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**RE: EXECUTIVE SUMMARY MEMORANDUM**

**PROPOSED BILL NO. 1  
ABSENTEE VOTING**

Dear Sir or Madam:

Arkansas has a robust absentee balloting law. However, the law needs to be fortified. This proposed bill does that by increasing security and creating a legal process to not count absentee ballots if strict requirements are not met.

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**Ark. Code Ann. § 7-5-402**

(a)(1)(2)(3)

This section reiterates that absentee voting is not a right but a privilege. It directs those who count absentee ballots in Arkansas to not tabulate votes if all strict security measures are not met. The new language allows for no discretion. It also provides that all doubts about a ballot or voting procedure must be resolved by not counting the vote.

To provide heightened notice to the absentee voter, a mandatory warning is sent to persons requesting ballots informing them that their ballot may not be counted and the best method in which to vote is in person.

(a)(3)(B)

This language clarifies that one is only able to obtain an absentee ballot if they are unable to attend their voting place because they are out of the county. This reduces or eliminates a voter's ability to request an absentee ballot because they are available to go to the poll but do not want to do so.

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**Ark. Code Ann. § 7-5-402**

(a)(1)

This additional language requires that all absentee ballots be printed on paper with the special security requirements found in the proposed bill that modifies 7-5-601.

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**Ark. Code Ann. § 7-5-416**

(b)(1)(G)(i)

This language removes the discretion of the county board of election commissioners to count absentee ballots that fail to strictly comply with the absentee ballot voting process.

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(M)(2)(d)(i)

Clarifies that the counting of absentee ballots must begin prior to the close of the polls and continue until the count is completed while simultaneously preventing absentee ballots not present before the close of the polls from being counted.

Sincerely,



**/S/ CLINTON W. LANCASTER**

Attorney at Law

# A Bill

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023

SENATE BILL \_\_\_\_\_

4  
5 By: Representative  
6 By Senator

## For An Act to Be Entitled

7  
8 AN ACT TO AMEND THE LAW CONCERNING ELECTIONS  
9 AND TO RESTORE ELECTION INTEGRITY IN ARKANSAS  
10 AND AMENDED ELECTION PROCEDURES  
11

### Subtitle

12  
13 TO REDUCE FRAUD AND FRAUDULENT VOTING  
14 CONDUCT IN ABSENTEE VOTING.  
15

16  
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

19 **SECTION 1. Arkansas Code Title 7, Chapter 5, Subchapter 4, Section 402 is**  
20 **amended as follows:**

21 (a)(1) Absentee voting is not a right but a privilege.

22 (2) Absentee ballots and absentee voting are extremely susceptible to fraud and  
23 manipulation because the sanctity of the act of voting occurs outside of the protections of the  
24 polling place. To combat absentee voting fraud, absentee balloting laws shall be strictly construed,  
25 and all doubts resolved in favor of ensuring that votes cast on absentee ballots are not fraudulent.  
26 If such doubts about a ballot, the voting procedure, or the voting process are in question, then the  
27 vote shall not be counted.

28 (3) The county clerk shall include in an absentee ballot package sent to the voter who  
29 requested a ballot the following warning to alert the absentee voter that there is a higher risk of his  
30 or her ballot not being counted:

1        **ABSENTEE VOTING IS NOT A RIGHT BUT A PRIVILEGE. ABSENTEE**  
2        **BALLOTS AND ABSENTEE VOTING ARE EXTREMELY SUSCEPTIBLE**  
3        **TO FRAUD AND MANIPULATION BECAUSE THE SANCTITY OF THE**  
4        **ACT OF VOTING OCCURS OUTSIDE OF THE PROTECTIONS OF THE**  
5        **POLLING PLACE. TO COMBAT ABSENTEE VOTING FRAUD,**  
6        **ABSENTEE BALLOTING LAWS SHALL BE STRICTLY CONSTRUED,**  
7        **AND ALL DOUBTS RESOLVED IN FAVOR OF ENSURING THAT**  
8        **VOTES CAST ON ABSENTEE BALLOTS ARE NOT FRAUDULENT. IF**  
9        **YOU FAIL TO COMPLY WITH THE STRICT REQUIREMENTS**  
10       **RELATED TO ABSENTEE VOTING, YOUR BALLOT WILL NOT BE**  
11       **COUNTED. YOU ARE STRONGLY URGED TO RETURN THIS BALLOT**  
12       **TO THE CLERK WHO ISSUED IT AND REQUEST TO VOTE AT THE**  
13       **POLLS DURING EARLY VOTING OR ON ELECTION DAY.**

14       (b) The following persons, if possessing the qualifications of electors, may cast an absentee  
15 ballot in any election:

16            (1) Any person who will be unavoidably absent from the county in which his or her  
17 voting place is located on the day of the election; and

18            (2) Any person who will be unable to attend the polls on election day because of illness  
19 or physical disability.

20  
21  
22            **SECTION 2. Arkansas Code Title 7, Chapter 5, Subchapter 4, Section 407 is**  
23 **amended as follows:**

24            (a)(1) The county board of election commissioners shall prepare official absentee ballots  
25 that comply with § 7-5-601 and deliver them to the county clerk for mailing to all qualified  
26 applicants as soon as practicable but not later than forty-seven (47) days before a preferential  
27 primary election, general election, school election, nonpartisan general election, nonpartisan  
28 runoff election, or special election.

29            (2) Upon the receipt of the absentee ballots, the county clerk shall begin delivering  
30 ballots to absentee voters as soon as practicable and, no later than forty-six (46) days before the

PROPOSED BILL 1

1 applicable election, shall deliver ballots to those absentee voters who made timely application  
2 under:

3 (A) Section 7-5-406; or

4 (B) The Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. § 20301  
5 et seq., as existing on January 1, 2011.

6 (b) The county board of election commissioners shall prepare official absentee ballots  
7 and deliver them to the county clerk for mailing to any qualified applicant as soon as practicable  
8 but in any event not later than ten (10) days before all other elections not included in subsection  
9 (a) of this section.

10

11 **SECTION 3. Arkansas Code Title 7, Chapter 5, Subchapter 4, Section 416 is**  
12 **amended as follows:**

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

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

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

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

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

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

31 (B) The absentee ballots; and

PROPOSED BILL 1

- 1 (C) A written report containing the following information:
- 2 (i) The number of absentee ballot applications received by the county clerk;
- 3 (ii) The number of absentee ballots sent by the county clerk;
- 4 (iii) The number of absentee ballots returned to the county clerk;
- 5 (iv) The number of absentee ballots rejected by the county clerk and the reason
- 6 for the rejection;
- 7 (v) The number of absentee ballots marked as received on the paper absentee
- 8 ballot applications list; and
- 9 (vi) If the number of absentee ballots returned to the county clerk and the number
- 10 of absentee ballots marked as received on the paper absentee ballot lists are different and the reason
- 11 for the difference is known, the reason for the difference.

12 (6) The processing and counting of absentee ballots shall be open to the public, and

13 candidates and authorized poll watchers may be present in person or by a representative designated

14 in writing under § 7-5-312 during the opening, processing, canvassing, and counting of the

15 absentee ballots as provided in this subchapter.

16 (7)(A) Absentee and early votes shall be counted prior to the closing of the polls on

17 election day as provided under this section.

18 (B)(i) The county board of election commissioners shall report by precinct the initial

19 count of early votes and absentee ballot votes to the Secretary of State as provided under § 7-5-

20 701 as soon as practical after the polls close on election day.

21 (ii) No election results of the precinct shall be printed, posted, or released until

22 after the polls close on election day.

23 (8)(A) After the outer envelope of an absentee ballot is opened, a county clerk and

24 deputies of the county clerk shall not have access to:

- 25 (i) The absentee ballots;
- 26 (ii) Absentee ballot paperwork; or
- 27 (iii) The inner envelope of an absentee ballot.

28 (B) The county board of election commissioners may grant a county clerk or deputies

29 of the county clerk access to the absentee ballot materials in subdivision (a)(8)(A) of this section

30 if the access is granted by an affirmative vote of the county board of election commissioners for a

31 specific purpose and for a designated election.

PROPOSED BILL 1

1 (b)(1) The opening, processing, counting, and canvassing of absentee ballots shall be  
2 conducted as follows:

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

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

7 (C) If the required materials are not properly placed in the outer absentee ballot  
8 envelope, a second election official shall open the inner absentee ballot envelope to verify the  
9 contents no earlier than 8:30 a.m. on election day;

10 (D) If all required materials are present within one (1) or the other envelope, the  
11 election officials shall put the materials in the proper envelope while preserving the secrecy of the  
12 voter's ballot and shall proceed to read aloud from the voter statement the name of the voter and  
13 the voting precinct in which the voter claims to be a legal voter;

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

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

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

24 (iii) If a first-time voter fails to provide the required identification with the  
25 absentee ballot or at the time of mailing the voter registration application, then the absentee  
26 application, absentee ballot envelope, and voter's statement shall be placed in an envelope marked  
27 "provisional" and the absentee ballot shall be considered a provisional ballot;

28 (G)(i) The election officials shall compare the name and address of the bearer, agent,  
29 or administrator written on the absentee ballot return envelope with the information on the voter  
30 statement. If the information does not match, then the outer envelope, absentee application, secrecy

PROPOSED BILL 1

1 envelope containing the ballot, and the voter's statement shall not be counted. ~~placed in an envelope~~  
2 ~~marked "provisional" and the absentee ballot shall be considered a provisional ballot.~~

3 (ii) The election officials shall compare the name of the bearer written on the  
4 absentee ballot application with the information on the voter statement, and if the information does  
5 not compare, the ballot shall be a provisional ballot.

