), concerning applications for
12 absentee ballots, is amended to read as follows:

13 (2)~~(A)~~ For those persons voting by absentee ballot ~~who reside~~
14 ~~outside the county in which they are registered to vote, the application~~
15 ~~shall remain in effect for one (1) year unless revoked by the voter, and the~~
16 ~~county clerk shall thereafter automatically mail no later than twenty-five~~
17 ~~(25) days before each election an absentee ballot for each election.:~~

18 (A) Unless otherwise provided by the applicant in
19 subdivision (b)(2)(C) of this section, the application shall be valid for
20 only one (1) election cycle.

21 (B) The election cycle shall include any one (1) election
22 and the corresponding runoff election.

23 (C) The Secretary of State shall include an option, which
24 the applicant may select, that the application shall remain in effect for one
25 (1) year, unless later revoked by the voter.

26 (D) The Secretary of State shall include language in the
27 application explaining that the application applies to one (1) election and
28 the corresponding runoff election, unless the option provided under
29 subdivision (b)(2)(C) is selected by the applicant, in which case the
30 application will remain in effect for one (1) year.

31 (E) The county clerk shall automatically mail to the voter
32 no later than twenty-five (25) days before each election an absentee ballot
33 for the election and the corresponding runoff election for which the voter
34 submitted an application for an absentee ballot, unless the voter selected
35 the option provided under subdivision (b)(2)(C), in which case the county
36 clerk shall automatically mail to the voter no later than twenty-five (25)

1 days before each election an absentee ballot for each election held during
 2 the applicable one (1) year period.

3 ~~(B)(i) For those persons voting by absentee ballot who~~
 4 ~~reside within the county in which they are registered to vote, the~~
 5 ~~application shall be valid for only one (1) election cycle.~~

6 ~~(ii) The election cycle shall include any one (1)~~
 7 ~~election and the corresponding runoff election.~~

8 ~~(C)(i) For a voter residing in a long term care or~~
 9 ~~residential care facility licensed by the state the application shall remain~~
 10 ~~in effect for one (1) calendar year unless withdrawn by the voter.~~

11 ~~(ii) The county clerk automatically shall mail no~~
 12 ~~later than twenty five (25) days before each election an absentee ballot for~~
 13 ~~each election unless, before mailing, the administrator of the facility has~~
 14 ~~presented an absentee ballot request from the voter authorizing the~~
 15 ~~administrator to receive the absentee ballot on behalf of the voter for that~~
 16 ~~election.~~

17 ~~(D)(i) For a voter with a disability as defined in § 7-5-~~
 18 ~~311, the application shall remain in effect for one (1) calendar year unless~~
 19 ~~withdrawn by the voter.~~

20 ~~(ii) The county clerk automatically shall mail no~~
 21 ~~later than twenty five (25) days before each election an absentee ballot for~~
 22 ~~each election.~~

23
 24 SECTION 4. Arkansas Code § 7-5-405(a)(1) and (2), concerning the
 25 application form for absentee ballots, are amended to read as follows:

26 (a)(1) Applications for absentee ballots may be made on a form ~~or~~
 27 ~~forms~~ prescribed by the Secretary of State and furnished by the county clerk
 28 at least sixty (60) days before the election.

29 (2) The form ~~or forms~~ shall contain the following information:

30 (A) The following statement:

31 "IF YOU PROVIDE FALSE INFORMATION ON THIS FORM, YOU MAY BE GUILTY OF PERJURY
 32 AND SUBJECT TO A FINE OF UP TO \$10,000 OR IMPRISONMENT FOR UP TO 10 YEARS.";

33 (B) A statement in which the voter must indicate that he
 34 or she is requesting an absentee ballot because he or she will be:

35 (i) Unavoidably absent from the polling site on
 36 election day;

1 (ii) Unable to attend the polls on election day
2 because of illness or physical disability; or

3 (iii) Unable to attend the polls on election day
4 because of residence in a long-term care or residential facility licensed by
5 the state;

6 (C) A statement by the voter indicating whether he or she
7 resides outside the county;

8 (D) A statement indicating whether the voter is a United
9 States citizen residing outside the territorial limits of the United States;

10 (E) A statement indicating whether the voter is in active
11 service as a member of the armed services of the United States;

12 (F) Mailing information for the ballot or the name and
13 signature of a designated bearer, an administrator, or an authorized agent;

14 (G) The date, the voter's printed or typed name, voting
15 residence address, date of birth, and the voter's signature attesting to the
16 correctness of the information provided under penalty of perjury; and

17 (H)(i) The election in which the voter wishes to cast an
18 absentee ballot.

