

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

1 State of Arkansas As Engrossed: S3/27/23 S3/29/23  
2 94th General Assembly **A Bill**  
3 Regular Session, 2023

SENATE BILL 235

4  
5 By: Senator C. Tucker

6  
7 **For An Act To Be Entitled**

8 AN ACT TO CREATE THE ARKANSAS ABSENTEE VOTER  
9 INTEGRITY ACT OF 2023; TO AMEND THE LAW CONCERNING  
10 COUNTING ABSENTEE BALLOTS; TO AMEND THE LAW  
11 CONCERNING ELECTIONS; TO AMEND THE LAW CONCERNING THE  
12 DUTIES OF THE SECRETARY OF STATE; AND FOR OTHER  
13 PURPOSES.

14  
15  
16 **Subtitle**

17 TO CREATE THE ARKANSAS ABSENTEE VOTER  
18 INTEGRITY ACT OF 2023; TO AMEND THE LAW  
19 CONCERNING COUNTING ABSENTEE BALLOTS; TO  
20 AMEND THE LAW CONCERNING ELECTIONS; AND  
21 TO AMEND THE LAW CONCERNING THE DUTIES OF  
22 THE SECRETARY OF STATE.

23  
24  
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

26  
27 SECTION 1. DO NOT CODIFY. Title.

28 This act shall be known and may be cited as the "Arkansas Absentee  
29 Voter Integrity Act of 2023."

30  
31 SECTION 2. Arkansas Code § 7-5-416 is amended to read as follows:  
32 7-5-416. Counting of absentee ballots.

33 (a)(1) The election officials for absentee ballots may meet in a place  
34 designated by the county board of election commissioners no earlier than the  
35 Tuesday before the election for the purpose of opening the outer envelope,  
36 processing, and canvassing of absentee ballot paper work of the outer



1 envelope and no earlier than 8:30 a.m. on election day for the purpose of  
2 opening the inner absentee ballot envelope and counting the absentee ballots.

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

5 (3) The county board of election commissioners shall give public  
6 notice of the time and location of the opening, processing, canvassing, and  
7 counting of absentee ballots and early voting ballots as provided in § 7-5-  
8 202.

9 ~~(3)~~(4) The county clerk shall provide the county board of  
10 election commissioners with a daily count of absentee applications received,  
11 to be reported weekly or upon request of the county board of election  
12 commissioners.

13 ~~(4)~~(5) The county clerk shall provide the county board of  
14 election commissioners with a daily count of absentee ballots received, to be  
15 reported weekly or upon request of the county board of election  
16 commissioners.

17 ~~(5)~~(6) The county clerk shall forward the following items to the  
18 election officials designated by the county board of election commissioners  
19 to open, process, canvass, and count absentee ballots:

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

22 (B) The absentee ballots; and

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

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

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

28 (iii) The number of absentee ballots returned to the  
29 county clerk;

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

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

34 (vi) If the number of absentee ballots returned to  
35 the county clerk and the number of absentee ballots marked as received on the  
36 paper absentee ballot lists are different and the reason for the difference

1 is known, the reason for the difference.

2 ~~(6)~~(7) The processing and counting of absentee ballots shall be  
3 open to the public, and candidates and authorized poll watchers may be  
4 present in person or by a representative designated in writing under § 7-5-  
5 312 during the opening, processing, canvassing, and counting of the absentee  
6 ballots as provided in this subchapter.

7 ~~(7)(A)~~(8)(A) The county board of election commissioners shall  
8 begin tabulating absentee ballots and early votes before the polls close on  
9 election day and continue counting absentee votes until all absentee votes,  
10 except for overseas voters as otherwise provided under this section, and  
11 early votes are counted and completed before counting or tabulating election  
12 day votes ~~Absentee and early votes shall be counted prior to the closing of~~  
13 ~~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 ~~(8)(A)~~(9)(A) After the outer envelope of an absentee ballot is  
21 opened, a county clerk and deputies of the county clerk shall not have access  
22 to:

23 (i) The absentee ballots;

24 (ii) Absentee ballot paperwork; or

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

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

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

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

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

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

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

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

11 (iv) For first-time voters who registered by mail,  
12 compare the first-time voter's identification document unless the voter  
13 previously provided identification at the time of mailing the voter  
14 registration application;

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

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

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

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

31 (D) If the required materials are properly placed in the  
32 outer absentee envelope, then the election officials shall compare the voter  
33 materials as provided under subdivision (b)(2) of this section.