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

10 (H) If the absentee voter fails to return the voter statement, the vote shall not be  
11 counted;

12 (I) Failure of the voter to submit the required absentee materials in the proper  
13 envelopes shall not be grounds for disqualifying the voter;

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

17 (K) If no challenge is made by a qualified poll watcher, the election official shall  
18 remove the inner envelope, without opening the inner envelope containing the ballot, and place it  
19 in the ballot box without marking it in any way;

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

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

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

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



PROPOSED BILL 1

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

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

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

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

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

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

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

14 (i) In the event that a large number of absentee ballots were cast in an election such  
15 that is impossible to count all the absentee ballots before the close of the polls, then all ballots  
16 which were in the canvassing and counting process prior to the close of the polls shall immediately  
17 continue to be counted before any early voting or election day votes are tabulated. However, no  
18 newly received or additional ballots shall be added to the number of ballots being canvassed or  
19 tabulated. If any absentee ballots are not present, in the canvassing or tabulation process by the  
20 close of the polls, then those ballots shall not be counted.

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

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

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

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

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

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

PROPOSED BILL 1

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

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

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February 7, 2023

**RE: EXECUTIVE SUMMARY MEMORANDUM**

**PROPOSED BILL NO. 2  
RECORDING, LIVE STREAMING, AND RETAINING THE COUNTING  
OF BALLOTS**

Dear Sir or Madam:

This statute enhances requirements for public counting of the votes and mandates that it be done live and viewable on the internet.

---

**Ark. Code Ann. § 7-5-603**

(5)(D)

All votes are to be tabulated in public view of a camera situated so the voter's selection on the ballot can be viewed by the camera.

All tabulation must be recorded and live streamed.

All recordings must be retained as "election materials" for two years to comply with state and federal law.

Sincerely,



**/S/ CLINTON W. LANCASTER**  
Attorney at Law

# A Bill

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023

SENATE BILL \_\_\_\_\_

4  
5 By: Representative  
6 By Senator

## For An Act to Be Entitled

7  
8 AN ACT TO AMEND THE LAW CONCERNING ELECTIONS  
9 AND TO RESTORE ELECTION INTEGRITY IN ARKANSAS  
10 AND AMENDED ELECTION PROCEDURES  
11

### Subtitle

12  
13 TO ENSURE PUBLIC COUNTING OF BALLOTS AND A  
14 LIVESTREAM VIDEO OF THE SAME  
15

16  
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

19 **SECTION 1. Arkansas Code Title 7, Chapter 5, Subchapter 6, Section 603 is amended**  
20 **as follows.**

21 When paper ballots are to be counted at the polling site, the following procedures shall be followed:

22 (1)(A) In counting the ballots, the ballot box shall be opened and each ballot shall be  
23 counted in turn or by counting by offices and issues.

24 (B) The poll workers shall witness the counting of the ballots and shall keep separate  
25 tally lists of the votes cast for each candidate or issue on the ballot;

26 (2)(A) When two (2) or more ballots are found folded together, it shall be considered as  
27 conclusive evidence the ballots are fraudulent and neither of the ballots shall be counted.

28 (B) If a ballot is found to contain marks for more than the maximum allowable number  
29 of candidates in any one (1) contest, the contest shall be considered overvoted, and it shall be the  
30 responsibility of the poll workers to determine the voter's intent;

PROPOSED BILL 2

1           (3)(A) Upon the close of the polls, the poll workers immediately shall certify and attest the  
2 list of voters and continue the count to completion.

3           (B) If a poll worker becomes sick or incapacitated from any other cause, the remaining  
4 poll workers shall continue the count until it is completed;

5           (4) After the count is completed, the poll workers shall make out the certificates of election  
6 in triplicate and immediately post one (1) copy outside the polling site; and

7           (5)(A) The counting of ballots shall be open to the public.

8           (B) Any candidate or political party may be present in person or by representative  
9 designated in writing under § 7-5-312 at the count of the ballots in any election for the purpose of  
10 determining whether or not the ballots in any election precinct are fairly and accurately counted.

11           (C) The candidate in person or an authorized representative of the candidate or political  
12 party shall be permitted, upon a request's being made to a poll worker, to inspect any or all ballots  
13 after the ballots have been counted.

14           (D) The county board of election commissioners shall ensure that all ballots are  
15 tabulated in public in view of a camera which is situation so that the image of the ballot and how  
16 it is marked for voting can be viewed by the camera. The county board of election commissioners  
17 shall live stream this video publicly, record the tabulation process, and retain the recording as  
18 election materials pursuant to Ark. Code Ann. § 7-5-702.

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February 7, 2023

**RE: EXECUTIVE SUMMARY MEMORANDUM**

**PROPOSED BILL NO. 3  
IMPROVE THE RECOUNT PROCESS**

Dear Sir or Madam:

Arkansas has a weak recount statute. This statute removes those defects and provides a meaningful recount.

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**Ark. Code Ann. § 7-5-319**

(a)(1)(2)(3)

Requires that a petition for a recount be filed with the county clerk. It allows a recount to be brought by a petition of ten citizens (currently only candidates and election officials can request a recount).

The new bill requires that recounts be filed before the certification of the vote while mandating notice to all candidates or persons whose races could be affected by the recount.

(b)(1)(2)(A)(B)

Removes the requirement that electronic tabulators act as the official counts in a recount. Instead, it mandates that the recount be a hand recount. It requires the election commissioners to supervise the recount but permits the use of poll workers to count the ballots. Finally, this language requires that ballots not be counted if they were not initialed by a poll worker on the back of the ballot.

(c)

Places a prepayment burden on the person requesting the recount.

(d)

Sets payment of greater than minimum wage for poll workers conducting a recount. However, it prevents a county from attempting to profit from a recount and requires a refund to the person requesting the recount if all prepaid funds are not used in the recount process.

(e)(1)(2)(3)(4)(5)(6)(7)

The bill sets a fast timetable for the start of a recount and mandates twelve-hour work days during the recount to reduce the time for nefarious actors to cover up fraudulent conduct. It requires the use of a court reporter to transcribe the official record of the events of the recount, thereby memorializing fraudulent conduct.

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It also sets out when a ballot may be challenged during the recount and by whom (currently there is no method or mechanism to challenge a ballot during a recount). It requires the election commission to vote on the challenged ballot on the official record. Finally, it requires a recount before an election lawsuit can be brought and sets out the recount procedures subject to judicial review.

(h)

Sets a time limit for certification of the vote after a recount to prevent intentional delay to the ability to file a timely election lawsuit.

Sincerely,



**/S/ CLINTON W. LANCASTER**

Attorney at Law

# A Bill

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023

SENATE BILL \_\_\_\_\_

4  
5 By: Representative  
6 By Senator

## For An Act to Be Entitled

7  
8 AN ACT TO AMEND THE LAW CONCERNING ELECTIONS  
9 AND TO RESTORE ELECTION INTEGRITY IN ARKANSAS  
10 AND AMENDED ELECTION PROCEDURES  
11

### Subtitle

12  
13 TO IMPROVE THE PROCESS OF RECOUNTING AN  
14 ELECTION  
15

16  
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

19 **SECTION 1. Arkansas Code Title 7, Chapter 5, Subchapter 3, Section 319 is**  
20 **amended as follows:**

21 (a)(1) Any candidate voted for who may be dissatisfied with the returns from any precinct  
22 shall have a recount of the votes cast therein upon the candidate's presenting the county board of  
23 election commissioners with a petition requesting the recount filed with the county clerk.

24 ~~(2) When the number of outstanding absentee ballots of overseas voters is not sufficient~~  
25 ~~to change the results of the election, the candidate must present the petition no later than two (2)~~  
26 ~~days after the county board of election commissioners declares preliminary and unofficial results~~  
27 ~~of the election, including a statement of the number of outstanding absentee ballots of overseas~~  
28 ~~voters. A recount may be brought by at least ten (10) citizens who voted in an election if all ten~~  
29 ~~sign the petition for a recount. The ten citizens shall attest that they voted in the election and are~~  
30 ~~petitioning for a recount. The petition with the signatures of each of the citizens shall be notarized.~~  
31 A citizen recount shall be bound by the requirements to prepay for the recount.



PROPOSED BILL 3

1           ~~(3) When the number of outstanding absentee ballots of overseas voters is sufficient to~~  
2 ~~potentially change the results of the election, the candidate must present the petition at any time~~  
3 ~~before the county board of election commissioners finally completes the canvass of the returns of~~  
4 ~~the election and certifies the result. All petitions for a recount must be filed prior to the county~~  
5 ~~board of election commissions certification of the vote.~~

6           (3) Within forty-eight hours after a petition for recount is filed, the county board of  
7 election commissioners shall notify all candidates whose election could be affected by the  
8 outcome of the recount.

9           ~~(b) At the time that the petition requesting the recount is presented, the county board of~~  
10 ~~election commissioners shall provide to the candidate requesting the recount a copy of the test~~  
11 ~~results on the voting machines and the electronic vote tabulating devices.~~

12           ~~(c)(b)(1) For any recount of an election in which ballots are cast using a direct recording~~  
13 ~~electronic voting machine with a voter verified paper audit trail, the voter verified paper audit trail~~  
14 ~~shall serve as the official ballot to be recounted. The certificates of election filled out in triplicate~~  
15 ~~pursuant to Ark. Code Ann. § 7-5-603(4) shall serve as the official count of the votes to be~~  
16 ~~recounted.~~

17           (2) The county board of election commissioners either may shall:

18           ~~(A) Manually sum the total votes for each candidate involved in the recount that is~~  
19 ~~printed on the voter verified paper audit trail; or~~

20           (A) Count by hand the votes for each candidate involved in the recount as shown on  
21 the voter verified paper audit trail. as shown on the certificates of election. The county board of  
22 election commissioners may utilize sworn poll workers to conduct the count. However, the  
23 commissioners shall be present and observe all aspects of the recount.