19 (ii) The language describing the election in which
20 the voter wishes to cast an absentee ballot:

21 (a) Shall be placed on the form by the
22 Secretary of State;

23 (b) May use terminology which varies from the
24 election terms adopted in the Arkansas Code;

25 (c) Shall include a list of election options
26 for absentee ballot voters to choose from when requesting their absentee
27 ballot;

28 (d) In providing the list of election options
29 in subdivision (a)(2)(H)(ii)(c), the Secretary of State shall:

30 (1) Use plain language terms which:

31 (i) Sufficiently identify which
32 ballot the voter is requesting; and

33 (ii) Are designated to be easily
34 read by the typical registered voter; and

35 (2) Provide the date on which each such
36 election is to be held.

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SECTION 5. Arkansas Code § 7-5-409(b), concerning materials furnished to qualified voters, is amended to read as follows:

(b)(1) If the applicant is registered or is otherwise eligible to vote absentee, the county clerk, prior to mailing or delivering the ballot, shall detach the ballot stub and deposit the ballot stub into a sealed box designated as “Absentee Stub Box” and deliver to the applicant or to the applicant’s designated bearer, authorized agent, or administrator for delivery to the applicant the following materials:

~~(1)~~(A) An official absentee ballot for each election named in the application;

~~(2)~~(B) Instructions for voting and returning the official absentee ballot to the county clerk;

~~(3)~~(C) An official absentee ballot secrecy envelope on which there shall be written or printed the words “Ballot Only”;

~~(4)~~(A)~~(i)~~(D)(i)(a) A voter statement.

~~(ii)~~(b) The voter statement shall include the following heading in bold capitalized letters: “THIS VOTER STATEMENT MUST BE COMPLETED AND RETURNED IN THE MAILING ENVELOPE OR THE ABSENTEE BALLOT WILL NOT BE COUNTED.”

~~(iii)~~(c) The voter statement shall include the following statement in bold capitalized letters at the bottom of the page: “THE INFORMATION I HAVE PROVIDED IS TRUE TO THE BEST OF MY KNOWLEDGE UNDER PENALTY OF PERJURY. IF I HAVE PROVIDED FALSE INFORMATION, I MAY BE SUBJECT TO A FINE OF UP TO TEN THOUSAND DOLLARS (\$10,000) OR IMPRISONMENT FOR UP TO TEN (10) YEARS, OR BOTH, UNDER FEDERAL OR STATE LAWS.”

~~(iv)~~(d) The voter statement shall include a statement that the voter resides at the address on his or her application.

~~(v)~~(e) The voter statement shall include a statement for a first-time voter who registers by mail: “If I am a newly registered voter of this county and this is the first time I am voting in this county, I am enclosing a copy of a current and valid photo identification card or a current utility bill, bank statement, government check, paycheck, or other government document that shows my name and address.”

1 ~~(B)~~(ii) Blanks shall be provided for the voter to
 2 provide his or her printed name, signature, address, date of birth, printed
 3 name and address of the administrator, authorized agent, or designated
 4 bearer, signature of administrator, authorized agent, or designated bearer,
 5 and address of the administrator, authorized agent, or designated bearer;

6 ~~(C)~~~~(i)~~(iii)(a) The voter statement shall include a
 7 sworn statement portion that may be completed by the voter stating that the
 8 voter is registered to vote and that he or she is the person who is
 9 registered.

10 ~~(ii)~~(b) The sworn statement portion of the
 11 voter statement is not required to be notarized, but the voter shall execute
 12 the sworn statement under penalty of perjury;

13 ~~(5)~~(E) A sealable envelope upon which shall be printed or
 14 written the words: "Return Envelope", the address of the county clerk, the
 15 precinct of the voter, and the words: "ABSENTEE BALLOT, ,
 16 , ELECTION"; and

17 ~~(6)~~(F) An authorized agent authorization form, as follows:

18
 19 "AGENT AUTHORIZATION FORM

20 If applicable, fill out and sign this form and place it in the Return
 21 Envelope

22 I hereby authorize (insert his or her name) as my authorized
 23 agent, to deliver this ballot as I am medically unable to vote on election
 24 day. An affidavit verifying my medical status as unable to deliver the
 25 application or to vote on the day of the election is attached or has been
 26 provided with my application.

