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MEMORANDUM

TO: Taylor Brown, General Counsel, State Board of Elections

FROM: Emily Caudill, Regulations Compiler

RE: Acknowledgement of Proposed & Emergency Regulations – 031 KAR 004:030 & E

DATE: April 15, 2024

A copy of the ordinary and emergency administrative regulations listed above are enclosed for your files. Pursuant to KRS 13A.190, these emergency administrative regulations became effective upon filing with our office on **April 15, 2024** and, unless an extension on an accompanying ordinary is requested, will expire either in 270 days on **January 10, 2025**, or when replaced by its corresponding ordinary regulation, whichever occurs first. Please note - Expiration dates may be impacted by legislation or other statutes.

Emergency regulations

The emergency regulations are tentatively scheduled for review by the Administrative Regulation Review Subcommittee at its **June 2024** meeting. We will notify you of the date and time of this meeting once it has been scheduled. Pursuant to KRS 13A.280, **if** comments are received during the public comment period, a Statement of Consideration for these emergency regulations is due **by noon on June 14, 2024**.

Ordinary regulations

The ordinary regulations are tentatively scheduled for review by the Administrative Regulation Review Subcommittee at its **July 2024** meeting. We will notify you of the date and time of this meeting once it has been scheduled. Pursuant to KRS 13A.280, **if** comments are received during the public comment period, a Statement of Consideration for these ordinary regulations or a one-month extension request is due **by noon on July 15, 2024**.

Please reference KRS 13A.270 and 13A.280 for other requirements relating to the public hearing and public comment period and Statements of Consideration.

If you have questions, please contact us at RegsCompiler@LRC.ky.gov or (502) 564-8100.

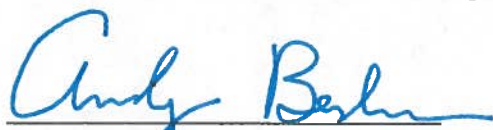
Enclosures

FILED WITH LRC
TIME: 10:56 Am
APR 15 2024
Emily B. Cassill
REGULATIONS COMPILER


STATEMENT OF EMERGENCY

31 KAR 4:030E

This emergency regulation is being promulgated pursuant to both KRS 13A.190(1)(a)(1), to meet an imminent threat to public welfare, as well as, KRS 13A.190(1)(a)(3), to meet an imminent deadline for the promulgation of an administrative regulation established by state statute. Section 150 of the Kentucky Constitution requires free and fair elections in the Commonwealth; KRS 118.025(4) sets May 21, 2024, as the date for the next primary election. In recent years, the General Assembly has amended the various Kentucky Revised Statutes related to voting in the Commonwealth. As election administrators adapt to these new changes, the need for administrative changes becomes apparent, so that Kentuckians may continue to cast their ballots with the highest degrees of ease and security. This is being filed as an emergency administrative regulation to ensure the administrative regulations and procedures required by statute to promote free and fair elections are in effect for the upcoming election. This emergency administrative regulation is temporary in nature and will be replaced by an ordinary administrative regulation. The companion ordinary administrative regulation is identical to this emergency administrative regulation.



ANDY BESHEAR
Governor of Kentucky



KAREN SELLERS
Director, State Board of Elections

1 STATE BOARD OF ELECTIONS

2 (Emergency Amendment)

3 31 KAR 4:030E. Reporting forms.

4 RELATES TO: KRS 117.085, 117.086, 117.235, 117.255, 117.275, 117.355, 118.425,
5 119.307

6 STATUTORY AUTHORITY: KRS 117.015(1)(a), 117.086(~~58~~), 117.275(15), 117.355(4),
7 118.425(4)

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State
9 Board of Elections to promulgate administrative regulations necessary to implement the
10 provisions of KRS Chapter 117. KRS 117.355(4) requires the State Board of Elections to
11 prescribe the forms for the precinct election sheriff and the county board of elections to
12 report election irregularities and recommendations for improving the election process, to
13 report special ballot and voter assistance usage statistics, and to report other information
14 required by the state board. KRS 117.086(~~58~~) requires the State Board of Elections to
15 prescribe a form on which the county board of elections shall report the number of
16 rejected absentee ballots and the reasons for rejection of those ballots. KRS 118.425(4)
17 requires the State Board of Elections to prescribe a form by which the county board of
18 elections shall make out duplicate certificates of the total number of votes received by

1 each of the candidates for office and the total number of votes for an against each of the
2 ballot questions. KRS 117.275(15) requires a secure online connection be available for the
3 transmission of unofficial election results from county boards of election to the State
4 Board of Elections following the tallying of votes. This administrative regulation
5 establishes the procedure and forms for the county clerk, the county board of elections,
6 and the precinct election sheriff to report election and voting data after the election.