24           ~~(3) If the voter verified paper audit trail is damaged or for some other reason is~~  
25 ~~incapable of being used for a recount, the paper record produced by the machine for manual~~  
26 ~~audit shall be the official ballot to be recounted.~~

27           ~~(4) If the voting machine is exempt from the requirement to have a voter verified~~  
28 ~~paper audit trail and does not have one, the paper record produced by the machine for~~  
29 ~~manual audit shall be the official ballot to be recounted.~~

PROPOSED BILL 3

1           (B) Check the back of the ballot to see if the ballot has been initialed by an election  
2 official. If there are no initials of an election worker on the back of the ballot, then a presumption  
3 of fraud exists, and the ballot shall not be counted.

4           ~~(d)(c)~~ For the recount of an election in which paper ballots are used, the county board of  
5 election commissioners shall open the package containing the ballots and recount the ballots in the  
6 manner prescribed by law for the count to be made by the election officials in the first instance, or  
7 if there is a determination by the county board of election commissioners that the voting machine  
8 or electronic vote tabulating device may be malfunctioning, it may recount the ballots by any  
9 manner prescribed by law. A candidate's failure to petition, pay for, or conduct a recount shall  
10 bar any election contest or other lawsuit related to the outcome of an election brought by a  
11 candidate.

12           ~~(g)(1)(c)~~ The costs for any recount must be borne by the candidate petitioning for it. It  
13 shall include the costs of payment to all poll workers or election officials participating in the  
14 recount as well as the official court reporter making the record of the recount. and pPayment of  
15 the costs must be made to the county board of election commissioners prior to the start of the  
16 recount. in an amount determined by the county board of election commissioners.

17           ~~(h)(d)~~ The costs of any recount shall be based on the actual costs incurred to conduct the  
18 recount, and the pay or salary for any person employed for the purposes of counting ballots or  
19 working at the recount, as determined by the county board of election commissioners, shall be the  
20 same as the normal pay for a poll worker, election commissioner, county clerk, or deputy clerk  
21 during the election for which a recount is requested or twice the amount of minimum wage,  
22 whichever is greater. but in no instance shall the amount charged to conduct a recount exceed the  
23 rate of twenty five cents (25¢) per vote cast in the precincts where the recount is requested or a  
24 total of two thousand five hundred dollars (\$2,500) for the entire county, whichever is less. No  
25 county shall incur or attempt to incur a profit related to a recount. Any money paid by a candidate  
26 who requested a recount that is more than the actual costs of the recount, regardless of the outcome  
27 of the recount, shall be refunded to the candidate.

28           ~~(j)(e)(1)~~ All recounts shall begin within forty-eight hours after full prepayment has been  
29 made and continue for up to twelve (12) hours each day until the recount is completed.

30           (2) The recount shall be transcribed by a certified court reporter whose record shall be  
31 the official record of the recount. The costs of the court reporter and the official transcript for the

PROPOSED BILL 3

1 county board of election commissioners shall be taxable to the person or persons who petitioned  
2 for the recount as a prepaid cost.

3 (3) The candidate or person or persons requesting the recount, or his, her, or their  
4 attorney (but not a poll watcher, though a poll watcher may assist a candidate, person requesting  
5 the recount, or an attorney for the same) may challenge any ballot for cause when the following  
6 facts exist related to a specific ballot:

7 (i) There is an overvote,

8 (ii) There is an undervote,

9 (iii) There is a good faith basis to believe that the elector was not qualified to cast  
10 a vote or a ballot,

11 (iv) The back of the ballot is not initialed by a sworn election official or poll  
12 worker,

13 (v) There is reason to interpret voter intent,

14 (vi) There is an articulable reason or basis to believe that an election law was not  
15 followed or there is an election irregularity which presents a basis to not count the ballot or the  
16 votes on the ballot, or

17 (vii) There is a reasonable basis that an irregularity or defect exists with the ballot  
18 or ballot application materials and such defect should render that the ballot not be counted.

19 (4) All challenges to a ballot made pursuant to this section shall be resolved on the  
20 record by the county board of election commissioners in a public vote after each candidate and  
21 person challenging or defending a ballot or votes on a ballot have been heard by the commission,  
22 with the decision related to the ballot decided by the majority vote of the commissioners.

23 (5) The record before the county board of election commissioners shall be the only  
24 official record to be appealed in an election contest and any documents, arguments, or requests for  
25 relief not made on the record to the election commission shall not be preserved for appeal in an  
26 election contest.

27 (6) Only timely appeals of a recount shall form the basis of an election contest.

28 (7) The county board of election commissioners, by public vote, shall resolve all issues  
29 or matters presented to it during a recount. The failure of a commission to vote on a matter shall  
30 not preclude an appeal of the matter or issue if it was presented to the commission, a vote was  
31 requested, but the commission failed to vote.

PROPOSED BILL 3

1           (h) After the recount is complete, and the county board of election commissioners has  
2 ruled on all ballots or other issues presented to it during a recount, the commission shall certify the  
3 results of the recount within forty-eight (48) hours.

4           ~~(i) Within forty eight hours after a petition for recount is filed, the county board of~~  
5 ~~election commissioners shall notify all candidates whose election could be affected by the outcome~~  
6 ~~of the recount.~~

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---

**RE: EXECUTIVE SUMMARY MEMORANDUM**

**PROPOSED BILL NO. 4  
IMPROVE JUDICIAL CHALLENGES TO ELECTIONS**

Dear Sir or Madam:

Arkansas has an antiquated election contest statute. The statute dates back to Reconstruction and has been gutted by the judiciary to prevent any challenge of an unfair or illegal election. This statute corrects those issues.

---

**Ark. Code Ann. § 7-5-802**

(a)(1)(2)

Confers the absolute right to a legal challenge of a recounted election. It creates a liberal construction of these lawsuits and directs courts to resolve the suits on the merits rather than on technical defects.

(b)

Expands venue for election challenges so that they may be brought outside of a county in which the election fraud or misconduct occurred.

(d)

Removes the ability of courts to dismiss election lawsuits for a technical defect without first giving a litigant a chance to correct the defect.

---

**Ark. Code Ann. § 7-5-803**

This section of the statutory code is currently unconstitutional as written due to the passage of Arkansas's Amendment 80. These changes make the statute current with the state constitution by only allowing elected judges or special judges appointed by the supreme court to hear election lawsuits instead of other attorneys selected by a circuit judge.

**Ark. Code Ann. § 7-5-804**

(a)(1)(2)(3)

This language determines the standard of review for judicial contests of recounts and election challenges by providing for a de novo review. It allows for the "plain error" approach in an election contest.

Sincerely,  


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---

**/S/ CLINTON W. LANCASTER**  
Attorney at Law

# A Bill

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023

SENATE BILL \_\_\_\_\_

4  
5 By: Representative  
6 By Senator

## For An Act to Be Entitled

7  
8 AN ACT TO AMEND THE LAW CONCERNING ELECTIONS  
9 AND TO RESTORE ELECTION INTEGRITY IN ARKANSAS  
10 AND AMENDED ELECTION PROCEDURES  
11

### Subtitle

12  
13 TO IMPROVE LEGAL CHALLENGES TO ELECTION  
14 RESULTS AND THE ELECTION CONTEST PROCESS  
15

16  
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

### SECTION 1. Arkansas Code Title 7, Chapter 5, Subchapter 8, Section 7-5-

19  
20 **801 is amended as follows:**

21 (a)(1) A right of action is conferred on any candidate or group of citizens who petitioned  
22 and completed a recount to contest the certification of nomination or the certificate of vote as made  
23 by the appropriate officials in any election.

24 (2) The election contest statutes of this state are to be liberally construed to allow qualified  
25 persons who conducted a recount to challenge the results of an election or the decisions of a county  
26 board of election commissioners without regard to any technical defects in the litigation process  
27 or pleadings. There shall exist a presumption of full and quick adjudication of election contests  
28 on the merits of the claim as the first and utmost priority.

29 (b) The action shall be brought in the circuit court of the county in which the certification  
30 of nomination or certificate of vote is made when a ~~county or city or township office, including~~  
31 ~~the office of county delegate or county committee member~~ a city or county office is involved, and

PROPOSED BILL 4

1 ~~except as provided in this subchapter,~~ within any county in the ~~ircuit or district wherein any of~~  
2 ~~the wrongful acts occurred when any ircuit or district office is involved, and except as provided~~  
3 ~~in this subchapter,~~ in the Pulaski County Circuit Court when the office of United States Senator,  
4 United States Congress, United States President, or any state office is involved.

5 ~~(e) If there are two (2) or more counties in the district where the action is brought and when~~  
6 ~~fraud is alleged in the complaint, answer, or cross-complaint, the circuit court may hear testimony~~  
7 ~~in any county in the district.~~

8 ~~(d)~~ (c) The complaint shall be verified by the affidavit of the contestant or contestants to  
9 the effect that he or she believes the statements to be true and shall be filed within twenty (20)  
10 days of the certification that is the subject of the complaint.

11 ~~(e)~~ (d) Any preliminary motions made, or that could be made, pursuant to Rule 12 of the  
12 Arkansas Rules of Civil Procedure shall be filed within five days after service of the election  
13 contest complaint. If the court finds a basis for granting a preliminary motion, the contestant(s)  
14 shall be allowed one opportunity to re-plead or re-file their case within three (3) calendar days  
15 from the date the order granting a motion to dismiss is entered by the court. The complaint shall  
16 be answered within twenty (20) days from the date the complaint was filed or the order granting  
17 or denying a Rule 12(b) motion to dismiss is entered.