27
 28 Signature of voter

29
 30 Printed name of voter

31
 32 Address of voter

33
 34 Date of birth of voter."

35 (2) The voter statement, instructions, voter identification
 36 statement under Arkansas Constitution, Amendment 51, § 13, and any other

1 absentee ballot materials required under subdivision (b)(1) of this section
2 shall be on forms:

3 (A) Prescribed by the State Board of Election
4 Commissioners with the assistance of the Secretary of State; and

5 (B) That are designed to be easily read by the typical
6 registered voter.

7
8 SECTION. 6. Arkansas Code § 7-5-411(a)(2) and (3), concerning methods
9 of voting by absentee ballot, are amended to read as follows:

10 (2) By delivery of the ballot to the county clerk of the county
11 of residence of the voter not later than 7:30 p.m. on election day by the
12 voter or the designated bearer, administrator, or the authorized agent of the
13 absentee voter who is medically unable to vote at the regular polling site,
14 upon proper verification of the signature of the voter by the county clerk
15 and validation of the identity of the authorized agent; ~~or~~

16 ~~(3) The voter may deliver the ballot to the county clerk of the~~
17 ~~county of his or her residence not later than the close of regular business~~
18 ~~hours on the day before the election.~~

19
20 SECTION 7. Arkansas Code § 7-5-416 is amended to read as follows:

21 7-5-416. Counting of absentee ballots.

22 (a)(1) The election officials for absentee ballots may meet in a place
23 designated by the county board of election commissioners ~~no earlier than the~~
24 ~~Tuesday before the election~~ for the purpose of opening the outer envelope,
25 processing, and canvassing of absentee ballot paper work ~~and no earlier than~~
26 ~~8:30 a.m. on election day for the purpose of opening the inner absentee~~
27 ~~ballot envelope and counting the absentee ballots~~ upon receipt of an absentee
28 ballot by the county clerk.

29 (2) The absentee ballots shall be tabulated or counted no
30 earlier than 8:30 a.m. on election day.

31 (3) The county board of election commissioners shall give public
32 notice of the time and location of the opening, processing, canvassing, and
33 counting of absentee ballots and early voting ballots as provided in § 7-5-
34 202.

35 ~~(3)(4)~~ (4) The county clerk shall forward the following items to the
36 election officials designated by the county board of election commissioners

1 to open, process, canvass, and count absentee ballots:

2 (A) The absentee ballot applications sorted alphabetically
3 or by precinct;

4 (B) The absentee ballots; and

5 (C) A written report containing the following information:

6 (i) The number of absentee ballot applications
7 received by the county clerk;

8 (ii) The number of absentee ballots sent by the
9 county clerk;

10 (iii) The number of absentee ballots returned to the
11 county clerk;

12 (iv) The number of absentee ballots rejected by the
13 county clerk and the reason for the rejection;

14 (v) The number of absentee ballots marked as
15 received on the paper absentee ballot applications list; and

16 (vi) If the number of absentee ballots returned to
17 the county clerk and the number of absentee ballots marked as received on the
18 paper absentee ballot lists are different and the reason for the difference
19 is known, the reason for the difference.

20 ~~(4)~~(5) The processing and counting of absentee ballots shall be
21 open to the public, and candidates and authorized poll watchers may be
22 present in person or by a representative designated in writing under § 7-5-
23 312 during the opening, processing, canvassing, and counting of the absentee
24 ballots as provided in this subchapter.

25 ~~(5)(A)(6)(A)~~ Absentee and early votes shall be counted ~~prior to~~
26 ~~the closing of the polls on election day~~ as provided under this section.

27 (B)(i) The county board of election commissioners shall
28 report by precinct the initial count of early votes and absentee ballot votes
29 to the Secretary of State as provided under § 7-5-701 as soon as practical
30 after the polls close on election day.

31 (ii) No election results of the precinct shall be
32 printed, posted, or released until after the polls close on election day.