7 Section 1. The following reporting forms shall be filed in accordance with the
8 referenced statutes:

9 (1) Pursuant to KRS 117.355(1), the precinct election sheriff shall file the Precinct
10 Election Sheriff's Postelection Report, SBE 53, with the chair of the county board of
11 elections and the local grand jury;

12 (2) Pursuant to KRS 117.355(2), the county board of election shall file the County
13 Board of Elections Postelection Report, SBE 54, with the State Board of Elections and the
14 local grand jury;

15 (3) Pursuant to KRS 117.275(7)~~[(4)]~~ and 117.355(2)~~[3]~~, the county board of elections
16 shall file the County Board of Elections Postelection Statistical Report, SBE 54A, with the
17 State Board of Elections;

18 (4) Pursuant to KRS 117.355(2), the county board of elections shall file the County
19 Board of Elections Precinct Election Officials Absence Report, SBE 54B, with the State
20 Board of Elections;

1 (5) Pursuant to KRS 117.275(12) and 117.086(4)(c), the county clerk shall file the
2 County Board of Elections Provisional Ballots Issued to Voters and Counted, SBE 54C with
3 the State Board of Elections

4 (6[5]) Pursuant to KRS 117.086(4[7])(a)-(b), the county clerk shall file the [List of
5 Voters Issued] Absentee Ballot[s] Report, SBE 33A, with the State Board of Elections;

6 (7[6]) Pursuant to KRS 117.086(5[8]), the county board of elections shall file the
7 Number of Rejected Absentee Ballots and Reasons for Rejected Ballots, SBE 33B; and

8 (8[7]) Pursuant to KRS 117.275(11)-(12) and 118.425(4), the county board of
9 elections [clerk] shall file the Certification Official Count and Record of Election Totals, SBE
10 49, with the Secretary of State.

11 Section 2. Any form described in Section 1 that is capable of being recorded or
12 filled automatically through the State Board of Elections' Voter Registration System may
13 be deemed by the State Board of Elections as being transmitted following the successful
14 capture of all required information by the Voter Registration System.

15 Section 3.

16 (1) Pursuant to KRS 117.275(15), the State Board of Elections shall develop and
17 maintain a platform with a secure online connection for the transmission of unofficial
18 election results from county boards of election to the State Board of Elections following
19 the tallying of votes for all primary, and regular elections, as well as special elections for
20 statewide office, the General Assembly, and the United States Congress.

1 (2) Beginning at 6:00 p.m., prevailing time, on the day of a primary or regular
2 election, as well as a special election for statewide office, the General Assembly, and the
3 United States Congress, county boards of election shall use the secure online platform
4 maintained by the State Board of Elections to transmit their county's unofficial election
5 tally. The unofficial vote tally transmitted shall include precinct-by-precinct totals from
6 counts of all mail-in absentee ballots, excused in-person absentee ballots, no-excuse in-
7 person absentee ballots, and election day ballots, and shall include totals for those
8 candidates who have filed a declaration of intent to be a write-in candidate pursuant to
9 KRS 117.265(2).

10 (a) Unofficial vote tallys transmitted using the secure online platform shall be
11 transmitted using a computer-file-type and format selected by the State Board of
12 Elections, which shall be selected following the certification of candidates by the Secretary
13 of State pursuant to KRS 118.215(1), or immediately after receiving the Secretary of State's
14 certification pursuant to KRS 118.770.

15 (3) The State Board of Elections shall display the tally information received from
16 the county boards of election through the secure online transmittal platform on a secure
17 website freely available to the general public. The display shall list precinct-by-precinct
18 tallys for all candidates and questions but shall only list a candidate's precinct absentee
19 vote totals as cumulative.

1 (4) County boards of election or county clerks shall verify with the State Board of
2 Elections that their county's unofficial vote tally has been successfully transmitted to the
3 State Board of Elections no later than six (6) hours after the close of polls. Should a
4 county's tally not be complete six (6) hours after the close of polls, a representative of the
5 county clerk's office shall update the State Board of Elections by telephone as to the status
6 of the tally transmittal at the end of the sixth hour and then subsequently at the top of
7 each following hour unless the transmittal is completed before such time.

8 Section 4. Incorporation by Reference.

9 (1) The following material is incorporated by reference:

10 (a) "Precinct Election Sheriff's Postelection Report", SBE 53, [04/2024] [~~April 2000~~];

11 (b) [~~"Precinct Election Sheriff's Postelection Report", SBE 53, February 2010;~~]

12 ~~[(c)]~~ "County Board of Elections Post[-]election Report", SBE 54, [04/2024]

13 [~~September 2002~~];

14 ~~[(d)]~~ "County Board of Elections Postelection Report", SBE 54, February 2010];

15 (c) [~~(e)]~~ "County Board of Elections Post[-]election Statistical Report", SBE 54A,

16 04/2024 ~~December 2005~~;

17 (d) [~~(f)]~~ "County Board of Elections Precinct Election Officials Absence Report", SBE

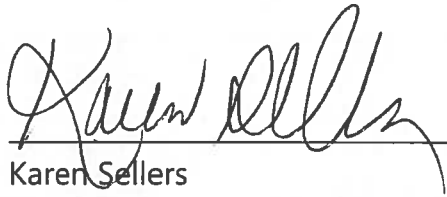
18 54B, 04/2024 ~~September 2002~~;

19 (e) [~~(g)]~~ "Absentee Ballot Report", SBE 33A, 04/2024 [~~November 2009~~];

1 ~~(f)(4)~~ "Number of Rejected Absentee Ballots and Reasons for Rejected Ballots",
2 SBE 33B, 04/2024 ~~[September 2002]~~; and

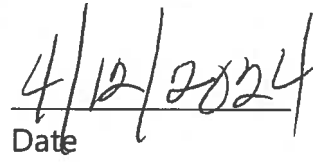
3 ~~(g)(4)~~ "Certification Official Count and Record of Election Totals", SBE 49, 04/2024
4 ~~[November 2003]~~.