18  
19  
20 **SECTION 2. Arkansas Code Title 7, Chapter 5, Subchapter 8, Section 7-5-**  
21 **803 is amended as follows:**

22 (a) In the event that there are more election contests brought under this section than the  
23 circuit court judge can dispose of prior to ten (10) days before any election to be held, either  
24 of the parties to the contest may so report to the circuit judge in vacation or otherwise, who  
25 shall request that the Arkansas Supreme Court appoint a special judge ~~have full and complete~~  
26 ~~authority to appoint an attorney with the qualifications of circuit judge~~ to hear any contest and  
27 render a final judgment in such contest.

28 (b) ~~The circuit judge shall appoint as special judge any attorney named by a committee~~  
29 ~~of three (3) qualified electors of the county in which the contest is pending, one (1) to be named~~  
30 ~~by the contestant, one (1) to be named by the contestee, and the third to be named by those two~~  
31 ~~(2) committee members. In the event that the first two (2) committee members do not agree~~



1 ~~within five (5) days on the third member, then the third member shall be chosen by lot from~~  
2 ~~the respective choices of the two committee members.~~

3 (e) (b) All proceedings shall be conducted as in the case of any regular judge trying any  
4 such case, including the right of appeal. The judge so appointed shall have full power and  
5 authority in the trial of election contests in all respects as are now conferred by the Arkansas  
6 Constitution upon circuit judges in this state. The judgment rendered ~~by the attorney so~~  
7 ~~appointed~~ shall be binding with full force and effect as if the regular circuit judge had heard  
8 the cause.

9 ~~(d) In the appointment of the attorney, the circuit judge shall not be confined in the~~  
10 ~~selection of the attorney to the judicial circuit in which the contest is pending. However, the~~  
11 ~~hearing of the contest shall be had in the county in which the contest has been filed.~~

12

13 **SECTION 3. Arkansas Code Title 7, Chapter 5, Subchapter 8, Section 7-5-**

14 **804 is amended as follows:**

15 (a)(1) The election contest shall be tried by the circuit judge in open court without a jury  
16 and shall be a de novo review of the actions of the county board of election commissioners as  
17 recorded and transcribed by the court reporter commissioned and serving at the recount.

18 (2) The failure to raise an issue, defect, or objection to the county board of election  
19 commissioners shall preclude review of the issue, defect, or objection on judicial review unless  
20 the same was unknown, unavailable, or good cause is shown for the failure to raise the issue,  
21 defect, or objection to the county board of election commissioners.

22 (3) The actions of the county board of election commissioners shall not be disturbed or  
23 overturned by the circuit court in the absence of clear and convincing evidence that the decision  
24 of the board was incorrect, unjust, or not supported by the evidence or information before it.

25 (b) An appeal may be taken from the judgment. However, the appeal shall not operate as a  
26 supersedeas by judicial order or otherwise and the judgment of the circuit court shall be obeyed by  
27 officeholders, political committees and their officers, and all election officials, until reversed. It  
28 shall be the duty of the Supreme Court to advance the hearing of any such appeal.

29 (c) The circuit court or, when necessary, the circuit judge in vacation shall enforce by  
30 mandamus to the officers of political parties and election officials, or both, or the Secretary of  
31 State the proper certification and proper ballot in accordance with the judgment of the court and

PROPOSED BILL 4

1 shall punish the failure of any such officers to obey the mandamus by imprisonment in the county  
2 jail.

3 (d) Except as provided in this subchapter, all laws pertaining to general and special  
4 elections or rules of political organizations regarding primary elections providing for contest  
5 before political conventions or committees, other than the proceedings provided in this subchapter,  
6 shall be of no further force or effect.

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---

**RE: EXECUTIVE SUMMARY MEMORANDUM**

**PROPOSED BILL NO. 5  
PROTECTION OF ELECTION DATA**

Dear Sir or Madam:

This bill prevents data that is necessary and vital to ballot harvesting operations from being disclosed during an election.

This bill would create a wholly new statute.

---

**Ark. Code Ann. § 7-5-617**

(a)

Broadly defines “election data” to encompass all aspects of electronic and paper data related or pertaining to an election.

(b)(1)(2)

Mandates that election related data can only be “handled, read, possessed, or viewed” by election officials and the Secretary of State from ten days prior to the election until all votes are tabulated.

Also, this section exempts election related data from FOIA or open records requests during the same time period.

(c)

Creates criminal penalties for the negligent distribution of election data during the prohibited time period by making it a misdemeanor. If the disclosure was intentional, it is a felony punishable by up to five years in prison. It also makes a conviction that of an “infamous crime” which prohibits the convicted person from serving or holding public office. Finally, a conviction bars a person from ever working as an election official or poll worker in the future.

Sincerely,  


**/S/ CLINTON W. LANCASTER**  
Attorney at Law

# A Bill

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023

SENATE BILL \_\_\_\_\_

4  
5 By: Representative  
6 By Senator

## For An Act to Be Entitled

7  
8 AN ACT TO AMEND THE LAW CONCERNING ELECTIONS  
9 AND TO RESTORE ELECTION INTEGRITY IN ARKANSAS  
10 AND AMENDED ELECTION PROCEDURES  
11

### Subtitle

12  
13 TO IMPROVE THE PROTECTION OF THE INTEGRITY OF  
14 THE VOTING DATA  
15

16  
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

19 **SECTION 1. Arkansas Code Title 7, Chapter 5, Subchapter 3, Section 617 is**  
20 **created as follows:**

21 (a) In this section “election related data” means all data, whether paper or electronic, related  
22 to a voter, the voting process, casting of ballots, counting of ballots, or tabulation of cast ballots,  
23 including all physical and electronic related information from any pollbook, tabulator, voting  
24 device, or paper records.

25 (b)(1) Within ten days before any election, including a primary election, until the counting  
26 and tabulation of ballots is complete, election related data shall not be handled, read, possessed, or  
27 viewed by any person who is not:

28 (i) A duly appointed or elected county clerk or the clerk’s sworn, county paid deputies.

29 (ii) A county election commissioner or his or her sworn, county paid employees.

30 (iii) The Secretary of State and his or her sworn assistants who are State paid  
31 employees.

PROPOSED BILL 5

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(2) Within ten days before any election, including a primary election, until the counting and tabulation of ballots is complete, election related data shall be exempt for the Arkansas Freedom of Information Act.

(c)(1) Any person who negligently permits a person or entity to handle, read, possess, or view election related data shall be guilty of a class A misdemeanor and a conviction shall be deemed an “infamous crime.” Additionally, such person shall not be permitted to serve as an election official in any future elections.

(2) Any person who intentionally or willfully violates this paragraph shall be guilty of a class D felony and a conviction shall be deemed as an “infamous crime.” Additionally, such person shall not be permitted to serve as an election official in any future elections.

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**RE: EXECUTIVE SUMMARY MEMORANDUM**

**PROPOSED BILL NO. 6  
ROBUST PAPER BALLOT**

Dear Sir or Madam:

This bill creates a paper ballot for use in all election settings (hand marked, electronically voted, and absentee).

---

**Ark. Code Ann. § 7-5-601**

(a)

Requires the use of a paper ballot whose stock contains an ultraviolet watermark with seven different images that make up a part of Arkansas history and its economic commodities.

(c)

Requires that all ballots have a serial number that is consecutive and uniform to all ballots.

(f)

Mandates that all ballots be capable of being scanned by a vote tabulating machine.

(g)

Places the security of the paper stock for which ballots are printed into the control of the Secretary of State rather than county commissioners. The bill requires the Secretary of State and the counties to maintain a chain of custody and account for the paper stock upon which ballots are printed. It requires the paper stock not used or voted to be returned to the Secretary of State five days after the polls close on election day.

If a paper stock was printed by a county, but not used, the Secretary must destroy it within ten days of receiving it.

Ninety days after the election, the Secretary of State must certify and publicly post:

- A. The number of blank paper ballots sent to all the counties;
- B. The number of blank or unused paper ballots returned from the counties; and
- C. The number of total votes in the State from all elections during that election cycle.

Sincerely,



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**/S/ CLINTON W. LANCASTER**  
Attorney at Law

# A Bill

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023

SENATE BILL \_\_\_\_\_

4  
5 By: Representative  
6 By Senator

## For An Act to Be Entitled

7  
8 AN ACT TO AMEND THE LAW CONCERNING ELECTIONS  
9 AND TO RESTORE ELECTION INTEGRITY IN ARKANSAS  
10 AND AMENDED ELECTION PROCEDURES  
11

### Subtitle

12  
13 TO CREATE A ROBUST AND DIFFICULT TO DUPLICATE  
14 PAPER BALLOT  
15

16  
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

19 **SECTION 1. Arkansas Code Title 7, Chapter 5, Subchapter 6, Section 601 is**  
20 **amended as follows:**

21 (a) All paper ballots provided by the county board of election commissioners of any  
22 county in this state for any election shall be alike and shall be printed in plain type approved by  
23 the State Board of Election Commissioners and selected by the Secretary of State which contains  
24 a voting precinct number, the name of the vote center, and a watermark visible only with an  
25 ultraviolet light and containing all of the following images:

- 26 (1) The State Seal;
- 27 (2) The State Bird;
- 28 (3) The State Tree;
- 29 (4) The State Flower; and
- 30 (5) At least one rice stalk, cotton plant, and soybean plant.



PROPOSED BILL 6

1 (b) Each ballot shall be printed on paper with a perforated portion capable of being  
2 detached for use as the ballot stub.

3 (c)(1) As ballots are printed, both the ballot and the portion that shall be used as the ballot  
4 stub, if a stub is printed or used, shall be numbered consecutively beginning with the number one  
5 (1).

6 (2) The number on the last ballot printed shall show the total number of ballots provided  
7 for the election.

