LANCASTER LAW FIRM, PLLC

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Licensed Attorney and Registered Lobbyist Licensed Attorney and Registered Lobbyist

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

State of Arkansas
94th General Assembly
Regular Session, 2023 SENATE BILL _____

By: Representative
By Senator

For An Act to Be Entitled

AN ACT TO AMEND THE LAW CONCERNING ELECTIONS AND TO RESTORE ELECTION INTEGRITY IN ARKANSAS AND AMENDED ELECTION PROCEDURES

Subtitle

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

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

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 Arkansas Code Title 7, Chapter 5, Subchapter 3, Section 301 is amened as follows and hereby repealed:

(a) The casting and counting of votes in all elections shall be by~~:~~ ~~P~~p<u>P</u>aper ballots counted by hand in combination with voting machines accessible to voters with disabilities selected by the Secretary of State.

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

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

~~(3)~~

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

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

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

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

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

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

(A) Price;

(B) Quality; and

(C) Adaptability to Arkansas ballot requirements.

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

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

(C) Moneys deposited into the voting system grant fund shall be appropriated by the quorum court according to the guidelines established by the Secretary of State under subdivision (d)(2)(A) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) A cable;

(B) A wireless modem; or

(C) Any other mechanism or process.

(4) Any person who negligently violates this paragraph shall be guilty of a class C 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.

(5) Any person 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.