5 (2) This material may also be obtained on the board's Web site at
6 <https://elect.ky.gov>.



Karen Sellers

Executive Director, State Board of Elections



Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on May 31, 2024, at 10:00 a.m. ET, at the Office of the State Board of Elections. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, Phone: (502) 782-9499, Email: TaylorA.Brown@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

31 KAR 4:030E Contact Person: Taylor Brown, phone: 502-782-9499, email: TaylorA.Brown@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the secure online connection for the transmission of unofficial election results from county boards of election to the State Board of Elections following the tallying of votes, as well as the procedure and forms for the county clerk, the county board of elections, and the precinct election sheriff to report election and voting data after the election.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure accurate and secure election results, as well as election and voting data.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the secure online connection for the transmission of unofficial election results from county boards of election to the State Board of Elections following the tallying of votes, as required by KRS

117.275(15) and establishes the various post-election reporting forms required throughout KRS Chapter 117.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment establishes the secure online connection for the transmission of unofficial election results from county boards of election to the State Board of Elections following the tallying of votes and the procedures for its use.

(b) The necessity of the amendment to this administrative regulation: KRS 117.275(15) requires a secure online connection be available for the transmission of unofficial election results from county boards of election to the State Board of Elections following the tallying of votes.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties.

(d) How the amendment will assist in the effective administration of the statutes:

This amendment explains the expected use of the secure online connection related to unofficial election results.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This administrative regulation will affect county clerks and the State Board of Elections.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. To comply with this administrative regulation, the State Board of Election will need to continue to maintain, and county clerks will need to continue to use, the secure online connection for election-night results that has been in use the last several years.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The State Board of Elections estimates that the implementation of this administrative regulation will have minimal costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance with this new administrative regulation will benefit all in ensuring that election reporting is done in the most secure and efficient way possible.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The cost of the implementation of this administrative regulation for the State Board of Elections will be minimal as it will require only the creation of the new Forms incorporated by reference.

(b) On a continuing basis: The only continuing cost will be the price associated with printing any copies of the SBE Forms that are necessary.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funds from the State Board of Elections' administrative budget will be used in the implementation and enforcement of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Implementation of this administrative regulation can be achieved without an increase in fees or funding by the General Assembly.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are associated with this administrative regulation.

(9) TIERING: Is tiering applied? Explain why or why not. Tiering is not used in this administrative regulation, as a desired result of the promulgation of this administrative regulation is uniform procedures for the administration of elections throughout all of the counties in the Commonwealth.

FISCAL IMPACT STATEMENT

31 KAR 4:030E

Contact Person: Taylor Brown, phone: 502-782-9499, email: TaylorA.Brown@ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 117.015(1)(a) and 117.275(15) require and authorize the actions taken by this administrative regulation.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation will affect the promulgating agency, the State Board of Elections.

(a) Estimate the following for the first year:

Expenditures: The State Board of Elections expects that this administrative regulation amendment will cost no more to administer than is currently expended.

Revenues: It is not expected or intended that this administrative regulation will generate any revenue.

Cost Savings: The State Board of Elections expects that this administrative regulation will not generate any specific cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The State Board of Elections does not anticipate expenditures, revenues, or cost savings to differ in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This administrative regulation will affect county clerks.

(a) Estimate the following for the first year:

Expenditures: The State Board of Elections expects that this administrative regulation amendment will cost no more to administer than is currently expended.

Revenues: It is not expected or intended that this administrative regulation will generate any revenue.

Cost Savings: The State Board of Elections expects that this administrative regulation will not generate any specific cost savings for the regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The State Board of Elections does not anticipate expenditures, revenues, or cost savings to differ in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): N/A

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? N/A

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The State board of Elections expects that this administrative regulation will have little to no fiscal impact on the regulated entities, outside those expenditures already undertaken.

(b) Methodology and resources used to determine the fiscal impact: This determination of this administrative regulation's fiscal impact is made by the listed contact person and other agency staff based on their collective experience with the subject matter.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate): The State Board of Elections does not expect that this administrative regulation will result in a negative or adverse major economic impact to the entities identified in questions (2)-(4).

(b) The methodology and resources used to reach this conclusion: This conclusion is made by the listed contact person and other agency staff based on their collective experience with the subject matter.

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

"Precinct Election Sheriff's Postelection Report", SBE 53, 04/2024, is the 1-page form that allows a precinct election sheriff to complete the report required under KRS 117.355(1).

"County Board of Elections Post-election Report", SBE 54, 04/2024, is the 1-page form that allows a county board of elections to complete the report required under KRS 117.355(2) which is to include irregularities of which the county board has knowledge and any recommendations for improving the election process.

"County Board of Elections Post-election Statistical Report", SBE 54A, 04/2024, is the 1-page form that allows a county board of elections to complete the report required under KRS 117.355(2) which is to include a breakdown by precinct of the number of voters requiring assistance to vote and the reasons therefor; the number of special ballots cast by category; and any other information required by the State Board of Elections.

"County Board of Elections Precinct Election Officials Absence Report", SBE 54B, 04/2024, is the 1-page form that allows county board of elections to present to the grand jury the names of those election officials who failed to appear and serve at the election and who had not been properly excused, pursuant to KRS 119.307.