8 (d)(1) The heading on the front or inner side of each ballot shall be: "OFFICIAL BALLOT.  
9 Vote by placing an appropriate mark opposite the person for whom you wish to vote."

10 (2) If the ballot contains an initiated or referred amendment, act, or measure, the heading  
11 shall also contain these words: "Vote on amendments, acts, and measures by placing an appropriate  
12 mark below the amendment (or act or measure) either FOR or AGAINST."

13 (e) Beneath the heading on each paper ballot there shall be printed instructions that inform  
14 the voter:

15 (1) Of the effect of casting multiple votes for an office; and

16 (2) How to correct the ballot before it is cast and counted, including without limitation  
17 instructions on how to correct an error through the issuance of a replacement ballot if the voter  
18 was otherwise unable to change the ballot or correct an error.

19 (f) Each ballot shall be capable of being scanned and counted with a vote tabulating  
20 machine approved by the State Board of Election Commissioners and selected by the Secretary of  
21 State.

22 (g)(1) The Secretary of State shall be responsible for the purchase, possession, and  
23 distribution of the paper used to print ballots to all counties.

24 (2) The Secretary of State shall maintain a chain of custody for all paper used to print  
25 ballots.

26 (3) The county commissioners of each county shall take custody of the paper and ensure  
27 ballot style printing is completed prior to each election.

28 (4) The county commissioners of each county shall maintain a chain of custody for all  
29 paper used to print ballots that they receive from the Secretary of State.

30 (5) All paper used for the printing of ballots shall be returned to the Secretary of State  
31 within five (5) days after the close of the polls on election day.

PROPOSED BILL 6

1           (6) The Secretary of State shall destroy all paper ballots printed by the county  
2 commissioners but not used during an election within ten (10) days after receiving the same.

3           (7) Within 90 days after the election, the Secretary of State shall certify and post on a  
4 publicly available portion of its website:

5           (A) Number of blank paper ballots sent to all seventy-five counties prior to the start  
6 of the election cycle;

7           (B) Number of blank paper or unused ballots received in return from all seventy-five  
8 counties after the votes had been tabulated; and

9           (C) Total number of votes casts in all elections in Arkansas for the election cycle.

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**RE: EXECUTIVE SUMMARY MEMORANDUM**

**PROPOSED BILL NO. 7  
RESTORES HAND COUNTING OF BALLOTS AND CREATES CRIMINAL  
PENALTIES FOR CONNECTING VOTING MACHINES TO THE INTERNET**

Dear Sir or Madam:

This bill does away with electronic voting machines and tabulation of votes as the official count except in special circumstances.

---

**Ark. Code Ann. § 7-5-301**

(a)

Mandates the use of paper ballots counted by hand except for voters with disabilities in compliance with HAVA.

(b)

Allows the counties to choose which state approved voting machines it can use for voters with disabilities. Requires all paper used for electronic voting to comply with the high-security paper ballot requirements found in § 7-5-601.

(f)

Mandates that all ballots be capable of being scanned by a vote tabulating machine.

(k)(1)(2)

Makes the custody and operation of voting machines the sole responsibility of the county board of election commissioners. Prohibits the modification of any component of a voting machine that contains a vote tabulation after the polls are closed on election day.

(l)

Clarifies that voting machines and tabulators, in addition to the internet or an external network, cannot be connected to an internal network.

Creates criminal penalties for connectivity violations ranging from misdemeanor to felony depending on the actor's criminal intent. A conviction bars the person from holding office and ever serving as an election official or poll worker in the future.

Sincerely,  


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---

**/S/ CLINTON W. LANCASTER**  
Attorney at Law

# A Bill

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023

SENATE BILL \_\_\_\_\_

4  
5 By: Representative  
6 By Senator

## For An Act to Be Entitled

7  
8 AN ACT TO AMEND THE LAW CONCERNING ELECTIONS  
9 AND TO RESTORE ELECTION INTEGRITY IN ARKANSAS  
10 AND AMENDED ELECTION PROCEDURES  
11

### Subtitle

12  
13 TO RESTORE PAPER BALLOTS AND HAND COUNTING AS  
14 THE SOLE METHOD OF TABULATING AN ELECTION  
15 EXCEPT FOR PERSONS WITH DISABILITIES AS REQUIRED  
16 BY THE HELP AMERICA VOTE ACT AND TO ESTABLISH  
17 PENALTIES FOR CONNECTING VOTING MACHINES TO  
18 THE INTERNET OR OTHER NETWORKS  
19

20  
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 **SECTION 1. Arkansas Code Title 7, Chapter 5, Subchapter 3, Section 301 is amended**  
24 **as follows and hereby repealed:**

25 (a) The casting and counting of votes in all elections shall be by: ~~P~~paper ballots counted by  
26 hand in combination with voting machines accessible to voters with disabilities selected by the  
27 Secretary of State.

28 ~~(1) Voting machines selected by the Secretary of State;~~

29 ~~(2) Electronic vote tabulating devices in combination with voting machines accessible to~~  
30 ~~voters with disabilities to be selected by the Secretary of State; or~~

31 ~~(3)~~

PROPOSED BILL 7

1 ~~(b) All direct recording electronic voting machines shall include a voter verified paper audit~~  
2 ~~trail.~~

3 (e)(b)(1) The quorum court of each county shall choose by resolution a voting system  
4 containing voting machines ~~or electronic vote tabulating devices, or both,~~ for use by voters with  
5 disabilities to comply with the Help America Vote Act. These machines shall only be available for use  
6 by voters with disabilities. All other persons shall vote by paper ballots that shall be hand counted by  
7 sworn election officials under the supervision of the county board of election commissioners in a  
8 manner consistent with state and federal law. ~~or voting machines in combination with paper ballots~~  
9 ~~counted by hand for use in all elections in the county.~~

10 (2) Any voting machine ~~or electronic vote tabulating devices~~ chosen for use by persons with  
11 disabilities by the quorum court shall be those selected by the Secretary of State.

12 (3) Any voting system used in elections for federal office shall comply with the  
13 requirements of the federal Help America Vote Act of 2002.

14 (4) All paper used to print ballots or ballot summary cards shall comply with the  
15 requirements of § 7-5-601.

16 (d)(c)(1) Voting machines ~~and electronic vote tabulating devices~~ shall be purchased pursuant  
17 to a competitive bidding process with consideration given to:

- 18 (A) Price;
- 19 (B) Quality; and
- 20 (C) Adaptability to Arkansas ballot requirements.

21 (2)(A) The Secretary of State shall establish guidelines and procedures for a grant program  
22 to distribute funds from the County Voting System Grant Fund, § 19-5-1247.

23 (B) A grant provided to a county from the County Voting System Grant Fund, § 19-5-  
24 1247, shall be paid into the county treasury to the credit of the voting system grant fund.

25 (C) Moneys deposited into the voting system grant fund shall be appropriated by the  
26 quorum court according to the guidelines established by the Secretary of State under subdivision

27 (d)(2)(A) of this section.

28 (e)(d) The Secretary of State or the county shall not purchase or procure any voting machine  
29 ~~or electronic vote tabulating device~~ unless the party selling the machine or device shall:

- 30 (1) Guarantee the machines in writing for a period of one (1) year; and

PROPOSED BILL 7

1 (2) Provide, if deemed necessary by the county, personnel for the supervision and  
2 training of county personnel for at least two (2) elections, one (1) primary and one (1) general at  
3 no additional cost to the county or the Secretary of State.

4 ~~(f)~~(e) Each county shall provide polling places that are adequate for the operation of the voting  
5 system, including, but not limited to, access, if necessary, to a sufficient number of electrical outlets  
6 and telephone lines.

7 ~~(g)~~(f) Each county shall provide or contract for adequate technical support for the  
8 installation, set up, and operation of the voting system for each election.

9 ~~(h)~~(g) The Secretary of State shall be responsible for the development, implementation, and  
10 provision of a continuing program to educate voters and election officials in the proper use of the  
11 voting system.

12 ~~(i)~~(h) ~~Electronic vote tabulating devices and~~ Voting machines, authorized as provided under  
13 this subchapter, may be acquired and used in any election upon the adoption of an ordinance by the  
14 quorum court of the county.

15 ~~(j)~~(i) The costs of using ~~electronic vote tabulating devices and~~ voting machines, at all general  
16 and special elections, including, but not limited to, costs of supplies, technical assistance, and  
17 transportation of the systems to and from the polling places, shall be paid in accordance with § 7-5-  
18 104.

19 ~~(k)~~(j) The county board of election commissioners shall have complete control and supervision  
20 of voting machines, ~~electronic vote tabulating devices~~ paper ballots, and all components of the voting  
21 system at all elections times.

22 ~~(l)~~(k) However, ~~t~~The county clerk shall have supervision of voting machines ~~and electronic~~  
23 ~~vote tabulating devices~~ used for early voting in the clerk's designated early voting location.

24 ~~(m)~~(1) ~~The county board of election commissioners shall have the care and custody of all~~  
25 ~~voting machines and all electronic vote tabulating devices while not in use.~~ The county board of  
26 election commissioners shall be responsible for the proper preparation, use, maintenance, and care of  
27 the voting machines, ~~the electronic vote tabulating devices,~~ paper ballots, and all components of the  
28 voting system at all times. ~~during the period of time required for that election.~~

29 (2) Once an electronic tabulator is closed for any election, the activation pack or device  
30 containing the electronic tabulation of votes shall be locked, sealed, or otherwise made impervious  
31 to modification. No votes shall be added to any electronic tabulation except by manual addition in  
32 a manner that complies with Arkansas law.

