

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

As Engrossed: S4/21/21

# A Bill

SENATE BILL 701

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

## For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS ABSENTEE VOTING  
10 INTEGRITY ACT OF 2021; TO CLARIFY, CREATE  
11 ACCOUNTABILITY AND UNIFORMITY FOR, AND SIMPLIFY  
12 ABSENTEE BALLOT PROCESSES; TO ENCOURAGE AND ASSIST  
13 LAW ENFORCEMENT INVESTIGATION OF VOTER FRAUD; TO  
14 AMEND ELECTION LAW CONCERNING ABSENTEE BALLOTS; TO  
15 AMEND ELECTION LAW; AND FOR OTHER PURPOSES.  
16  
17

## Subtitle

18 TO CREATE THE ARKANSAS ABSENTEE VOTING  
19 INTEGRITY ACT OF 2021.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
24

25 SECTION 1. DO NOT CODIFY. Title – Legislative finding.

26 (a) This act shall be known and may be cited as the "Arkansas Absentee  
27 Voting Integrity Act of 2021".

28 (b) This act incorporates the changes to the absentee ballot process  
29 adopted by the General Assembly in Acts 2021, No. 736.  
30

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

33 ~~(2)(A) For those persons voting by absentee ballot who reside~~  
34 ~~outside the county in which they are registered to vote, the application~~  
35 ~~shall remain in effect for one (1) year unless revoked by the voter, and the~~  
36 ~~county clerk shall thereafter automatically mail no later than twenty-five~~



1 ~~(25) days before each election an absentee ballot for each election.;~~

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

5 (B) The election cycle shall include any one (1) election  
6 and the corresponding runoff election;

7 (C) The Secretary of State shall include an option, which  
8 the applicant may select, that the application shall remain in effect for one  
9 (1) year, unless later revoked by the voter;

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

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

24 (ii) For a voter residing in a long-term care or  
25 residential care facility licensed by the state, the administrator of the  
26 facility may receive the absentee ballot on behalf of the voter for that  
27 election if, before the county clerk has mailed the ballot, the administrator  
28 has presented an absentee ballot request from the voter authorizing the  
29 administrator to receive the absentee ballot on behalf of the voter for that  
30 election.

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

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

36 ~~(C)(i) For a voter residing in a long-term care or~~

1 ~~residential care facility licensed by the state the application shall remain~~  
2 ~~in effect for one (1) calendar year unless withdrawn by the voter.~~

3 ~~(ii) The county clerk automatically shall mail no~~  
4 ~~later than twenty five (25) days before each election an absentee ballot for~~  
5 ~~each election unless, before mailing, the administrator of the facility has~~  
6 ~~presented an absentee ballot request from the voter authorizing the~~  
7 ~~administrator to receive the absentee ballot on behalf of the voter for that~~  
8 ~~election.~~

9 ~~(D)(i) For a voter with a disability as defined in § 7-5-~~  
10 ~~311, the application shall remain in effect for one (1) calendar year unless~~  
11 ~~withdrawn by the voter.~~

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

15  
16 SECTION 3. Arkansas Code § 7-5-405(a)(1) and (2), concerning the  
17 application form for absentee ballots, are amended to read as follows:

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

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

22 (A) The following statement:

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

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

27 (i) Unavoidably absent from the polling site on  
28 election day;

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

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

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

36 (D) A statement indicating whether the voter is a United

1 States citizen residing outside the territorial limits of the United States;

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

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

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

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

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

13 (a) Shall be placed on the form by the  
14 Secretary of State;

15 (b) May use terminology that varies from the  
16 election terms adopted in the Arkansas Code;

17 (c) Shall include a list of election options  
18 for absentee ballot voters to choose from when requesting their absentee  
19 ballot; and

20 (d) In providing the list of election options  
21 in subdivision (a)(2)(H)(ii)(c) of this section, the Secretary of State may:

22 (1) Use plain language terms that:

23 (A) Sufficiently identify which  
24 ballot the voter is requesting; and

25 (B) Are designed to be easily read  
26 by the typical registered voter; and

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

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30 SECTION 4. Arkansas Code § 7-5-409(b) as amended by Acts 2021, No.  
31 736, concerning materials furnished to qualified voters, is amended to read  
32 as follows:

33 (b)(1) If the applicant is registered or is otherwise eligible to vote  
34 absentee, the county clerk, prior to mailing or delivering the ballot, shall  
35 detach the ballot stub and deposit the ballot stub into a sealed box  
36 designated as "Absentee Stub Box" and deliver to the applicant or to the

1 applicant's designated bearer, authorized agent, or administrator for  
2 delivery to the applicant the following materials:

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

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

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

9 ~~(4)~~(A)~~(i)~~(D)(i)(a) A uniform voter statement created and  
10 approved by the State Board of Election Commissioners.