33 (b)(1) ~~The opening, processing, counting, and canvassing of absentee~~
34 ~~ballots~~ ballot materials shall be ~~conducted~~ opened by two (2) election
35 officials as follows:

36 (A) One (1) of the election officials shall open outer

1 absentee ballot envelopes one by one and ~~verify the contents~~ locate the
2 required voter materials;

3 (B) ~~If the required materials are properly placed in the~~
4 ~~outer absentee ballot envelope, the election official shall proceed to read~~
5 ~~aloud from the voter statement the name of the voter;~~

6 ~~(C)~~ If the required materials are not properly placed in
7 the outer absentee ballot envelope, a second election official shall open the
8 inner absentee ballot envelope to ~~verify the contents~~ to locate the required
9 voter materials;

10 ~~(D)(C)~~ ~~If all required materials are present within one~~
11 ~~(1) or the other envelope, the~~ The election officials shall put the required
12 voter materials in the proper outer absentee ballot envelope while preserving
13 the secrecy of the voter's ballot ~~and~~ within the inner absentee ballot
14 envelope;

15 (D) The election officials shall; ~~proceed to read~~

16 (i) Read aloud from the voter statement the name of
17 the voter and the voting precinct in which the voter claims to be a legal
18 voter;

19 ~~(ii)(E)~~ ~~As each outer envelope is opened and the~~
20 ~~name of the voter is read, the election officials for the absentee box shall~~
21 ~~list~~ List the name and voting precinct of the voter; and

22 (iii) Compare the voter materials as provided under
23 subdivision (b)(2) of this section.

24 (2)(A) After the opening of the absentee ballot materials, the
25 two (2) election officials shall canvass and compare the absentee ballot
26 materials as follows:

27 (i) The election officials shall compare all absentee
28 ballot materials returned and any additional information or documentation
29 provided by the county clerk, except the voter's ballot which shall be
30 maintained within the inner absentee ballot to preserve in secrecy;

31 (ii) The election officials shall review the absentee
32 ballot materials to determine whether:

33 (a) The voter's name, mailing address, address of
34 residence or registration, date of birth, and signature are comparable;

35 ~~(F)(i)~~ ~~After the election official reads aloud from the~~
36 ~~statement, the election officials shall compare the name, address, date of~~

1 ~~birth, and signature of the voter's absentee application with the voter's~~
2 ~~statement and, for first-time voters who registered by mail, the first-time~~
3 ~~voter's identification document unless the voter previously provided~~
4 ~~identification at the time of mailing the voter registration application.~~

5 ~~(ii) If the county board of election commissioners~~
6 ~~determines that the application and the voter's statement do not compare as~~
7 ~~to name, address, date of birth, and signature, the absentee ballot shall not~~
8 ~~be counted.~~

9 (b) The voter identification document, voter
10 statement, and inner envelope containing the absentee ballot are present; and

11 (c) If a designated bearer, authorized agent,
12 or administrator delivers the ballot, the name and address of the bearer,
13 agent, or administrator are comparable;

14 ~~(iii) If a first-time voter fails to provide the~~
15 ~~required voter identification with the absentee ballot or at the time of~~
16 ~~mailing the voter registration application, then the absentee application,~~
17 ~~absentee ballot envelope, and voter's statement shall be placed in an~~
18 ~~envelope marked "provisional" and the absentee ballot shall be considered a~~
19 ~~provisional ballot; is not included with the absentee ballot materials, the~~
20 ~~election officials shall place the absentee ballot materials including the~~
21 ~~inner envelope containing the ballot in an envelope marked "provisional", and~~
22 ~~the absentee ballot shall be considered a provisional ballot.~~

23 ~~(G) The election officials shall compare the name and~~
24 ~~address of the bearer, agent, or administrator written on the absentee ballot~~
25 ~~return envelope with the information on the voter statement. If the~~
26 ~~information does not match, then the outer envelope, absentee application,~~
27 ~~secrecy envelope containing the ballot, and the voter's statement shall be~~
28 ~~placed in an envelope marked "provisional" and the absentee ballot shall be~~
29 ~~considered a provisional ballot;~~

30 ~~(H) If the absentee voter fails to return the voter~~
31 ~~statement, the vote shall not be counted;~~

32 (iv) The ballot shall be designated to be counted or
33 tabulated if:

34 (a) All required absentee ballot materials are
35 present;

36 (b) If a designated bearer, agent, or

1 administrator delivers the ballot of the voter, the name and address of the
2 bearer, agent, or administrator compare; and

3 (c) The voter's name, mailing address, address
4 of residence or registration, date of birth, and signature compare; and

5 (v) The absentee ballot materials shall be
6 transmitted to the county board of election commissioners for additional
7 review if:

8 (a) Any required absentee ballot materials are
9 missing;

10 (b) The voter's name, mailing address, address
11 of residence or registration, date of birth, and signature do not compare; or

12 (c) If a designated bearer, agent, or
13 administrator delivers the ballot of the voter, the name and address of the
14 bearer, agent, or administrator do not compare.