34 (2)(A) After the opening of the absentee ballot materials, the  
35 two (2) election officials shall canvass and compare the absentee ballot  
36 materials as follows:

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

5 (a) Absentee ballot applications;

6 (b) Voter statements;

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

8 and

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

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

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

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

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

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

27 (c) If a designated bearer, authorized agent,  
28 or administrator delivers the ballot, the name of the designated bearer,  
29 authorized agent, or administrator written on the absentee ballot application  
30 compares with the information on the voter statement;

31 (iii) The election officials shall place the  
32 absentee ballot materials, including the inner envelope containing the  
33 ballot, in an envelope marked "provisional", and the absentee ballot shall be  
34 considered a provisional ballot if:

35 (a) The absentee application and the voter's  
36 statement do not compare as to name, residential voting address, date of

1 birth, and signature; or

2 (b) A designated bearer, authorized agent, or  
3 administrator delivers the ballot, and the name of the designated bearer,  
4 authorized agent, or administrator does not compare with the information on  
5 the voter statement;

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

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

23 ~~(ii) The election officials shall compare the name~~  
24 ~~of the bearer written on the absentee ballot application with the information~~  
25 ~~on the voter statement, and if the information does not compare, the ballot~~  
26 ~~shall be a provisional ballot.~~

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

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

34 (v) The ballot shall be designated to be counted or  
35 tabulated if:

36 (a) All required absentee ballot materials are

1 present;

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

4 (c) If a designated bearer, authorized agent,  
5 or administrator delivered the ballot, the name of the designated bearer,  
6 authorized agent, or administrator written on the absentee ballot application  
7 compares with the information on the voter statement; and

8 (vi) The absentee ballot materials shall be  
9 transmitted to the county board of election commissioners for additional  
10 review if:

11 (a) Any required absentee ballot materials are  
12 missing;

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

15 (c) If a designated bearer, authorized agent,  
16 or administrator delivers the ballot, the name of the designated bearer,  
17 authorized agent, or administrator does not compare with the information on  
18 the voter statement.

19 (B)(i) A member of a county board of election  
20 commissioners, acting in his or her individual capacity as an election  
21 official, may perform the duties under subdivision (b)(2)(A) of this section.

22 (ii) However, performance of the duties under  
23 subdivision (b)(2)(A) of this section by a member of the county board of  
24 election commissioners shall not satisfy or serve as performance of the  
25 duties of the whole county board of election commissioners under subdivision  
26 (b)(3) of this section.

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

30 (A)(i) The county board of election commissioners shall  
31 review the absentee ballot materials transmitted to it under subdivision  
32 (b)(2)(A)(vi) of this section.

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

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

1 (b) Accept the designation of the election  
2 officials that the ballot is to be counted or reverse the designation of the  
3 election officials and mark the ballot as provisional;

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

5 (a) Required absentee ballot materials are  
6 present;

7 (b) Voter's name, residential voting address,  
8 date of birth, and signatures 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 (ii) The absentee ballot materials and the absentee  
14 ballot shall be placed in an envelope marked "provisional" and the absentee  
15 ballot shall be considered a provisional ballot if:

16 (a) The required absentee ballot materials are  
17 incomplete or 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 ~~(I)(C)~~ Failure of the voter to submit the required  
25 absentee materials in the proper envelopes shall not be grounds for  
26 disqualifying the voter; and

27 (D)(i) An absentee ballot that has been designated  
28 provisional shall be cured according to the procedure set out in Arkansas  
29 Constitution, Amendment 51, § 13(b)(5)(A) and (B) if, upon a public vote, the  
30 county board of election commissioners determines that the absentee ballot:

31 (a) Does not include the required voter  
32 identification with the absentee ballot materials;

33 (b) Does not include the voter statement with  
34 the absentee ballot materials;

35 (c) Has a signature that does not compare; or

36 (d) Has an address on the voter statement that



1 is materially and substantially different from either the voting residence  
2 address of the voter or the address at which the voter requested to receive  
3 the absentee ballot by mail as set forth on the absentee ballot application.

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

6 (a) By noon the Monday following the election;

7 (b) In person or in writing to the county  
8 clerk, county board of election commissioners, or appropriately designated  
9 staff or election officials; and

10 (c) By:

11 (1) Providing or correcting the absentee  
12 ballot materials or verification, if the reason for designation as a  
13 provisional ballot was an incomplete submission;

14 (2) Verifying in writing under penalty  
15 of perjury that he or she voted the ballot received by the county clerk, if  
16 the reason for designation as a provisional ballot was that:

17 (A) The voter's name, residential  
18 voting address, except as set out under subdivision (b)(3)(D)(i) of this  
19 section, date of birth, and signature did not compare; or

20 (B) If a designated bearer,  
21 authorized agent, or administrator delivered the ballot, and the name of the  
22 designated bearer, authorized agent, or administrator did not compare with  
23 the information on the voter statement; or

24 (3) Reviewing the ballot located inside  
25 the inner envelope marked as provisional in a private and independent manner  
26 to verify that the ballot marked as provisional is the ballot submitted by  
27 the voter.

28 (iii) An absentee ballot shall not be counted if the  
29 absentee ballot has been marked provisional and is not cured under either  
30 subdivision (b)(3)(D)(i) or subdivision (b)(3)(D)(ii) of this section.