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

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

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

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

31 ~~(B)~~(ii) Blanks shall be provided for the voter to  
32 provide his or her printed name, signature, mailing address, residential  
33 voting address, date of birth, printed name and address of the administrator,  
34 authorized agent, or designated bearer, signature of administrator,  
35 authorized agent, or designated bearer, and address of the administrator,  
36 authorized agent, or designated bearer.

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

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

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

12 ~~(6)(F)~~ An authorized agent authorization form, as follows:  
13

14 "AGENT AUTHORIZATION FORM

15 If applicable, fill out and sign this form and place it in the Return  
16 Envelope

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

22  
23 Signature of voter

24  
25 Printed name of voter

26  
27 Address of voter

28  
29 Date of birth of voter."

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

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

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

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SECTION 5. Arkansas Code § 7-5-416 as amended by Acts 2021, No. 736, is amended to read as follows:

7-5-416. Counting of absentee ballots.

(a)(1) The election officials for absentee ballots may meet in a place designated by the county board of election commissioners no earlier than the Tuesday before the election for the purpose of opening the outer envelope, processing, and canvassing of absentee ballot paper work of the outer envelope and no earlier than 8:30 a.m. on election day for the purpose of opening the inner absentee ballot envelope and counting the absentee ballots.

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

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

~~(3)~~(4) The county clerk shall provide the county board of election commissioners with a daily count of absentee applications received, to be reported weekly or upon request of the county board of election commissioners.

~~(4)~~(5) The county clerk shall provide the county board of election commissioners with a daily count of absentee ballots received, to be reported weekly or upon request of the county board of election commissioners.

~~(5)~~(6) The county clerk shall forward the following items to the election officials designated by the county board of election commissioners to open, process, canvass, and count absentee ballots:

(A) The absentee ballot applications sorted alphabetically and by precinct;

(B) The absentee ballots; and

(C) A written report containing the following information:

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

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

(iii) The number of absentee ballots returned to the

1 county clerk;

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

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

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

10 ~~(6)(7)~~ The processing and counting of absentee ballots shall be  
11 open to the public, and candidates and authorized poll watchers may be  
12 present in person or by a representative designated in writing under § 7-5-  
13 312 during the opening, processing, canvassing, and counting of the absentee  
14 ballots as provided in this subchapter.

15 ~~(7)(A)(8)(A)~~ *Absentee and early votes shall be counted prior to*  
16 ~~*the closing of the polls on election day*~~ *the close of business on the*  
17 *Thursday following election day as provided under this section, except for*  
18 *overseas voters as otherwise provided under this section.*

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

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

25 ~~(8)(A)(9)(A)~~ After the outer envelope of an absentee ballot is  
26 opened, a county clerk and deputies of the county clerk shall not have access  
27 to:

28 (i) The absentee ballots;

29 (ii) Absentee ballot paperwork; or

30 (iii) The inner envelope of an absentee ballot.

31 (B) The county board of election commissioners may grant a  
32 county clerk or deputies of the county clerk access to the absentee ballot  
33 materials in subdivision ~~(a)(8)(A)(a)(9)(A)~~ of this section if the access is  
34 granted by an affirmative vote of the county board of election commissioners  
35 for a specific purpose and for a designated election.

36 (b)(1) ~~The opening, processing, counting, and canvassing of~~ absentee



1 ~~ballots~~ ballot materials shall be ~~conducted~~ opened by two (2) election  
2 officials as follows:

3 (A) One (1) of the election officials shall open outer  
4 absentee ballot envelopes one by one and ~~verify the contents~~ locate the  
5 required materials;

6 (B) ~~If the required materials are properly placed in the~~  
7 ~~outer absentee ballot envelope, the election official shall proceed to read~~  
8 ~~aloud from the voter statement the name of the voter;~~ The election officials  
9 shall:

10 (i) Read aloud from the voter statement the name of  
11 the voter and the voting precinct in which the voter claims to be a legal  
12 voter;

13 (ii) List the name and voting precinct of the voter;

14 (iii) Compare the voter materials as provided under  
15 subdivision (b)(2) of this section; and

16 (iv) For first-time voters who registered by mail,  
17 compare the first-time voter's identification document unless the voter  
18 previously provided identification at the time of mailing the voter  
19 registration application;