PROPOSED BILL 7

1           ~~(n)~~(1) During any time a voter is eligible to cast a ballot, the electronic voting machine ~~or~~  
2 ~~the electronic vote tabulating device~~ shall not:

3           (1) Be connected to the internet, ~~or an external network,~~ or internal network;

4           (2) Be capable of establishing a wireless connection; or

5           (3) Establish a connection to an external network or internal network through:

6                   (A) A cable;

7                   (B) A wireless modem; or

8                   (C) Any other mechanism or process.

9           (4) Any person who negligently violates this paragraph shall be guilty of a class C  
10 misdemeanor and a conviction shall be deemed an “infamous crime.” Additionally, such person  
11 shall not be permitted to serve as an election official in any future elections.

12           (5) Any person intentionally or willfully violates this paragraph shall be guilty of a class  
13 D felony and a conviction shall be deemed as an “infamous crime.” Additionally, such person shall  
14 not be permitted to serve as an election official in any future elections.



# LANCASTER LAW FIRM, PLLC

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**RE: EXECUTIVE SUMMARY MEMORANDUM**

**PROPOSED BILL NO. 8  
RIGHT TO PAPER BALLOTS**

Dear Sir or Madam:

This bill clarifies the right of the voter to choose a paper ballot and prohibits an election official from refusing to provide a paper ballot to a requesting voter.

This bill creates a wholly new statute.

---

**Ark. Code Ann. § 7-5-325**

(a)(1)

Clarifies the constitutional right to vote on a paper ballot that is hand counted.

(a)(2)

Requires an election official to provide a requesting voter with a paper ballot that complies with the enhanced paper ballot requirements of § 7-5-601.

(b)

Requires that paper ballots voted under this statute to be counted by hand. Requires that hand counted votes be manually added to the total of electronically tabulated votes, if any.

(c)

Requires election officials to ensure there are an adequate number of paper ballots at a polling site to accommodate voters requesting the same.

(d)

Creates criminal penalties for the failure to provide a voter with a paper ballot.

Sincerely,



**/s/ CLINTON W. LANCASTER**  
Attorney at Law

# A Bill

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023

SENATE BILL \_\_\_\_\_

4  
5 By: Representative  
6 By Senator

## For An Act to Be Entitled

7  
8 AN ACT TO AMEND THE LAW CONCERNING ELECTIONS  
9 AND TO RESTORE ELECTION INTEGRITY IN ARKANSAS  
10 AND AMENDED ELECTION PROCEDURES  
11

### Subtitle

12  
13 TO ENSURE THE RIGHT OF THE VOTER TO A BALLOT OF  
14 HIS OR HER OWN CHOOSING  
15

16  
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

19 **SECTION 1. Arkansas Code Title 7, Chapter 5, Subchapter 3, Section 325 is created**  
20 **as follows:**

21 (a)(1) Any registered and eligible voter shall be entitled to cast his or her ballot on a paper  
22 ballot.

23 (2) The county clerk, an election official, or an election worker shall provide a voter  
24 with a paper ballot that conforms with § 7-5-601 upon the request of the voter. If the paper ballot  
25 needs to be spoiled, it shall be spoiled in the same manner as any other ballot.

26 (b) All paper ballots voted or cast in an election shall be counted by hand as set forth in  
27 this title. The results or tabulations of any hand counted paper ballots shall be manually added to  
28 the total from all electronic tabulation devices. All tabulations of paper ballots, including manually  
29 adding the paper ballot tabulations to any electronic tabulations, shall be done in public, in view  
30 of a camera, and meet the requirements of § 7-5-603.

PROPOSED BILL 8

1           (c) The county board of election commissioners shall ensure there are an adequate number  
2 of paper ballots at each polling site or vote center to accommodate the persons who request a paper  
3 ballot. No voter who requests a paper ballot shall be refused a paper ballot for any reason.

4           (d)(1) The grossly negligent violation of this section by any person shall be a class C  
5 misdemeanor and a conviction shall be deemed an “infamous crime.” Additionally, a person  
6 convicted for a violation of this section shall not be permitted to serve as an election official in any  
7 future elections.

8           (2) The intentional or willful violation of this section shall be a class A misdemeanor  
9 for each person refused a paper ballot for any reason and a conviction shall be deemed an  
10 “infamous crime.” Additionally, a person convicted for a violation of this section shall not be  
11 permitted to serve as an election official in any future elections.

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**RE: EXECUTIVE SUMMARY MEMORANDUM**

**PROPOSED BILL NO. 9  
MANDATES ENHANCED PROCEDURES FOR KEEPING VOTER ROLLS  
ACCURATE AND REMOVING INELIGIBLE VOTERS**

Dear Sir or Madam:

This bill requires the county clerks to purge voter rolls in the same manner contemplated by the NVRA.

This bill creates a wholly new statute.

---

**Ark. Code Ann. § 7-5-113**

(a)

Requires the clerk of each county to notify any person who fails to remain eligible to vote to provide notice that the voter's name will be removed from the active and eligible voter list if certain actions are not taken.

(b)

Defines which state and federal entities the clerks must use to determine voter eligibility.

(c)(1)

Requires a federally compliant notice be sent to the potentially ineligible voter and sets out the specific language to be used.

(c)(2)

Requires that the notification sent have a reply requirement available for the affected voter.

(d)

Requires removal of a voter from the active and eligible voting list whose response to the notification indicates the voter is no longer eligible.

(e)

Requires removal of a voter from the active and eligible voting list who fails to respond to the notification.

(f)

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---

Sets forth the time and requires the completion of roll purging processes well in advance of the federal deadline.

(g)(i)

Creates criminal penalties for both the failure to purge and the unlawful purging of voters from the rolls.

(j)

Prohibits the use of third-party private entities to conduct roll purging related activities.

---

## Ark. Code Ann. § 7-5-113

(a)

Requires the county clerk to remove persons who are placed into a guardianship and conservatorship from the active and eligible voter rolls.

(b)

Requires the county clerk to remove persons who are convicted of a felony from the active and eligible voter rolls.

(c)

Requires the county clerk to remove persons who are voluntarily or involuntarily committed to a mental health institution from the active and eligible voter rolls.

(d)

Creates criminal penalties for both the failure to purge and the unlawful purging of voters from the rolls.

Sincerely,



**/S/ CLINTON W. LANCASTER**  
Attorney at Law

# A Bill

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023

SENATE BILL \_\_\_\_\_

4  
5 By: Representative  
6 By Senator

## For An Act to Be Entitled

7  
8 AN ACT TO AMEND THE LAW CONCERNING ELECTIONS  
9 AND TO RESTORE ELECTION INTEGRITY IN ARKANSAS  
10 AND AMENDED ELECTION PROCEDURES  
11

### Subtitle

12  
13 MANDATING ENHANCED PROCEDURES FOR KEEPING  
14 VOTER ROLLS ACCURATE AND REMOVING INELIGIBLE  
15 VOTERS  
16

17  
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

### SECTION 1. Arkansas Code Title 7, Chapter 5, Subchapter 8, Section 7-5-

20  
21 **113 is created as follows:**

22 (a) Within forty-five (45) days after any federal election, the clerk of each county shall  
23 notify any person registered to vote in any election in this state who meets the below criteria that  
24 his or her name will be removed from the listed of eligible voters if:

25 (1) There is information obtained from or existing within a state or federal agency that  
26 the person has changed his or her residence to a different county or state;

27 (2) There is information obtained from or existing within a state or federal agency that  
28 indicates the person is deceased.

29 (3) There is information obtained from or existing within a state or federal agency that  
30 indicates the person has not voted or appeared to vote in a federal election in the past two years.

PROPOSED BILL 9

1           **(b) The terms “information obtained from or existing within a state or federal agency”**  
2 **includes, but is not limited to the following sources of information:**

3           **(1) Change of address information supplied, provided, or held by the United States**  
4 **Postal Service.**

5           **(2) Official records or documents possessed or accessible by the Arkansas Department**  
6 **of Motor Vehicles.**

7           **(3) Official records or documents possessed or accessible by the Arkansas Department**  
8 **of Finance and Administration.**

9           **(4) Official records or documents possessed or accessible by the Arkansas Department**  
10 **of Health.**

11           **(5) Official records or documents possessed or accessible by any county clerk.**

12           **(6) Official records or documents possessed or accessible by any county board of**  
13 **election commissioners.**

14           **(7) Official records or documents possessed or accessible by any state government**  
15 **entity.**

16           **(c)(1) All notices sent to a person pursuant to this section shall be sent by forwardable mail**  
17 **with a prepaid pre-addressed return form to the address listed on the voter registration form and**  
18 **state:**

19                           **IMPORTANT NOTICE ABOUT YOUR RIGHT TO VOTE**

20 **The state of Arkansas has information which indicates that you are no longer eligible to vote**  
21 **in this county because you no longer reside at the residence in this county in which you**  
22 **registered to vote on your voter registration form.**

23  
24 **If you believe this is an error, please contact our office immediately. You should return this**  
25 **card in the prepaid envelope as soon as possible, but earlier than thirty (30) days prior to the**  
26 **next federal election or your right to vote may be adversely impacted. If you take no action**  
27 **related to this notice, your name may be removed from the list of registered and eligible**  
28 **voters.**

29  
30 **If your name is removed from the list of registered and eligible voters and placed on the list**  
31 **of inactive and ineligible voters, or if you have changed residence outside of this county, you**

1 must re-register to vote no later than thirty (30) days prior to the next election in wish you  
2 intend to vote.

3  
4 If this card is not returned at least thirty (30) days prior to the next federal election,  
5 affirmation or confirmation of your address may be required before the you are permitted  
6 to vote in a federal, state, or local election during the period beginning on the date of the  
7 notice and ending on the day after the date of the second general election for federal office  
8 that occurs after the date of the notice, and you do not vote in an election during that above  
9 described time period your name will be removed from the list of eligible voters and placed  
10 on a list of inactive and eligible voters.