"Absentee Ballot Report", SBE 33A, 04/2024, is the 1-page form listing information regarding the issuance of absentee ballots.

"Number of Rejected Absentee Ballots and Reasons for Rejected Ballots", SBE 33B, 04/2024, is the 1-page form listing information regarding the rejection of absentee ballots.

"Certification Official Count and Record of Election Totals", SBE 49, 04/2024, is the 1-page form by which county boards of elections may certify vote totals following a canvass, recanvass, or recount of votes cast.

SUMMARY OF CHANGES TO MATERIAL INCORPORATED BY REFERENCE

Changes to the SBE 53, 54, 54A, 54B, 33A, and 33B are clerical following changes to statutory references since the initial adoption of the forms.

The SBE 49 was changed to combine the former SBE 49, 49A, 49B, and 49C forms into one form and added columns to reflect the availability of excused and no-excuse in-person absentee voting.

PRECINCT ELECTION SHERIFF'S POST-ELECTION REPORT

KRS 117.355(1) Within three (3) days after any primary or general election, the precinct election sheriff shall file a report with the chair of the county board of elections and with the local grand jury. The report shall include any irregularities observed and any recommendations for improving the election process.

County	
Date Of Election	
Precinct / Consolidated Location / Vote Center	
Name Of Precinct Election Sheriff (Please Print)	

IRREGULARITIES OBSERVED: (If you observed any irregularities, describe in your own words with as many details as possible, including names of alleged violators of election laws. Alleged violations should include, violations of KRS 117.255 relating to assisting voters and execution of the voter assistance forms, adjusting the voting machine in primary elections to enable the voter to vote for only persons for whom the voter is entitled to vote, voting more than once, or voting supplemental paper ballots. Violations of KRS 117.235 relating to electioneering shall also be reported. If more space is required, attach additional sheets as necessary. If no violations are observed, so indicate.)

RECOMMENDATIONS FOR IMPROVING THE ELECTION PROCESS: (Describe recommendations in your own words. If more space if required, attach additional sheets as necessary.)

Date Signed

Signature of Precinct Election Sheriff

Copies must be provided to:
Grand Jury
County Board of Elections
Precinct Election Sheriff

COUNTY BOARD OF ELECTIONS POST-ELECTION REPORT

County	Election (Primary or General)	Date of Election

KRS 117.355(2) Within ten (10) days after any primary or general election, the county board of elections shall file a report with the State Board of Elections and the local grand jury. The report shall include any irregularities of which the county board has knowledge and any recommendations for improving the election process.

REPORT OF ANY IRREGULARITIES: If you have any knowledge of any irregularities, describe in your own words, with as many details as possible, including names of alleged violators of election laws. If more space is required, attach additional sheets. **Examples of irregularities that should be reported include machine failures, electioneering problems, natural disasters, problems associated with the opening or closing of polling locations, running out of forms, and challenger issues.** If no violations are observed, indicate this.

RECOMMENDATIONS FOR IMPROVING THE ELECTION PROCESS: If more space is required, attach additional sheets.

Chairman, County Board of Elections

Date Submitted

COUNTY BOARD OF ELECTIONS POST-ELECTION STATISTICAL REPORT

County	Election (Primary or General)				Date of Election				
ENTER NUMBER OF VOTERS PER PRECINCT									
PRECINCT CODE (e.g., A101, B102, etc.)	Absentee Ballots				Voter Assistance				
	Regular	Military OR Overseas Citizens	Disabled	Medical Emergency	Blindness		Physical Disability		Inability to Read English
					Certified Perma- nent	This election only	Certified Perma- nent	This election only	This election only
TOTALS FOR THIS PAGE									

Use additional SBE 54A forms as necessary.

Chair, County Board of Elections

Date Submitted

COUNTY BOARD OF ELECTIONS PRECINCT ELECTION OFFICIALS ABSENCE REPORT

County	Election (Primary or General)	Date of Election

Pursuant to KRS 119.307, the following election officials failed to appear and serve at the election and were not excused by the County Board of Elections. Any person appointed to serve as an election officer but who shall knowingly and willfully fail to serve and who is not excused by the county board of elections for the reasons specified in KRS 117.995(1) shall be guilty of a violation and shall be ineligible to serve as an election officer for a period of five (5) years.

NAME OF PRECINCT ELECTION OFFICIAL	PRECINCT NAME OR NUMBER

Chairman, County Board of Elections

Date Submitted

Copies must be provided to:
Grand Jury
County Board of Elections
State Board of Elections

ABSENTEE BALLOT REPORT

County	Election (Primary or General)	Date of Election	Precinct Code

ABSENTEE BALLOTS HAVE BEEN ISSUED TO THE FOLLOWING:

(Include medical emergencies in first three columns as applicable.)

NAME OF VOTER	DATE FIRST BALLOT MAILED OR ISSUED	DATE SECOND BALLOT MAILED OR ISSUED	DATE BALLOT RETURNED	<i>OR</i> DATE VOTER VOTED IN-PERSON
Total Number				

NOT TO BE POSTED AT PRECINCT OR COUNTY CLERK'S OFFICE

County Clerk _____

Copies must be provided to:
Grand Jury
State Board of Elections
County Clerk

COMMONWEALTH OF KENTUCKY
STATE BOARD OF ELECTIONS

**NUMBER OF REJECTED ABSENTEE BALLOTS
AND REASONS FOR REJECTED BALLOTS**

County	Election (Primary or General)	Date of Election

Reason for Rejection of Absentee Ballot	Number Rejected

Copy must be provided to:
County Clerk
State Board of Elections

Section 150 Disqualification from office for using money or property to secure or influence election -- Corporation not to use money or other thing of value to influence election -- Exclusion from office for conviction of felony or high misdemeanor -- Laws to regulate elections.