20 (C) If the required materials are not properly placed in  
21 the outer absentee ~~ballot~~ envelope;

22 (i) ~~a~~ A second election official shall open the  
23 inner absentee ~~ballot~~ envelope to ~~verify the contents~~ locate the required  
24 voter materials no earlier than 8:30 a.m. on election day; and

25 ~~(D)(ii)~~ ~~If all required materials are present within~~  
26 ~~one (1) or the other envelope, the~~ The election officials shall ~~put~~ place the  
27 absentee ballot materials, while preserving the secrecy of the voter's ballot  
28 within the inner absentee envelope, in the proper ~~an~~ envelope while  
29 preserving the secrecy of the voter's ballot and marked "provisional", and  
30 the absentee ballot shall be considered a provisional ballot; and shall  
31 proceed to read aloud from the voter statement the name of the voter and the  
32 voting precinct in which the voter claims to be a legal voter;

33 ~~(E)~~ ~~As each outer envelope is opened and the name of the~~  
34 ~~voter is read, the election officials for the absentee box shall list the~~  
35 ~~name and voting precinct of the voter;~~

36 (D) If the required materials are properly placed in the

1 outer absentee envelope, then the election officials shall compare the voter  
2 materials as provided under subdivision (b)(2) of this section.

3 (2)(A) After the opening of the absentee ballot materials, the  
4 two (2) election officials shall canvass and compare the absentee ballot  
5 materials as follows:

6 (i) The election officials shall compare all  
7 absentee ballot materials returned, except the voter's ballot, which shall be  
8 maintained within the inner absentee ballot envelope to preserve the secrecy  
9 of the ballot, including without limitation:

10 (a) Absentee ballot applications;

11 (b) Voter statements;

12 (c) A voter's voter identity documentation;

13 and

14 (d) Any additional information or  
15 documentation provided by the voter in the absentee ballot envelope;

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

18 (a) The voter's name, residential voting  
19 address, date of birth, and signature are comparable;

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

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

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

32 (c) If a designated bearer, authorized agent,  
33 or administrator delivers the ballot, the name of the designated bearer,  
34 authorized agent, or administrator written on the absentee ballot application  
35 compares with the information on the voter statement;

36 (iii) The election officials shall place the

1 absentee ballot materials, including the inner envelope containing the  
2 ballot, in an envelope marked "provisional", and the absentee ballot shall be  
3 considered a provisional ballot if:

4 (a) The absentee application and the voter's  
5 statement do not compare as to name, residential voting address, date of  
6 birth, and signature; or

7 (b) A designated bearer, authorized agent, or  
8 administrator delivers the ballot, and the name of the designated bearer,  
9 authorized agent, or administrator does not compare with the information on  
10 the voter statement;

11 (iv) If a first-time voter fails to provide the  
12 required voter identification with the absentee ballot or at the time of  
13 mailing the voter registration application, then the absentee application,  
14 absentee ballot envelope, and voter's statement shall be placed in an  
15 envelope marked "provisional" and the absentee ballot shall be considered a  
16 provisional ballot; or if any other voter fails to provide the required voter  
17 identification with the absentee ballot, the election officials shall place  
18 the absentee ballot materials including the inner envelope containing the  
19 ballot in an envelope marked "provisional", and the absentee ballot shall be  
20 considered a provisional ballot;

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

28 ~~(ii) The election officials shall compare the name~~  
29 ~~of the bearer written on the absentee ballot application with the information~~  
30 ~~on the voter statement, and if the information does not compare, the ballot~~  
31 ~~shall be a provisional ballot.~~

32 ~~(iii) An absentee ballot designated as a provisional~~  
33 ~~ballot for the lack of a designation of, or name of, a designated bearer~~  
34 ~~shall be counted only if the county board of election commissioners does not~~  
35 ~~determine that the provisional ballot is invalid and should not be counted~~  
36 ~~based on other grounds;~~

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

3 (v) The ballot shall be designated to be counted or  
4 tabulated if:

5 (a) All required absentee ballot materials are  
6 present;

7 (b) The voter's name, residential voting  
8 address, date of birth, and signature compare; and

9 (c) If a designated bearer, authorized agent,  
10 or administrator delivered the ballot, the name of the designated bearer,  
11 authorized agent, or administrator written on the absentee ballot application  
12 compares with the information on the voter statement;

13 (vi) The absentee ballot materials shall be  
14 transmitted to the county board of election commissioners for additional  
15 review if:

16 (a) Any required absentee ballot materials are  
17 missing;

18 (b) The voter's name, residential voting  
19 address, date of birth, and signature do not compare; or

20 (c) If a designated bearer, authorized agent,  
21 or administrator delivers the ballot, the name of the designated bearer,  
22 authorized agent, or administrator does not compare with the information on  
23 the voter statement.

