

1 State of Arkansas
2 93rd General Assembly
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4

As Engrossed: S2/3/21 S3/18/21

A Bill

SENATE BILL 217

5 By: Senators C. Tucker, B. Davis
6 By: Representative M. Gray
7

For An Act To Be Entitled

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

Subtitle

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17
18 AN ACT TO CLARIFY, CREATE ACCOUNTABILITY
19 AND UNIFORMITY FOR, AND SIMPLIFY ABSENTEE
20 BALLOT PROCESSES; TO ENCOURAGE AND ASSIST
21 LAW ENFORCEMENT INVESTIGATION OF VOTER
22 FRAUD; AND TO AMEND ELECTION LAW
23 CONCERNING ABSENTEE BALLOTS.
24
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

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

31 (ii) Declare preliminary ~~and unofficial results~~
32 counts of the county's election as soon as they are available; and
33

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

36 (2)(A) For those persons voting by absentee ballot ~~who reside~~



1 ~~outside the county in which they are registered to vote, the application~~
2 ~~shall remain in effect for one (1) year unless revoked by the voter, and the~~
3 ~~county clerk shall thereafter automatically mail no later than twenty-five~~
4 ~~(25) days before each election an absentee ballot for each election.:~~

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

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

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

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

18 (E) The county clerk shall automatically mail to the voter
19 no later than twenty-five (25) days before each election an absentee ballot
20 for the election and no later than ten (10) days before the corresponding
21 runoff election, if any, for which the voter submitted an application for an
22 absentee ballot, unless the voter selected the option provided under
23 subdivision (b)(2)(C), in which case the county clerk shall automatically
24 mail to the voter no later than twenty-five (25) days before each election an
25 absentee ballot for each election held during the applicable one (1) year
26 period.

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

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

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

35 ~~(ii) The county clerk automatically shall mail no~~
36 ~~later than twenty-five (25) days before each election an absentee ballot for~~

1 ~~each election unless, before mailing, the administrator of the facility has~~
2 ~~presented an absentee ballot request from the voter authorizing the~~
3 ~~administrator to receive the absentee ballot on behalf of the voter for that~~
4 ~~election.~~

5 ~~(D)(i) For a voter with a disability as defined in § 7-5-~~
6 ~~311, the application shall remain in effect for one (1) calendar year unless~~
7 ~~withdrawn by the voter.~~

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

11
12 SECTION 3. Arkansas Code § 7-5-405(a)(1) and (2), concerning the
13 application form for absentee ballots, are amended to read as follows:

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

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

18 (A) The following statement:

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

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

23 (i) Unavoidably absent from the polling site on
24 election day;

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

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

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

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

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

36 (F) Mailing information for the ballot or the name and

1 signature of a designated bearer, an administrator, or an authorized agent;

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

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

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

9 (a) Shall be placed on the form by the
10 Secretary of State;

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

13 (c) Shall include a list of election options
14 for absentee ballot voters to choose from when requesting their absentee
15 ballot;

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

18 (1) Use plain language terms which:

19 (i) Sufficiently identify which
20 ballot the voter is requesting; and

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

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

25
26 SECTION 4. Arkansas Code § 7-5-409(b), concerning materials furnished
27 to qualified voters, is amended to read as follows:

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

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

36 ~~(2)~~(B) Instructions for voting and returning the official

1 absentee ballot to the county clerk;

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

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

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

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

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

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

25 ~~(B)~~(ii) Blanks shall be provided for the voter to
26 provide his or her printed name, signature, address, date of birth, printed
27 name and address of the administrator, authorized agent, or designated
28 bearer, signature of administrator, authorized agent, or designated bearer,
29 and address of the administrator, authorized agent, or designated bearer;

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

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

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

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

6
 7 "AGENT AUTHORIZATION FORM

8 If applicable, fill out and sign this form and place it in the Return
 9 Envelope

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

15
 16 Signature of voter

17
 18 Printed name of voter

19
 20 Address of voter

21
 22 Date of birth of voter."