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

36 ~~(J) If the voter statement does not authorize a bearer,~~

1 ~~agent, or administrator to receive or return his or her absentee ballot and~~  
2 ~~the ballot was received or returned by a bearer, agent, or administrator, the~~  
3 ~~vote shall not be counted;~~

4 (4) Absentee ballot information is comparable or compares if  
5 after a review of the information available to the election official or  
6 county board of election commissioners, the election official or county board  
7 of election commissioners determines that the absentee ballot that was  
8 submitted was voted by the person in whose name the absentee ballot was  
9 submitted, after review of that person's address or other information that  
10 was submitted with the absentee ballot, absentee ballot application, voter  
11 statement, voter identification, or other documentation possessed by, on file  
12 with, or available to the county clerk or the county board of election  
13 commissioners.

14 (5)(A)(i) After an absentee ballot is designated by an election  
15 official or by the county board of election commissioners as provisional, the  
16 county board of election commissioners shall notify the voter of the deadline  
17 and process for curing his or her absentee ballot as soon as possible but no  
18 later than forty-eight (48) hours after the absentee ballot is designated as  
19 a provisional ballot.

20 (ii) The county board of election commissioners  
21 shall notify the voter of the deadline and process for curing his or her  
22 absentee ballot by email, telephone, and text message as soon as possible but  
23 no later than forty-eight (48) hours after the absentee ballot is designated  
24 as a provisional ballot if the voter's email address or telephone number is  
25 available.

26 (iii) If a voter has not provided an email address  
27 or telephone number, the county board of election commissioners shall notify  
28 the voter of the deadline and process for curing his or her absentee ballot  
29 by mail as soon as possible but no later than forty-eight (48) hours after  
30 the absentee ballot is designated as a provisional ballot.

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

34 (C)(i) If an absentee ballot that was previously  
35 designated as needing additional review under subdivision (b)(2)(A)(vi) of  
36 this section is reviewed by the county board of election commissioners and

1 approved to be counted or tabulated without being designated as provisional,  
2 the county board of election commissioners shall, by email, telephone, and  
3 text message, if the voter's email address or telephone number is available,  
4 notify the voter as soon as possible but no later than forty-eight (48) hours  
5 after the absentee ballot is approved that he or she no longer needs to cure  
6 his or her ballot.

7 (ii) If a voter has not provided an email address or  
8 telephone number, the county board of election commissioners shall notify the  
9 voter by mail as soon as possible but no later than forty-eight (48) hours  
10 after the absentee ballot is approved that he or she no longer needs to cure  
11 his or her ballot.

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

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

24 (C) The voters' identification documents shall not be  
25 subject to public inspection except as part of a recount or judicial  
26 proceeding to contest the election.

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

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

35 ~~(L)(i)~~ After all of the outer envelopes have been opened,  
36 the election officials of the absentee box shall preserve all the statements

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

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

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

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

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

36 (iv) Notify all candidates of any affected race.

1 (B) A ballot is not automatically considered fraudulently  
2 submitted merely because it was not counted because:

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

5 (ii) The voter materials did not compare; or

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

10 (C) A ballot is not automatically considered fraudulently  
11 submitted if the voter's actions did not indicate or evince an intention to  
12 violate the election laws of Arkansas or those of the United States  
13 government.

14 (D) A ballot is fraudulently submitted if a voter  
15 knowingly violates voting laws, including without limitation by submitting:

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

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

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

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

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

25 ~~(2)(10)~~ No election results shall be printed or released prior  
26 to the closing of the polls on election day.

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

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

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

35 (3) The ballot of a member of the armed services or Arkansas  
36 National Guard in active duty or state active duty executed before the date

1 of death.

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

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

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

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

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

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

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

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

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

29

30 SECTION 3. Arkansas Code Title 7, Chapter 5, Subchapter 4, is amended  
31 to add an additional section to read as follows:

32 7-5-420. State Board of Election Commissioners – Rules.

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

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

36 (2) Set uniform methods for labeling ballot storage containers

1 that, at a minimum, document the:

2 (A) Chain of custody concerning the opening and closing of  
3 the sealed boxes; and

4 (B) Contents of the boxes in a readily identifiable  
5 manner;

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

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

11 (5) Set the procedure for the handling of absentee ballots and  
12 voter materials such that the absentee ballots and voter materials are  
13 secured in such a manner that the boxes cannot be opened and the ballots  
14 cannot be handled, viewed, or tampered with except by authorized election  
15 officials; and

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

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

21  
22 SECTION 4. DO NOT CODIFY. Rules.

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

26 (1) On or before January 1, 2024; or

27 (2) If approval under § 10-3-309 has not occurred by January 1,  
28 2024, as soon as practicable after approval under § 10-3-309.

29 (b) The board shall file the proposed rules with the Legislative  
30 Council under § 10-3-309(c) sufficiently in advance of January 1, 2024, so  
31 that the Legislative Council may consider the rules for approval before  
32 January 1, 2024.

33  
34 /s/C. Tucker  
35  
36