Every person shall be disqualified from holding any office of trust or profit for the term for which he shall have been elected who shall be convicted of having given, or consented to the giving, offer or promise of any money or other thing of value, to procure his election, or to influence the vote of any voter at such election; and if any corporation shall, directly or indirectly, offer, promise or give, or shall authorize, directly or indirectly, any person to offer, promise or give any money or any thing of value to influence the result of any election in this State, or the vote of any voter authorized to vote therein, or who shall afterward reimburse or compensate, in any manner whatever, any person who shall have offered, promised or given any money or other thing of value to influence the result of any election or the vote of any such voter, such corporation, if organized under the laws of this Commonwealth, shall, on conviction thereof, forfeit its charter and all rights, privileges and immunities thereunder; and if chartered by another State and doing business in this State, whether by license, or upon mere sufferance, such corporation, upon conviction of either of the offenses aforesaid, shall forfeit all right to carry on any business in this State; and it shall be the duty of the General Assembly to provide for the enforcement of the provisions of this section. All persons shall be excluded from office who have been, or shall hereafter be, convicted of a felony, or of such high misdemeanor as may be prescribed by law, but such disability may be removed by pardon of the Governor. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon, from power, bribery, tumult or other improper practices.

Text as Ratified on: August 3, 1891, and revised September 28, 1891.

History: Not yet amended.

118.025 Voting to be by secret paper ballot -- General laws applicable -- Time for holding elections.

- (1) Except as otherwise provided by law, voting in all primaries and elections shall be by secret paper ballot.
- (2) The general laws applying to primaries, regular elections, and special elections shall apply to primaries, regular elections, and special elections conducted with the use of voting equipment, and all provisions of the general laws applying to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting system or voting equipment.
- (3) A primary for the nomination of candidates to be voted for at the next regular election shall be held on the first Tuesday after the third Monday in May of each year.
- (4) The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.
- (5) If the law authorizes the calling of a special election on a day other than the day of the regular election in November, the election shall be held on a Tuesday.
- (6) If the law requires that a special election be held within a period of time during which the voting equipment must be locked as required by KRS 117.295, the special election shall be held on the fourth Tuesday following the expiration of the period during which the voting equipment is locked.

Effective: June 29, 2021

History: Amended 2021 Ky. Acts ch. 197, sec. 48, effective June 29, 2021. -- Amended 2020 Ky. Acts ch. 88, sec. 5, effective July 15, 2020. -- Amended 2008 Ky. Acts ch. 129, sec. 6, effective July 15, 2008. -- Amended 2002 Ky. Acts ch. 262, sec. 1, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 261, sec. 2, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 195, sec. 13, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 394, sec. 20, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 288, sec. 38, effective July 14, 1992; and ch. 296, sec. 7, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 431, sec. 1, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 29, sec. 12, effective July 15, 1986. -- Amended 1984 Ky. Acts ch. 44, sec. 6, effective March 2, 1984. -- Amended 1982 Ky. Acts ch. 402, sec. 3, effective January 1, 1984. -- Created 1974 Ky. Acts ch. 130, sec. 98, effective June 21, 1974.

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Emily B Caudill
REGULATIONS COMPILER

1 STATE BOARD OF ELECTIONS

2 (Amendment)

3 31 KAR 4:030. Reporting forms.

4 RELATES TO: KRS 117.085, 117.086, 117.235, 117.255, 117.275, 117.355, 118.425,
5 119.307

6 STATUTORY AUTHORITY: KRS 117.015(1)(a), 117.086(58), 117.275(15), 117.355(4),
7 118.425(4)

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 117.015(1)(a) authorizes the State
9 Board of Elections to promulgate administrative regulations necessary to implement the
10 provisions of KRS Chapter 117. KRS 117.355(4) requires the State Board of Elections to
11 prescribe the forms for the precinct election sheriff and the county board of elections to
12 report election irregularities and recommendations for improving the election process, to
13 report special ballot and voter assistance usage statistics, and to report other information
14 required by the state board. KRS 117.086(58) requires the State Board of Elections to
15 prescribe a form on which the county board of elections shall report the number of
16 rejected absentee ballots and the reasons for rejection of those ballots. KRS 118.425(4)
17 requires the State Board of Elections to prescribe a form by which the county board of
18 elections shall make out duplicate certificates of the total number of votes received by

1 each of the candidates for office and the total number of votes for an against each of the
2 ballot questions. KRS 117.275(15) requires a secure online connection be available for the
3 transmission of unofficial election results from county boards of election to the State
4 Board of Elections following the tallying of votes. This administrative regulation
5 establishes the procedure and forms for the county clerk, the county board of elections,
6 and the precinct election sheriff to report election and voting data after the election.