11  
12 If you have changed your residence to a place outside this county, you must re-register to  
13 vote in the county of your residence in Arkansas by contacting:

- 14 (A) Your local county clerk.  
15 (B) The Arkansas Secretary of State Elections Division: 1-800-482-1127.  
16 (C) A local revenue or DMV office.  
17 (D) A public library.  
18 (E) A disability agency.  
19 (F) A military recruitment office.  
20 (G) Online through the USPS website.

21 If you do not live in the state of Arkansas, you should contact the state agency that oversees  
22 elections for information about how to register in your state.

23  
24 (2) The card shall include, at least, the address of registration and the following  
25 preprinted statements with an appropriate space for the registrant to mark his or her reply:

- 26 (A) I confirm that no longer reside at the listed address.  
27 (B) I confirm that I still reside at the listed address.  
28 (C) I no longer desire to remain on the list of registered and eligible voters. Please  
29 remove me from the list and place my name on the list of ineligible and inactive voters.



PROPOSED BILL 9

1           (d) If a voter confirms in writing that he or she has changed residence to a place outside of  
2 the county, the clerk shall remove that person’s name from the official list of eligible voters and  
3 place that person’s name on the list of inactive and ineligible voters.

4           (e) The county clerk shall remove the name of a person from the official list of eligible  
5 voters and place that person’s name on the list of inactive and ineligible voters if:

6                   (1) The person has failed to respond to the notice sent by the county clerk, and

7                   (2) The person has not voted or appeared to vote (and, if necessary, correct the county  
8 clerk’s record of the registrant’s address) in an election during the period beginning on the date of  
9 the notice and ending on the day after the date of the second general election for Federal office  
10 that occurs after the date of the notice.

11           (f) All actions described in this chapter shall be completed no later than 100 days before  
12 the next federal election.

13           (g)(1) The grossly negligent failure to maintain a voter eligibility list in conformance with  
14 this section shall be a class C misdemeanor for each name or instance and be considered an  
15 “infamous crime.” However, if the failure to maintain a voter eligibility list in conformance with  
16 this section is done willfully or intentionally, it shall be a class D for each name or instance as well  
17 as be considered an “infamous crime.”

18           (2) “Gross negligence” means the failure to use even slight care or acting in such a  
19 manner that the person should know the conduct will likely cause an error in the voting list.

20           (h) The intentional return of a fraudulent notice requesting removal from or having the  
21 effect of removing an otherwise registered and eligible voter from the eligible list of voters shall  
22 be a class D felony. It shall not be a defense for any person charged with a crime related to the acts  
23 described in this paragraph that the voter was not impacted or prevented from voting by the return  
24 of the fraudulent notice.

25           (i) It shall be a class D felony to intentionally or willfully remove an otherwise eligible  
26 voter from the list of registered and eligible voters if the action is done with the intent to obstruct  
27 a lawful voter from casting a ballot.

28           (j) The Secretary of State and the county clerks shall not outsource or contract to conduct  
29 the services or programs set forth in this section to any person or entity who is not a governmental  
30 agency or department of this State.

31

**SECTION 2. Arkansas Code Title 7, Chapter 5, Subchapter 8, Section 7-5-**

**114 is created as follows:**

(a)(1) Upon the entry of an order for a guardianship or the conservatorship of any person, the county clerk shall immediately remove the name of ward from the list of registered and eligible voters and place the ward's name on the list of inactive and ineligible voters.

(2) Upon the entry of an order terminating a guardianship or conservatorship of any person, the county clerk shall immediately place the name of the former ward back onto the list of registered and eligible voters.

(b)(1) Upon the entry of a judgment of conviction for a felony, the circuit clerk shall forward a certified copy of the judgment to the county clerk and the county clerk shall immediately remove the name of the convicted felon from the list of registered and eligible voters and place the felon's name on the list of inactive and ineligible voters.

(2) Upon presentation of a certified copy of pardon which restores the right to vote from the Governor of this state, the President of the United States, the governor of any other state in which a felon was convicted, and upon the completion of a timely, reasonable, and diligent investigation to ensure there are no additional felony convictions which prohibit a convicted felon from voting, the county clerk shall immediately place the name of the pardoned felon back onto the list of registered and eligible voters.

(c)(1) Upon the entry of a judgment for a voluntary or involuntary commitment, the circuit clerk shall forward a certified copy of the judgment of commitment to the county clerk and the county clerk shall immediately remove the name of the committed person from the list of registered and eligible voters and place that person's name on the list of inactive and ineligible voters.

(2) Upon the entry of an order dismissing the voluntary or involuntary commitment, and upon the completion of a timely, reasonable, and diligent investigation to ensure there are no additional voluntary or involuntary civil commitments for the person, the county clerk shall immediately place the name of the pardoned felon back onto the list of registered and eligible voters.

(g)(1) The grossly negligent failure to maintain a voter eligibility list in conformance with this section shall be a class C misdemeanor for each name or instance and be considered an "infamous crime." However, if the failure to maintain a voter eligibility list in conformance with

PROPOSED BILL 9

1 this section is done willfully or intentionally, it shall be a class D for each name or instance as well  
2 as be considered an “infamous crime.”

3 (2) “Gross negligence” means the failure to use even slight care or acting in such a  
4 manner that the person should know the conduct will likely cause an error in the voting list.

5 (h) It shall be a class D felony to intentionally or willfully remove an otherwise eligible  
6 voter from the list of registered and eligible voters if the action is done with the intent to obstruct  
7 a lawful voter from casting a ballot.

8 (i) The Secretary of State and the county clerks shall not outsource or contract to conduct  
9 the services or programs set forth in this section to any person or entity who is not a governmental  
10 agency or department of this State.

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**RE: EXECUTIVE SUMMARY MEMORANDUM**

**PROPOSED BILL NO. 10  
REGULATES WHEN AND HOW VOTES CAN BE COUNTED**

Dear Sir or Madam:

This bill dictates when, where, and how votes are to be counted.

---

**Ark. Code Ann. § 7-5-614**

(1)(A)(B)(C)

Requires that all voting centers or precincts holding 400 or less voted ballots to tabulate those ballots on site and not transport them to a central count location for tabulation.

Allows for 401 or more ballots to be transported to a central count location but imposes a requirement to account for the quantity of ballots shipped from a polling site. Upon arrival to the central count location, all ballots transported must be accounted for to ensure all have been received and that the count has not changed.

Defines which state and federal entities the clerks must use to determine voter eligibility.

Sincerely,



**/S/ CLINTON W. LANCASTER**  
Attorney at Law

# A Bill

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023

SENATE BILL \_\_\_\_\_

4  
5 By: Representative  
6 By Senator

## For An Act to Be Entitled

7  
8 AN ACT TO AMEND THE LAW CONCERNING ELECTIONS  
9 AND TO RESTORE ELECTION INTEGRITY IN ARKANSAS  
10 AND AMENDED ELECTION PROCEDURES  
11

### Subtitle

12  
13 TO REGULATE THE SYSTEM OF COUNTING BALLOTS  
14 CAST BY THE VOTERS  
15

16  
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

19 **SECTION 1. Arkansas Code Title 7, Chapter 5, Subchapter 6, Section 614 is**  
20 **amended as follows:**

21 ~~(1)(A) For the tabulation of votes of a precinct by electronic vote tabulating devices at a~~  
22 ~~central counting location. In all elections, when there are less than 400 ballots cast at any precinct~~  
23 ~~or vote center, those ballots shall be hand tabulated at the polling site in which they were cast by~~  
24 ~~the voters. If there are more than 400 ballots cast at any voting center or precinct, then the decision~~  
25 ~~to tabulate the votes at the polling site or a central count location shall rest with the county board~~  
26 ~~of election commissioners.~~

27 (B) In cases in which there are more than 400 ballots cast at any precinct or voting  
28 center, the tabulation of votes may occur at central count location. However, all ballots shall be  
29 counted at the polling site to determine the quantity of ballots cast at each polling site before they  
30 are transported to the central counting location.

PROPOSED BILL 10

1            (C) The ballots shall be counted again for quantity at the central count location. If the  
2 number of ballots counted at the polling site differs from the number of ballots counted at the  
3 central count location, the county board of election commissioners shall give notice to all  
4 candidates whose names or races appear on the ballots at the polling site in which the discrepancy  
5 has occurred.

6            ~~(1)~~(2)(A) The poll workers shall place all ballots that have been cast in the container  
7 provided for that purpose.

8            (B) The container shall be sealed and delivered to the county board of election  
9 commissioners forthwith by the poll workers together with the unused, void, and defective ballots;  
10 and

11            ~~(2)~~(3) All proceedings at the counting location shall be under the direction of the county  
12 board of election commissioners with respect to all elections.

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**RE: EXECUTIVE SUMMARY MEMORANDUM**

**PROPOSED BILL NO. 11  
MODIFYING AUDITS OF ELECTIONS BY THE STATE**

Dear Sir or Madam:

This bill adds the requirement to audit primaries and requires that audits be hand counted.

**Ark. Code Ann. § 7-4-121**

(a)(1)

Requires that audits occur not only for the general election but the primary election as well.

(a)(1)(D)

Requires that the audit be done by hand counting each contest and ballot issue and comparing the hand count to any electronic tabulation results.