15 (B) A member of a county board of election commissioners,
16 acting in his or her individual capacity as an election official, may perform
17 the duties under subdivision (b)(2)(A) of this section. However, performance
18 of the duties under subdivision (b)(2)(A) of this section by a member of the
19 county board of election commissioners shall not satisfy or serve as
20 performance of the duties of the whole county board of election commissioners
21 under subdivision (b)(3) of this section.

22 (3) After canvassing and comparison by the election officials,
23 the absentee ballot materials shall be canvassed and compared by the county
24 board of election commissioners as follows:

25 (A)(i) The county board of election commissioners shall
26 review the absentee ballot materials transmitted to it under subdivision
27 (b)(2)(A)(v) of this section;

28 (ii) The county board of election commissioners may:

29 (a) Review the absentee ballot materials that
30 were designated to be counted or tabulated by the election officials before
31 counting or tabulation; and

32 (b) Accept the designation of the election
33 officials that the ballot is to be counted or reverse the designation of the
34 election officials and mark the ballot as provisional;

35 (B)(i) A ballot shall be counted or tabulated if the:

36 (a) Required absentee ballot materials are

1 present;

2 (b) Voter's name, mailing address, address of
3 residence or registration, date of birth, and signatures compare; and

4 (c) If a designated bearer, agent, or
5 administrator delivers the ballot of the voter, the name and address of the
6 bearer, agent, or administrator compare.

7 (ii) The absentee ballot materials and the absentee
8 ballot shall be placed in an envelope marked "provisional" and the absentee
9 ballot shall be considered a provisional ballot if the:

10 (a) Required absentee ballot materials are
11 incomplete;

12 (b) Voter's name, mailing address, address of
13 residence or registration, date of birth, and signature do not compare; or

14 (c) If a designated bearer, agent, or
15 administrator delivers the ballot of the voter, the name and address of the
16 bearer, agent, or administrator do not compare;

17 ~~(I)~~(C) Failure of the voter to submit the required
18 absentee materials in the proper envelopes shall not be grounds for
19 disqualifying the voter;

20 (D)(i) An absentee ballot that has been designated
21 provisional for not including the required voter identification with the
22 absentee ballot materials under subdivision (b)(2)(A)(iii) shall be cured
23 according to the procedure set out in Arkansas Constitution Amendment 51, §
24 13.

25 (ii) An absentee ballot that has otherwise been
26 designated provisional under this section may be cured by the voter:

27 (a) Before certification of the election
28 results;

29 (b) In person, by phone, or electronically
30 with the county clerk, county board of election commissioners, or
31 appropriately designated staff or election officials; and

32 (c)(1) By providing or correcting the absentee
33 ballot materials or verification, if the reason for designation as a
34 provisional ballot was an incomplete submission; or

35 (2) By verifying in writing under
36 penalty of perjury that he or she voted the ballot received by the county

1 clerk, if the reason for designation as a provisional ballot was that:

2 (a) The voter's name, mailing
3 address, address of residence or registration, date of birth, and signature
4 did not compare; or

5 (b) If a designated bearer, agent,
6 or administrator delivers the ballot of the voter, the name and address of
7 the bearer, agent, or administrator did not compare.

8 ~~(J) If the voter statement does not authorize a bearer,~~
9 ~~agent, or administrator to receive or return his or her absentee ballot and~~
10 ~~the ballot was received or returned by a bearer, agent, or administrator, the~~
11 ~~vote shall not be counted;~~

12 (4) Absentee ballot information is comparable or compares if
13 after a review of the information available to the election official or
14 county board of election commissioners, the election official or county board
15 of election commissioners believes that the ballot was voted by the person in
16 whose name the absentee ballot was submitted.