24 (B) A member of a county board of election commissioners,  
25 acting in his or her individual capacity as an election official, may perform  
26 the duties under subdivision (b)(2)(A) of this section. However, performance  
27 of the duties under subdivision (b)(2)(A) of this section by a member of the  
28 county board of election commissioners shall not satisfy or serve as  
29 performance of the duties of the whole county board of election commissioners  
30 under subdivision (b)(3) of this section.

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

34 (A)(i) The county board of election commissioners shall  
35 review the absentee ballot materials transmitted to it under subdivision  
36 (b)(2)(A)(v) of this section.

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

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

5 (b) Accept the designation of the election  
6 officials that the ballot is to be counted or reverse the designation of the  
7 election officials and mark the ballot as provisional;

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

9 (a) Required absentee ballot materials are  
10 present;

11 (b) Voter's name, residential voting address,  
12 date of birth, and signatures compare; and

13 (c) If a designated bearer, authorized agent,  
14 or administrator delivered the ballot, the name of the designated bearer,  
15 authorized agent, or administrator written on the absentee ballot application  
16 compares with the information on the voter statement.

17 (ii) The absentee ballot materials and the absentee  
18 ballot shall be placed in an envelope marked "provisional" and the absentee  
19 ballot shall be considered a provisional ballot if:

20 (a) The required absentee ballot materials are  
21 incomplete or missing;

22 (b) The voter's name, residential voting  
23 address, date of birth, and signature do not compare; or

24 (c) If a designated bearer, authorized agent,  
25 or administrator delivers the ballot, the name of the designated bearer,  
26 authorized agent, or administrator does not compare with the information on  
27 the voter statement;

28 ~~(I)~~(C) Failure of the voter to submit the required  
29 absentee materials in the proper envelopes shall not be grounds for  
30 disqualifying the voter; and

31 (D)(i) An absentee ballot that has been designated  
32 provisional for not including the required voter identification with the  
33 absentee ballot materials shall be cured according to the procedure set out  
34 in Arkansas Constitution Amendment 51, § 13.

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

1 (a) By noon the Monday following the election;  
2 (b) In person or in writing to the county  
3 clerk, county board of election commissioners, or appropriately designated  
4 staff or election officials; and

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

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

11 (A) The voter's name, residential  
12 voting address, date of birth, and signature did not compare; or

13 (B) If a designated bearer,  
14 authorized agent, or administrator delivered the ballot, and the name of the  
15 designated bearer, authorized agent, or administrator did not compare with  
16 the information on the voter statement.

17 (iii) An absentee ballot shall not be counted if:

18 (a) It has been marked provisional and is not  
19 cured under either subdivision (b)(3)(D)(i) or subdivision (b)(3)(D)(ii) of  
20 this section; or"

21 (b) It did not include a voter statement.

22 (iv) An absentee ballot designated as a provisional  
23 ballot for the lack of a designation of, or name of, a designated bearer,  
24 authorized agent, or administrator shall be counted only if the county board  
25 of election commissioners does not determine that the provisional ballot is  
26 invalid and should not be counted based on other grounds.

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

31 (4) Absentee ballot information is comparable or compares if  
32 after a review of the information available to the election official or  
33 county board of election commissioners, the election official or county board  
34 of election commissioners determines that the ballot was voted by the person  
35 in whose name the absentee ballot was submitted.

36 (5)(A) Within forty-eight (48) hours after an absentee ballot is

1 designated by any election official or by the county board of election  
2 commissioners as provisional, the county board of election commissioners  
3 shall by mail, email, or phone notify the voter of the deadline and process  
4 for curing his or her absentee ballot.

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

8 (C) If an absentee ballot that was previously designated  
9 as needing additional review under subdivision (b)(2)(A)(v) of this section  
10 is reviewed by the county board of election commissioners and approved to be  
11 counted or tabulated without being designated as provisional, then no more  
12 than forty-eight (48) hours after the approval, the county board of election  
13 commissioners shall by mail, email, or phone notify the voter that he or she  
14 no longer needs to cure his or her ballot.

15 (6)(A) After all of the outer envelopes have been opened, the  
16 election officials of the absentee box shall preserve all the statements of  
17 voters, the voters' identification documents, and all other materials  
18 submitted with the absentee ballot except the ballot itself and deliver them  
19 to the county clerk, who shall file and keep them for the same length of time  
20 after the election as is required for the retention of other ballots.