23 (2) The voter statement, instructions, and any other absentee
 24 ballot materials required under subdivision (b)(1) of this section shall be
 25 on forms:

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

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

30
 31 SECTION. 5. Arkansas Code § 7-5-411(a)(2) and (3), concerning methods
 32 of voting by absentee ballot, are amended to read as follows:

33 (2) By delivery of the ballot to the county clerk of the county
 34 of residence of the voter not later than 7:30 p.m. on election day by the
 35 voter or the designated bearer, administrator, or the authorized agent of the
 36 absentee voter who is medically unable to vote at the regular polling site,

1 upon proper verification of the signature of the voter by the county clerk
2 and validation of the identity of the authorized agent; ~~or~~

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

6

7 SECTION 6. Arkansas Code § 7-5-416 is amended to read as follows:

8 7-5-416. Counting of absentee ballots.

9 (a)(1) The election officials for absentee ballots may meet in a place
10 designated by the county board of election commissioners ~~no earlier than the~~
11 ~~Tuesday before the election~~ for the purpose of opening the outer envelope,
12 processing, and canvassing of absentee ballot paper work ~~and no earlier than~~
13 ~~8:30 a.m. on election day for the purpose of opening the inner absentee~~
14 ~~ballot envelope and counting the absentee ballots~~ upon receipt of an absentee
15 ballot by the county clerk.

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

18 (3) The county board of election commissioners shall give public
19 notice of the time and location of the opening, processing, canvassing, and
20 counting of absentee ballots and early voting ballots as provided in § 7-5-
21 202.

22 ~~(3)~~(4) The county clerk shall forward the following items to the
23 election officials designated by the county board of election commissioners
24 to open, process, canvass, and count absentee ballots:

25 (A) The absentee ballot applications sorted alphabetically
26 or by precinct;

27 (B) The absentee ballots; and

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

29 (i) The number of absentee ballot applications
30 received by the county clerk;

31 (ii) The number of absentee ballots sent by the
32 county clerk;

33 (iii) The number of absentee ballots returned to the
34 county clerk;

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

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

3 (vi) If the number of absentee ballots returned to
4 the county clerk and the number of absentee ballots marked as received on the
5 paper absentee ballot lists are different and the reason for the difference
6 is known, the reason for the difference.

7 ~~(4)~~(5) The processing and counting of absentee ballots shall be
8 open to the public, and candidates and authorized poll watchers may be
9 present in person or by a representative designated in writing under § 7-5-
10 312 during the opening, processing, canvassing, and counting of the absentee
11 ballots as provided in this subchapter.

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

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

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

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

23 (A) One (1) of the election officials shall open outer
24 absentee ballot ~~envelopes~~ one by one and ~~verify the contents~~ locate the
25 required voter materials;

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

29 ~~(C)~~ If the required materials are not properly placed in
30 the outer absentee ballot envelope, a second election official shall open the
31 inner absentee ballot envelope to ~~verify the contents~~ to locate the required
32 voter materials;

33 ~~(D)~~(C) ~~If all required materials are present within one~~
34 ~~(1) or the other envelope, the~~ The election officials shall put the required
35 voter materials in the ~~proper~~ outer absentee ballot envelope while preserving
36 the secrecy of the voter's ballot ~~and~~ within the inner absentee ballot

1 envelope;

2 (D) The election officials shall: proceed to read

3 (i) Read aloud from the voter statement the name of
4 the voter and the voting precinct in which the voter claims to be a legal
5 voter;

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

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

11 (2)(A) After the opening of the absentee ballot materials, the
12 two (2) election officials shall canvass and compare the absentee ballot
13 materials as follows:

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

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

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

22 ~~(F)(i) After the election official reads aloud from the~~
23 ~~statement, the election officials shall compare the name, address, date of~~
24 ~~birth, and signature of the voter's absentee application with the voter's~~
25 ~~statement and, for first-time voters who registered by mail, the first-time~~
26 ~~voter's identification document unless the voter previously provided~~
27 ~~identification at the time of mailing the voter registration application.~~