17 (5)(A) Within twenty-four (24) hours after an absentee ballot is
18 designated by any election official or by the county board of election
19 commissioners as provisional, the county board of election commissioners
20 shall by mail, email, or phone, notify the voter of the deadline and process
21 for curing his or her absentee ballot.

22 (B) If an absentee ballot that was previously designated
23 as needing additional review under subdivision (b)(2)(A)(v) of this section
24 is reviewed by the county board of election commissioners and approved to be
25 counted or tabulated without being designated as provisional, then no more
26 than twenty-four (24) hours after the approval, the county board of election
27 commissioners shall by mail, email, or phone, notify the voter that he or she
28 no longer needs to cure his or her ballot.

29 (6) The absentee ballots that have been designated to be counted
30 or tabulated shall be opened and processed for tabulation as follows:

31 ~~(K)(A)~~ If no challenge is made by a qualified poll
32 watcher, the election official shall remove the inner envelope, from the
33 absentee ballot materials without opening the inner envelope containing the
34 ballot, and place it in the ballot a box designated for ballots to be counted
35 or tabulated without marking it in any way;

36 ~~(L)(i) After all of the outer envelopes have been opened,~~

1 ~~the election officials of the absentee box shall preserve all the statements~~
2 ~~of voters and the voters' identification documents and deliver them to the~~
3 ~~county clerk, who shall file and keep them for the same length of time after~~
4 ~~the election as is required for retention of other ballots.~~

5 (B) When all of the inner envelopes containing the ballots
6 have been placed in the ballot box, the ballot box shall be shaken thoroughly
7 to mix the ballots; and

8 (C) The ballot box shall be opened and the ballots shall
9 be removed from the inner envelopes, canvassed, and counted.

10 (7) After the counting and tabulation:

11 (A) The county board of election commissioners shall
12 preserve all absentee ballot materials and deliver them to the county clerk,
13 who shall file and keep them for the same length of time after the election
14 as is required for retention of other ballots;

15 ~~(i)(B)~~ (B) The voter statements shall be made available
16 for public inspection during regular business hours; and

17 ~~(iii)(C)(i)~~ (i) The voters' identification documents
18 shall not be subject to public inspection except as part of a judicial
19 proceeding to contest the election; or

20 (ii) In response to a lawful request for
21 disclosure made under the Arkansas Freedom of Information Act of 1967, § 25-
22 19-101, et seq.

23 (8) If after review of the absentee ballot materials, an
24 election official or the county board of election commissioners suspects that
25 the absentee ballot was fraudulently submitted, the county board of election
26 commissioners shall:

27 (A) File complaints concerning the ballot with the State
28 Board of Election Commissioners and the county prosecuting attorney no later
29 than two (2) weeks after certification of the election;

30 (B) Provide copies of the relevant absentee ballot
31 materials; and

32 (C) Fully assist all appropriate law enforcement agencies
33 in the investigation.

34 ~~(M) When all of the inner envelopes containing the ballots~~
35 ~~have been placed in the ballot box, the ballot box shall be shaken thoroughly~~
36 ~~to mix the ballots; and~~

1 ~~(N) The ballot box shall be opened and the ballots~~
2 ~~canvassed and counted.~~

3 ~~(2)(9)~~ No election preliminary results shall be printed or
4 released prior to the closing of the polls on election day.

5 (c) If ~~any~~ a person casting an absentee ballot dies before the polls
6 open on election day, his or her vote shall be accepted by the county clerk
7 if the absentee ballot is:

8 (1) Signed, dated, postmarked, and mailed before the date of
9 death;

10 (2) Signed, dated, and delivered to the county clerk by a
11 designated bearer, authorized agent, or administrator before the date of
12 death; or

13 (3) The ballot of a member of the armed services or Arkansas
14 National Guard in active duty or state active duty executed before the date
15 of death.

16 ~~(d) It is the intent of this section to require the election officials~~
17 ~~for absentee ballots to meet and process, canvass, and count absentee ballots~~
18 ~~according to this section prior to the closing of the polls on election day.~~

19 ~~(e)(1)(d)(1)~~ Absentee votes shall be cast on paper ballots.

20 (2)(A) The ballots shall first be counted for write-in votes by
21 the election officials.

22 (B) Then, at the discretion of the county board of
23 election commissioners, the ballots may be either hand counted or counted on
24 an electronic vote tabulating device.