Sincerely,



**/S/ CLINTON W. LANCASTER**

Attorney at Law

# A Bill

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023

SENATE BILL \_\_\_\_\_

4  
5 By: Representative  
6 By Senator

## For An Act to Be Entitled

7  
8 AN ACT TO AMEND THE LAW CONCERNING ELECTIONS  
9 AND TO RESTORE ELECTION INTEGRITY IN ARKANSAS  
10 AND AMENDED ELECTION PROCEDURES  
11

### Subtitle

12  
13 TO MODIFY THE MANNER IN WHICH ELECTION AUDITS  
14 ARE CONDUCTED BY THE STATE BOARD OF ELECTION  
15 COMMISSIONERS  
16

17  
18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 **SECTION 1. Arkansas Code Title 7, Chapter 4, Subchapter 1, Section 121 is**  
21 **amended as follows:**

22 (a)(1) The State Board of Election Commissioners shall audit the results of each primary  
23 and general election to ensure the integrity and accuracy of the voting process.

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

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

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

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



PROPOSED BILL 11

1 (D) Conduct the audit by hand counting each contest and ballot issue and comparing  
2 those tabulations to the ~~using the~~ voter-verified paper audit trail;

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

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

5 (a) Is not a recount;

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

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

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

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

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

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

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

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

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**RE: EXECUTIVE SUMMARY MEMORANDUM**

**PROPOSED BILL NO. 12  
OFFICIAL MANNER OF TABULATION**

Dear Sir or Madam:

This bill changes tabulation requirements for both hand counted and machine voted ballots

**Ark. Code Ann. § 7-5-601**

(a)

Requires that all ballots be placed into a clear secured box monitored by a camera that records the box and livestreams that recording to the internet.

It determines when the box must be completely locked and when it can be opened for tabulation purposes.

Clarifies that a ballot cannot be retrieved from the box except for tabulation purposes.

Permits an electronic tabulation to be the unofficial report of election results.

(b)

Mandates that the official count of the ballots be done by hand and that an election can only be certified by hand counted ballots.

(c)

Requires notice be given to any candidate whose election could be affected if there is a discrepancy between hand counted totals and electronically tabulated results.

Sincerely,



**/S/ CLINTON W. LANCASTER**  
Attorney at Law

# A Bill

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023

SENATE BILL \_\_\_\_\_

4  
5 By: Representative  
6 By Senator

## For An Act to Be Entitled

7  
8 AN ACT TO AMEND THE LAW CONCERNING ELECTIONS  
9 AND TO RESTORE ELECTION INTEGRITY IN ARKANSAS  
10 AND AMENDED ELECTION PROCEDURES  
11

### Subtitle

12  
13 TO IMPROVE BALLOT AND VOTING TABULATION TO  
14 PROTECT AGAINST ELECTION FRAUD  
15

16  
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

19 **SECTION 1. Arkansas Code Title 7, Chapter 5, Subchapter 6, Section 601 is amended**  
20 **as follows:**

21 (a) All ballot summary cards generated by any electronic voting machine shall be placed  
22 in clear, shatterproof glass or plexiglass ballot box with hand marked paper ballots and hand  
23 counted.

24 (1) The clear box shall be visible to a camera that records who approaches the ballot  
25 box and livestreams the recording to the internet. The camera shall be on and active from the time  
26 the election begins until tabulation is complete.

27 (2) The ballot box shall be locked during voting hours in such a manner that a ballot  
28 may only be inserted into the box.

29 (3) When polling is closed, the ballot box shall be locked in such a manner that no  
30 items may be inserted or removed from the ballot box.

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1           (4) The ballot box may only be opened for the tabulation of votes at the designated  
2 time for counting votes and no other reason.

3           (5) Once a ballot is cast or otherwise placed into the box, it may not be retrieved by the  
4 voter or any other person for any reason until tabulation occurs, at which time all ballots in the  
5 box shall be counted, tallied, and reported.

6           (6) The county board of election commissioners ~~shall~~ may compile countywide totals  
7 from the activation pack or device used to collect votes from each voting machine and that  
8 number may be used as a preliminary, unofficial tabulation of the voting returns.

9           (b) Prior to certification of the official election results, the county board of election  
10 commissioners shall manually ~~compile countywide totals from the polling location's certified~~  
11 ~~return records and verify that they match the electronically derived totals from the activation pack~~  
12 ~~or device used to collect votes from each machine~~ count the ballots and tabulate the returns of each  
13 ballot by hand and the hand count shall be the count used to certify the results of the election.

14           (c) The county board of election commissioners shall compile countywide totals from the  
15 polling location's certified return records and verify that they match the electronically derived  
16 totals from the activation pack or device used to collect votes from each machine. If the number  
17 of votes or ballots hand counted is different than the number from any electronic tabulation device,  
18 then the county board election commissioners shall immediately provide notice to any candidate  
19 whose name or race appears on any ballot for which there is a discrepancy.

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**RE: EXECUTIVE SUMMARY MEMORANDUM**

**PROPOSED BILL NO. 13  
MODIFYING THE TIME TO COUNT EARLY AND ABSENTEE VOTES**

Dear Sir or Madam:

This bill changes when election officials can begin hand counting early and absentee votes.

**Ark. Code Ann. § 7-5-416**

(a)(7)(A)(i)

Permits election officials to begin counting early and absentee ballots at noon on election day.

(a)(7)(A)(ii)

Requires video recording but exempts video livestreaming of early and absentee votes until after the polls close on election day.

(g)

Requires the count of early and absentee votes to remain undisclosed until after the polls have closed and creates criminal penalties for premature disclosure.

Sincerely,



**/S/ CLINTON W. LANCASTER**

Attorney at Law

# A Bill

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023

SENATE BILL \_\_\_\_\_

4  
5 By: Representative  
6 By Senator

## For An Act to Be Entitled

7  
8 AN ACT TO AMEND THE LAW CONCERNING ELECTIONS  
9 AND TO RESTORE ELECTION INTEGRITY IN ARKANSAS  
10 AND AMENDED ELECTION PROCEDURES  
11

### Subtitle

12  
13 TO CHANGE THE TIME PERIOD IN WHICH EARLY AND  
14 ABSENTEE BALLOTS CAN BE TABULATED  
15

16  
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
18

19 **SECTION 1. Arkansas Code Title 7, Chapter 5, Subchapter 4, Section 416 is**  
20 **amended as follows:**

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

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

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

PROPOSED BILL 13

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

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

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

8 (B) The absentee ballots; and

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

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

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

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

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

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

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

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

24 (7)(A)(i) Absentee and early votes shall be counted prior to the closing of the polls on  
25 election day beginning as early as noon on election day as provided under this section.

26 (ii) All absentee and early votes counted prior to the close of the polls shall be done  
27 in front of a recorded camera in compliance with the requirements of § 7-5-603 except that the  
28 counting shall not be livestreamed until after the close of the polls on election day.

29 (B)(i) The county board of election commissioners shall report by precinct the initial  
30 count of early votes and absentee ballot votes to the Secretary of State as provided under § 7-5-  
31 701 as soon as practical after the polls close on election day.

PROPOSED BILL 13

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

3 (8)(A) After the outer envelope of an absentee ballot is opened, a county clerk and deputies  
4 of the county clerk shall not have access to:

5 (i) The absentee ballots;

6 (ii) Absentee ballot paperwork; or

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

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

12 (b)(1) The opening, processing, counting, and canvassing of absentee ballots shall be  
13 conducted as follows:

14 (A) One (1) of the election officials shall open outer absentee ballot envelopes one  
15 by one and verify the contents;

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

18 (C) If the required materials are not properly placed in the outer absentee ballot  
19 envelope, a second election official shall open the inner absentee ballot envelope to verify the  
20 contents no earlier than 8:30 a.m. on election day;

21 (D) If all required materials are present within one (1) or the other envelope, the  
22 election officials shall put the materials in the proper envelope while preserving the secrecy of the  
23 voter's ballot and shall proceed to read aloud from the voter statement the name of the voter and  
24 the voting precinct in which the voter claims to be a legal voter;

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

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



PROPOSED BILL 13

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

4 (iii) If a first-time voter fails to provide the required identification with the  
5 absentee ballot or at the time of mailing the voter registration application, then the absentee  
6 application, absentee ballot envelope, and voter's statement shall be placed in an envelope marked  
7 "provisional" and the absentee ballot shall be considered a provisional ballot;

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

13 (ii) The election officials shall compare the name of the bearer written on the  
14 absentee ballot application with the information on the voter statement, and if the information does  
15 not compare, the ballot shall be a provisional ballot.

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

20 (H) If the absentee voter fails to return the voter statement, the vote shall not be  
21 counted;

22 (I) Failure of the voter to submit the required absentee materials in the proper  
23 envelopes shall not be grounds for disqualifying the voter;

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

27 (K) If no challenge is made by a qualified poll watcher, the election official shall  
28 remove the inner envelope, without opening the inner envelope containing the ballot, and place it  
29 in the ballot box without marking it in any way;

30 (L)(i) After all of the outer envelopes have been opened, the election officials of the  
31 absentee box shall preserve all the statements of voters and the voters' identification documents

PROPOSED BILL 13

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

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

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

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

11 (N) The ballot box shall be opened and the ballots canvassed and counted.

12 (2) No election results shall be printed or released prior to the closing of the polls  
13 on election day.

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

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

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

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

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

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

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

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

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

PROPOSED BILL 13

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

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

5           (4) A special runoff ballot received with the preferential primary absentee ballot shall  
6 be counted in the general primary election, and a special runoff ballot received with the general  
7 election absentee ballot shall be counted in the general runoff election.

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

11           (g) If early and absentee ballots are counted beginning at noon on election day in  
12 accordance with subsection (7)(A) of this section, then the count shall not be revealed prior to the  
13 close of the polls on election day to any person who is not a poll worker assisting in the count, the  
14 county clerk or his or her deputies, or members of the county board of election commissioners.  
15 Any person who intentionally or willfully discloses the count in violation of this section shall be  
16 guilty of a class A misdemeanor and prohibited from serving as a poll worker, election worker, or  
17 election commissioner in all future elections.