7 Section 1. The following reporting forms shall be filed in accordance with the
8 referenced statutes:

9 (1) Pursuant to KRS 117.355(1), the precinct election sheriff shall file the Precinct
10 Election Sheriff's Postelection Report, SBE 53, with the chair of the county board of
11 elections and the local grand jury;

12 (2) Pursuant to KRS 117.355(2), the county board of election shall file the County
13 Board of Elections Postelection Report, SBE 54, with the State Board of Elections and the
14 local grand jury;

15 (3) Pursuant to KRS 117.275(~~7~~)(~~4~~) and 117.355(~~2~~)(~~3~~), the county board of elections
16 shall file the County Board of Elections Postelection Statistical Report, SBE 54A, with the
17 State Board of Elections;

18 (4) Pursuant to KRS 117.355(2), the county board of elections shall file the County
19 Board of Elections Precinct Election Officials Absence Report, SBE 54B, with the State
20 Board of Elections;

1 (5) Pursuant to KRS 117.275(12) and 117.086(4)(c), the county clerk shall file the
2 County Board of Elections Provisional Ballots Issued to Voters and Counted, SBE 54C with
3 the State Board of Elections

4 (6[5]) Pursuant to KRS 117.086(4[7])(a)-(b), the county clerk shall file the [~~List of~~
5 ~~Voters Issued~~] Absentee Ballot[s] Report, SBE 33A, with the State Board of Elections;

6 (7[6]) Pursuant to KRS 117.086(5[8]), the county board of elections shall file the
7 Number of Rejected Absentee Ballots and Reasons for Rejected Ballots, SBE 33B; and

8 (8[7]) Pursuant to KRS 117.275(11)-(12) and 118.425(4), the county board of
9 elections [~~clerk~~] shall file the Certification Official Count and Record of Election Totals, SBE
10 49, with the Secretary of State.

11 Section 2. Any form described in Section 1 that is capable of being recorded or
12 filled automatically through the State Board of Elections' Voter Registration System may
13 be deemed by the State Board of Elections as being transmitted following the successful
14 capture of all required information by the Voter Registration System.

15 Section 3.

16 (1) Pursuant to KRS 117.275(15), the State Board of Elections shall develop and
17 maintain a platform with a secure online connection for the transmission of unofficial
18 election results from county boards of election to the State Board of Elections following
19 the tallying of votes for all primary, and regular elections, as well as special elections for
20 statewide office, the General Assembly, and the United States Congress.

1 (2) Beginning at 6:00 p.m., prevailing time, on the day of a primary or regular
2 election, as well as a special election for statewide office, the General Assembly, and the
3 United States Congress, county boards of election shall use the secure online platform
4 maintained by the State Board of Elections to transmit their county's unofficial election
5 tally. The unofficial vote tally transmitted shall include precinct-by-precinct totals from
6 counts of all mail-in absentee ballots, excused in-person absentee ballots, no-excuse in-
7 person absentee ballots, and election day ballots, and shall include totals for those
8 candidates who have filed a declaration of intent to be a write-in candidate pursuant to
9 KRS 117.265(2).

10 (a) Unofficial vote tallies transmitted using the secure online platform shall be
11 transmitted using a computer-file-type and format selected by the State Board of
12 Elections, which shall be selected following the certification of candidates by the Secretary
13 of State pursuant to KRS 118.215(1), or immediately after receiving the Secretary of State's
14 certification pursuant to KRS 118.770.

15 (3) The State Board of Elections shall display the tally information received from
16 the county boards of election through the secure online transmittal platform on a secure
17 website freely available to the general public. The display shall list precinct-by-precinct
18 tallies for all candidates and questions but shall only list a candidate's precinct absentee
19 vote totals as cumulative.

1 (4) County boards of election or county clerks shall verify with the State Board of
2 Elections that their county's unofficial vote tally has been successfully transmitted to the
3 State Board of Elections no later than six (6) hours after the close of polls. Should a
4 county's tally not be complete six (6) hours after the close of polls, a representative of the
5 county clerk's office shall update the State Board of Elections by telephone as to the status
6 of the tally transmittal at the end of the sixth hour and then subsequently at the top of
7 each following hour unless the transmittal is completed before such time.

8 Section 4. Incorporation by Reference.

9 (1) The following material is incorporated by reference:

10 (a) "Precinct Election Sheriff's Postelection Report", SBE 53, [04/2024] ~~[April 2000]~~;

11 ~~(b) ["Precinct Election Sheriff's Postelection Report", SBE 53, February 2010];~~

12 ~~[(e)] "County Board of Elections Post[-]election Report", SBE 54, [04/2024]~~

13 ~~[September 2002];~~

14 ~~[(d)] "County Board of Elections Postelection Report", SBE 54, February 2010];~~

15 ~~(c)[(e)] "County Board of Elections Post[-]election Statistical Report", SBE 54A,~~

16 ~~04/2024 December 2005;~~

17 ~~(d)[(f)] "County Board of Elections Precinct Election Officials Absence Report", SBE~~

18 ~~54B, 04/2024 September 2002;~~

19 ~~(e)[(g)] "Absentee Ballot Report", SBE 33A, 04/2024 ~~[November 2009];~~~~

1 (f)(4) "Number of Rejected Absentee Ballots and Reasons for Rejected Ballots",

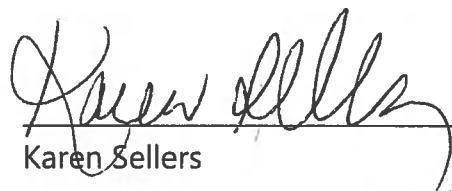
2 SBE 33B, 04/2024 [~~September 2002~~]; and

3 (g)(4) "Certification Official Count and Record of Election Totals", SBE 49, 04/2024

4 [~~November 2003~~].