25 ~~(f)(1)(e)(1)~~ Absentee ballots marked as "special runoff ballots"
26 received from a qualified voter from one (1) of the categories in § 7-5-
27 406(a) shall be opened for general primary elections and general runoff
28 elections according to the procedures described in subsection (b) of this
29 section.

30 (2) However, in counting the special runoff ballot, one (1) of
31 the election officials shall open the envelope containing the special runoff
32 ballot and read the numbers indicated next to the names of the two (2)
33 candidates in the general primary election or in the general runoff election.

34 (3) The candidate with the highest ranking shall receive the
35 vote.

36 (4) A special runoff ballot received with the preferential

1 primary absentee ballot shall be counted in the general primary election, and
2 a special runoff ballot received with the general election absentee ballot
3 shall be counted in the general runoff election.

4 (5) The Secretary of State shall prepare instructions for
5 opening, counting, and canvassing special runoff ballots and provide the
6 instructions to each county board of election commissioners.

7
8 SECTION 8. Arkansas Code Title 7, Chapter 5, Subchapter 4, is amended
9 to add an additional section to read as follows:

10 7-5-420. State Board of Election Commissioners Rules.

11 (a) The State Board of Election Commissioners shall adopt rules that:

12 (1) Set procedures for the maintenance and storage of absentee
13 ballot materials and absentee ballots;

14 (2) Set uniform methods for labeling ballot storage containers
15 which, at a minimum:

16 (A) Document the chain of custody concerning the opening
17 and closing of the sealed boxes; and

18 (B) Document the contents of the boxes in a readily
19 identifiable manner;

20 (3) Set standards for the processes, software, and methods used
21 to list and describe the contents of the ballots including without limitation
22 the appropriate use of spreadsheets and summaries; and

23 (4) Proscribe forms for the lists that are required to be
24 generated and maintained under § 7-5-416.

25 (b) The rules shall be promulgated under the Administrative Procedures
26 Act, § 25-15-201, et. seq.

27
28 SECTION 9. Arkansas Code § 7-5-701(a)(3)(A) and (B), concerning the
29 certification, delivery, and custody of returns and declaration of election
30 results, are amended to read as follows:

31 (3)(A) As results are received and tabulated on election night
32 for all state and federal elections, the county board of election
33 commissioners shall declare preliminary ~~and unofficial results~~ counts of the
34 election as soon as early voting, absentee, or individual precinct results
35 are tabulated on election night and immediately shall transmit the results by
36 precinct to the Secretary of State through the election night reporting

1 interface provided by the Secretary of State.

2 (B) The county board of election commissioners may, by
3 agreement with the county clerk, transmit the ~~results~~ counts to the county
4 clerk who immediately shall transmit the ~~results~~ counts by precinct to the
5 Secretary of State under subdivision (a)(3)(A) of this section.

6
7 SECTION 10. Arkansas Code § 7-5-701(a)(3)(C)(i), concerning the
8 certification, delivery, and custody of returns and declaration of election
9 results, is amended to read as follows:

10 (i) Declare preliminary ~~and unofficial results~~
11 counts of the election, including a statement of the number of outstanding:

12 (a) Ballots of voters who requested ballots
13 under the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. §
14 20301 et seq.; and

15 (b) Provisional ballots; and

16
17 SECTION 11. Arkansas Code § 7-5-701, concerning the certification,
18 delivery, and custody of returns and declaration of election results, is
19 amended to add an additional subsection to read as follows:

20 (e)(1) Certified results shall not be amended after the deadline for
21 certification.

22 (2) Preliminary counts may be updated or amended by the county
23 board of election commissioners before certification of the results of the
24 election to reflect the most then-current count of the ballots.

25
26 SECTION 12. DO NOT CODIFY. Rules.

27 (a) When adopting the initial rules required under this act, the State
28 Board of Election Commissioners shall file the final rules with the Secretary
29 of State for adoption under § 25-15-204(f):

30 (1) On or before January 1, 2022; or

31 (2) If approval under § 10-3-309 has not occurred by January 1,
32 2022, as soon as practicable after approval under § 10-3-309.

33 (b) The department shall file the proposed rules with the Legislative
34 Council under § 10-3-309(c) sufficiently in advance of January 1, 2022, so
35 that the Legislative Council may consider the rules for approval before
36 January 1, 2022.

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/s/C. Tucker