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

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

34 (c) If a designated bearer, authorized agent,
35 or administrator delivers the ballot, the name and address of the bearer,
36 agent, or administrator are comparable;

1 (iii) ~~If a first-time voter fails to provide the~~
2 ~~required voter identification with the absentee ballot or at the time of~~
3 ~~mailing the voter registration application, then the absentee application,~~
4 ~~absentee ballot envelope, and voter's statement shall be placed in an~~
5 ~~envelope marked "provisional" and the absentee ballot shall be considered a~~
6 ~~provisional ballot;~~ is not included with the absentee ballot materials, the
7 election officials shall place the absentee ballot materials including the
8 inner envelope containing the ballot in an envelope marked "provisional", and
9 the absentee ballot shall be considered a provisional ballot.

10 ~~(G) The election officials shall compare the name and~~
11 ~~address of the bearer, agent, or administrator written on the absentee ballot~~
12 ~~return envelope with the information on the voter statement. If the~~
13 ~~information does not match, then the outer envelope, absentee application,~~
14 ~~secrecy envelope containing the ballot, and the voter's statement shall be~~
15 ~~placed in an envelope marked "provisional" and the absentee ballot shall be~~
16 ~~considered a provisional ballot;~~

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

19 (iv) The ballot shall be designated to be counted or
20 tabulated if:

21 (a) All required absentee ballot materials are
22 present;

23 (b) If a designated bearer, agent, or
24 administrator delivers the ballot of the voter, the name and address of the
25 bearer, agent, or administrator compare; and

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

28 (v) The absentee ballot materials shall be
29 transmitted to the county board of election commissioners for additional
30 review if:

31 (a) Any required absentee ballot materials are
32 missing;

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

35 (c) If a designated bearer, agent, or
36 administrator delivers the ballot of the voter, the name and address of the

1 bearer, agent, or administrator do not compare.

2 (B) A member of a county board of election commissioners,
3 acting in his or her individual capacity as an election official, may perform
4 the duties under subdivision (b)(2)(A) of this section. However, performance
5 of the duties under subdivision (b)(2)(A) of this section by a member of the
6 county board of election commissioners shall not satisfy or serve as
7 performance of the duties of the whole county board of election commissioners
8 under subdivision (b)(3) of this section.

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

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

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

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

19 (b) Accept the designation of the election
20 officials that the ballot is to be counted or reverse the designation of the
21 election officials and mark the ballot as provisional;

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

23 (a) Required absentee ballot materials are
24 present;

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

27 (c) If a designated bearer, agent, or
28 administrator delivers the ballot of the voter, the name and address of the
29 bearer, agent, or administrator compare.

30 (ii) The absentee ballot materials and the absentee
31 ballot shall be placed in an envelope marked "provisional" and the absentee
32 ballot shall be considered a provisional ballot if the:

33 (a) Required absentee ballot materials are
34 incomplete;

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

1 (c) If a designated bearer, agent, or
2 administrator delivers the ballot of the voter, the name and address of the
3 bearer, agent, or administrator do not compare;

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

7 (D)(i) An absentee ballot that has been designated
8 provisional for not including the required voter identification with the
9 absentee ballot materials under subdivision (b)(2)(A)(iii) shall be cured
10 according to the procedure set out in Arkansas Constitution Amendment 51, §
11 13.

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

14 (a) By the close of business the Monday
15 following the election;

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

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

22 (2) By verifying in writing under
23 penalty of perjury that he or she voted the ballot received by the county
24 clerk, if the reason for designation as a provisional ballot was that:

25 (a) The voter's name, mailing
26 address, address of residence or registration, date of birth, and signature
27 did not compare; or

28 (b) If a designated bearer, agent,
29 or administrator delivers the ballot of the voter, the name and address of
30 the bearer, agent, or administrator did not compare.

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

35 (4) Absentee ballot information is comparable or compares if
36 after a review of the information available to the election official or

1 county board of election commissioners, the election official or county board
2 of election commissioners believes that the ballot was voted by the person in
3 whose name the absentee ballot was submitted.