5 (2) This material may also be obtained on the board's Web site at

6 <https://elect.ky.gov>.



Karen Sellers
Executive Director, State Board of Elections

4/12/2024
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on June 28, 2024, at 10:00 a.m. ET, at the Office of the State Board of Elections. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until June 30, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Taylor Brown, General Counsel, 140 Walnut Street, Frankfort, Kentucky 40601, Phone: (502) 782-9499, Email: TaylorA.Brown@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

31 KAR 4:030 Contact Person: Taylor Brown, phone: 502-782-9499, email: TaylorA.Brown@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the secure online connection for the transmission of unofficial election results from county boards of election to the State Board of Elections following the tallying of votes, as well as the procedure and forms for the county clerk, the county board of elections, and the precinct election sheriff to report election and voting data after the election.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to ensure accurate and secure election results, as well as election and voting data.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the secure online connection for the transmission of unofficial election results from county boards of election to the State Board of Elections following the tallying of votes, as required by KRS

117.275(15) and establishes the various post-election reporting forms required throughout KRS Chapter 117.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment establishes the secure online connection for the transmission of unofficial election results from county boards of election to the State Board of Elections following the tallying of votes and the procedures for its use.

(b) The necessity of the amendment to this administrative regulation: KRS 117.275(15) requires a secure online connection be available for the transmission of unofficial election results from county boards of election to the State Board of Elections following the tallying of votes.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 117.015(1)(a) authorizes the State Board of Elections to promulgate administrative regulations necessary to properly carry out its duties.

(d) How the amendment will assist in the effective administration of the statutes:

This amendment explains the expected use of the secure online connection related to unofficial election results.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This administrative regulation will affect county clerks and the State Board of Elections.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. To comply with this administrative regulation, the State Board of Election will need to continue to maintain, and county clerks will need to continue to use, the secure online connection for election-night results that has been in use the last several years.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The State Board of Elections estimates that the implementation of this administrative regulation will have minimal costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance with this new administrative regulation will benefit all in ensuring that election reporting is done in the most secure and efficient way possible.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The cost of the implementation of this administrative regulation for the State Board of Elections will be minimal as it will require only the creation of the new Forms incorporated by reference.

(b) On a continuing basis: The only continuing cost will be the price associated with printing any copies of the SBE Forms that are necessary.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funds from the State Board of Elections' administrative budget will be used in the implementation and enforcement of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Implementation of this administrative regulation can be achieved without an increase in fees or funding by the General Assembly.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are associated with this administrative regulation.

(9) TIERING: Is tiering applied? Explain why or why not. Tiering is not used in this administrative regulation, as a desired result of the promulgation of this administrative regulation is uniform procedures for the administration of elections throughout all of the counties in the Commonwealth.

FISCAL IMPACT STATEMENT

31 KAR 4:030

Contact Person: Taylor Brown, phone: 502-782-9499, email: TaylorA.Brown@ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 117.015(1)(a) and 117.275(15) require and authorize the actions taken by this administrative regulation.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: This administrative regulation will affect the promulgating agency, the State Board of Elections.

(a) Estimate the following for the first year:

Expenditures: The State Board of Elections expects that this administrative regulation amendment will cost no more to administer than is currently expended.

Revenues: It is not expected or intended that this administrative regulation will generate any revenue.

Cost Savings: The State Board of Elections expects that this administrative regulation will not generate any specific cost savings.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The State Board of Elections does not anticipate expenditures, revenues, or cost savings to differ in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): This administrative regulation will affect county clerks.

(a) Estimate the following for the first year:

Expenditures: The State Board of Elections expects that this administrative regulation amendment will cost no more to administer than is currently expended.

Revenues: It is not expected or intended that this administrative regulation will generate any revenue.

Cost Savings: The State Board of Elections expects that this administrative regulation will not generate any specific cost savings for the regulated entities.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The State Board of Elections does not anticipate expenditures, revenues, or cost savings to differ in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): N/A

(a) Estimate the following for the first year:

Expenditures: N/A

Revenues: N/A

Cost Savings: N/A

(b) How will expenditures, revenues, or cost savings differ in subsequent years? N/A

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? N/A

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? N/A

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The State board of Elections expects that this administrative regulation will have little to no fiscal impact on the regulated entities, outside those expenditures already undertaken.

(b) Methodology and resources used to determine the fiscal impact: This determination of this administrative regulation's fiscal impact is made by the listed contact person and other agency staff based on their collective experience with the subject matter.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate): The State Board of Elections does not expect that this administrative regulation will result in a negative or adverse major economic impact to the entities identified in questions (2)-(4).

(b) The methodology and resources used to reach this conclusion: This conclusion is made by the listed contact person and other agency staff based on their collective experience with the subject matter.

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

"Precinct Election Sheriff's Postelection Report", SBE 53, 04/2024, is the 1-page form that allows a precinct election sheriff to complete the report required under KRS 117.355(1).