21 (B) The voter statements shall be made available for  
22 public inspection and copying during regular business hours no earlier than  
23 8:30 a.m. on the day following the actual delivery of the statement of the  
24 number of outstanding ballots and provisional ballots to the Secretary of  
25 State, and declaration of preliminary and unofficial results of the election  
26 under § 7-5-701(a)(3)(C).

27 (C) The voters' identification documents shall not be  
28 subject to public inspection except as part of a judicial proceeding to  
29 contest the election.

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

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

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

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

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

11                   (8) After the counting and tabulation, the county board of  
12 election commissioners shall preserve all absentee ballots and shall file and  
13 keep them for the same length of time after the election as is required for  
14 retention of other ballots.

15                   ~~(ii) The voter statements shall be made available~~  
16 ~~for public inspection and copying during regular business hours no earlier~~  
17 ~~than 8:30 a.m. on the day following the actual delivery of the statement of~~  
18 ~~the number of outstanding ballots and provisional ballots to the Secretary of~~  
19 ~~State, and declaration of preliminary and unofficial results of the election~~  
20 ~~under § 7-5-701(a)(3)(C).~~

21                   ~~(iii) The voters' identification documents shall not~~  
22 ~~be subject to public inspection except as part of a judicial proceeding to~~  
23 ~~contest the election;~~

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

28                   (i) File complaints concerning the ballot with the  
29 State Board of Election Commissioners and the county prosecuting attorney no  
30 later than thirty (30) days after certification of the election;

31                   (ii) Provide copies of the relevant absentee ballot  
32 materials, and the county clerk shall provide any relevant absentee ballot  
33 materials in their possession; and

34                   (iii) Fully assist all appropriate law enforcement  
35 agencies in the investigation.

36                   (B) A ballot is not automatically considered fraudulently



1 submitted merely because it was not counted because:

2 (i) Not all the required voter materials were  
3 included;

4 (ii) The voter materials did not compare;

5 (iii) If a designated bearer, authorized agent, or  
6 administrator delivered the ballot, the name of the designated bearer,  
7 authorized agent, or administrator did not compare with the information on  
8 the voter statement; or

9 (iv) For another innocuous reason.

10 (C) A ballot is fraudulently submitted if a voter  
11 knowingly violates voting laws, including without limitation by submitting:

12 (i) More than one (1) ballot;

13 (ii) A ballot under a false identity; or

14 (iii) A ballot on behalf of another person without  
15 that person's lawful authorization.

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

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

21 ~~(2)(10)~~ No election results shall be printed or released prior  
22 to the closing of the polls on election day.

23 (c) If any person casting an absentee ballot dies before the polls  
24 open on election day, his or her ballot shall be accepted by the county clerk  
25 if the absentee ballot is:

26 (1) Signed, dated, postmarked, and mailed before the date of  
27 death;

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

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

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

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

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

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

7 ~~(f)(1)~~(e)(1) Absentee ballots marked as "special runoff ballots"  
8 received from a qualified voter from one (1) of the categories in § 7-5-  
9 406(a) shall be opened for general primary elections and general runoff  
10 elections according to the procedures described in subsection (b) of this  
11 section.

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

16 (3) The candidate with the highest ranking shall receive the  
17 vote.

18 (4) A special runoff ballot received with the preferential  
19 primary absentee ballot shall be counted in the general primary election, and  
20 a special runoff ballot received with the general election absentee ballot  
21 shall be counted in the general runoff election.

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

25  
26 SECTION 6. Arkansas Code Title 7, Chapter 5, Subchapter 4, is amended  
27 to add an additional section to read as follows:

28 7-5-420. State Board of Election Commissioners – Rules.

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

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

32 (2) Set uniform methods for labeling ballot storage containers  
33 that, at a minimum:

34 (A) Document the chain of custody concerning the opening  
35 and closing of the sealed boxes; and

36 (B) Document the contents of the boxes in a readily

1 identifiable manner;

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

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

7 (5) Set the procedure for the handling of absentee ballots and  
8 voter materials; and

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

12 (b) The rules shall be promulgated under the Arkansas Administrative  
13 Procedure Act, § 25-15-201 et seq.

14  
15 SECTION 7. DO NOT CODIFY. Rules.

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

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

20 (2) If approval under § 10-3-309 has not occurred by January 1,  
21 2022, as soon as practicable after approval under § 10-3-309.

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

26  
27 */s/C. Tucker*  
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