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

9 (B) To "cure" a ballot means to remove or repair the issue
10 causing a ballot not to be counted through the process set forth in this
11 section, such that the ballot shall then be counted.

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

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

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

26 ~~(L)(i) After all of the outer envelopes have been opened,~~
27 ~~the election officials of the absentee box shall preserve all the statements~~
28 ~~of voters and the voters' identification documents and deliver them to the~~
29 ~~county clerk, who shall file and keep them for the same length of time after~~
30 ~~the election as is required for retention of other ballots.~~

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

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

36 (7) After the counting and tabulation:

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

5 ~~(ii)~~(B) The voter statements shall be made available
6 for public inspection during regular business hours; and

7 ~~(iii)~~(C) The voters' identification documents shall
8 not be subject to public inspection except as part of a judicial proceeding
9 to contest the election +.

10 (8) If after review of the absentee ballot materials, an
11 election official or the county board of election commissioners suspects that
12 the absentee ballot was fraudulently submitted, the county board of election
13 commissioners shall:

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

17 (B) Provide copies of the relevant absentee ballot
18 materials; and

19 (C) Fully assist all appropriate law enforcement agencies
20 in the investigation.

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

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

26 ~~(2)~~(9) No election preliminary results shall be printed or
27 released prior to the closing of the polls on election day.

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

31 (1) Signed, dated, postmarked, and mailed before the date of
32 death;

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

36 (3) The ballot of a member of the armed services or Arkansas

1 National Guard in active duty or state active duty executed before the date
2 of death.

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

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

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

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

12 ~~(f)(1)~~(e)(1) Absentee ballots marked as "special runoff ballots"
13 received from a qualified voter from one (1) of the categories in § 7-5-
14 406(a) shall be opened for general primary elections and general runoff
15 elections according to the procedures described in subsection (b) of this
16 section.

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

21 (3) The candidate with the highest ranking shall receive the
22 vote.

23 (4) A special runoff ballot received with the preferential
24 primary absentee ballot shall be counted in the general primary election, and
25 a special runoff ballot received with the general election absentee ballot
26 shall be counted in the general runoff election.

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

30

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

33 7-5-420. State Board of Election Commissioners Rules.

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

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

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

3 (A) Document the chain of custody concerning the opening
4 and closing of the sealed boxes; and

5 (B) Document the contents of the boxes in a readily
6 identifiable manner;

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

10 (4) Proscribe forms for the lists that are required to be
11 generated and maintained under § 7-5-416;

12 (5) Set the procedure for the handling of absentee ballots and
13 voter materials; and

14 (6) Set the procedures for timely compliance with the Freedom of
15 Information Act of 1967, § 25-19-101 et seq. that ensure the secrecy and
16 integrity of the voter materials.

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

19
20 SECTION 8. Arkansas Code § 7-5-701(a)(3)(A) and (B), concerning the
21 certification, delivery, and custody of returns and declaration of election
22 results, are amended to read as follows:

23 (3)(A) As results are received and tabulated on election night
24 for all state and federal elections, the county board of election
25 commissioners shall declare preliminary ~~and unofficial results~~ counts of the
26 election as soon as early voting, absentee, or individual precinct results
27 are tabulated on election night and immediately shall transmit the results by
28 precinct to the Secretary of State through the election night reporting
29 interface provided by the Secretary of State.

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

34
35 SECTION 9. Arkansas Code § 7-5-701(a)(3)(C)(i), concerning the
36 certification, delivery, and custody of returns and declaration of election

1 results, is amended to read as follows:

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

4 (a) Ballots of voters who requested ballots
5 under the Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. §
6 20301 et seq.; and

7 (b) Provisional ballots; and

8

9 SECTION 10. Arkansas Code § 7-5-701, concerning the certification,
10 delivery, and custody of returns and declaration of election results, is
11 amended to add an additional subsection to read as follows:

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

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

17

18 SECTION 11. DO NOT CODIFY. Rules.

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

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

23 (2) If approval under § 10-3-309 has not occurred by January 1,
24 2022, as soon as practicable after approval under § 10-3-309.

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

29

30 /s/C. Tucker

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