"County Board of Elections Post-election Report", SBE 54, 04/2024, is the 1-page form that allows a county board of elections to complete the report required under KRS 117.355(2) which is to include irregularities of which the county board has knowledge and any recommendations for improving the election process.

"County Board of Elections Post-election Statistical Report", SBE 54A, 04/2024, is the 1-page form that allows a county board of elections to complete the report required under KRS 117.355(2) which is to include a breakdown by precinct of the number of voters requiring assistance to vote and the reasons therefor; the number of special ballots cast by category; and any other information required by the State Board of Elections.

"County Board of Elections Precinct Election Officials Absence Report", SBE 54B, 04/2024, is the 1-page form that allows county board of elections to present to the grand jury the names of those election officials who failed to appear and serve at the election and who had not been properly excused, pursuant to KRS 119.307.

"Absentee Ballot Report", SBE 33A, 04/2024, is the 1-page form listing information regarding the issuance of absentee ballots.

"Number of Rejected Absentee Ballots and Reasons for Rejected Ballots", SBE 33B, 04/2024, is the 1-page form listing information regarding the rejection of absentee ballots.

"Certification Official Count and Record of Election Totals", SBE 49, 04/2024, is the 1-page form by which county boards of elections may certify vote totals following a canvass, recanvass, or recount of votes cast.

SUMMARY OF CHANGES TO MATERIAL INCORPORATED BY REFERENCE

Changes to the SBE 53, 54, 54A, 54B, 33A, and 33B are clerical following changes to statutory references since the initial adoption of the forms.

The SBE 49 was changed to combine the former SBE 49, 49A, 49B, and 49C forms into one form and added columns to reflect the availability of excused and no-excuse in-person absentee voting.

PRECINCT ELECTION SHERIFF'S POST-ELECTION REPORT

KRS 117.355(1) Within three (3) days after any primary or general election, the precinct election sheriff shall file a report with the chair of the county board of elections and with the local grand jury. The report shall include any irregularities observed and any recommendations for improving the election process.

County	
Date Of Election	
Precinct / Consolidated Location / Vote Center	
Name Of Precinct Election Sheriff (Please Print)	

IRREGULARITIES OBSERVED: (If you observed any irregularities, describe in your own words with as many details as possible, including names of alleged violators of election laws. Alleged violations should include, violations of KRS 117.255 relating to assisting voters and execution of the voter assistance forms, adjusting the voting machine in primary elections to enable the voter to vote for only persons for whom the voter is entitled to vote, voting more than once, or voting supplemental paper ballots. Violations of KRS 117.235 relating to electioneering shall also be reported. If more space is required, attach additional sheets as necessary. If no violations are observed, so indicate.)

RECOMMENDATIONS FOR IMPROVING THE ELECTION PROCESS: (Describe recommendations in your own words. If more space if required, attach additional sheets as necessary.)

Date Signed

Signature of Precinct Election Sheriff

Copies must be provided to:
Grand Jury
County Board of Elections
Precinct Election Sheriff

COUNTY BOARD OF ELECTIONS POST-ELECTION REPORT

County	Election (Primary or General)	Date of Election

KRS 117.355(2) Within ten (10) days after any primary or general election, the county board of elections shall file a report with the State Board of Elections and the local grand jury. The report shall include any irregularities of which the county board has knowledge and any recommendations for improving the election process.

REPORT OF ANY IRREGULARITIES: If you have any knowledge of any irregularities, describe in your own words, with as many details as possible, including names of alleged violators of election laws. If more space is required, attach additional sheets. **Examples of irregularities that should be reported include machine failures, electioneering problems, natural disasters, problems associated with the opening or closing of polling locations, running out of forms, and challenger issues.** If no violations are observed, indicate this.

RECOMMENDATIONS FOR IMPROVING THE ELECTION PROCESS: If more space is required, attach additional sheets.

Chairman, County Board of Elections

Date Submitted

COUNTY BOARD OF ELECTIONS POST-ELECTION STATISTICAL REPORT

County	Election (Primary or General)				Date of Election				
ENTER NUMBER OF VOTERS PER PRECINCT									
PRECINCT CODE (e.g., A101, B102, etc.)	Absentee Ballots				Voter Assistance				
	Regular	Military OR Overseas Citizens	Disabled	Medical Emergency	Blindness		Physical Disability		Inability to Read English
					Certified Perma- nent	This election only	Certified Perma- nent	This election only	This election only
TOTALS FOR THIS PAGE									

Use additional SBE 54A forms as necessary.

Chair, County Board of Elections

Date Submitted

COUNTY BOARD OF ELECTIONS PRECINCT ELECTION OFFICIALS ABSENCE REPORT

County	Election (Primary or General)	Date of Election

Pursuant to KRS 119.307, the following election officials failed to appear and serve at the election and were not excused by the County Board of Elections. Any person appointed to serve as an election officer but who shall knowingly and willfully fail to serve and who is not excused by the county board of elections for the reasons specified in KRS 117.995(1) shall be guilty of a violation and shall be ineligible to serve as an election officer for a period of five (5) years.

NAME OF PRECINCT ELECTION OFFICIAL	PRECINCT NAME OR NUMBER

Chairman, County Board of Elections

Date Submitted

ABSENTEE BALLOT REPORT

County	Election (Primary or General)	Date of Election	Precinct Code

ABSENTEE BALLOTS HAVE BEEN ISSUED TO THE FOLLOWING:

(Include medical emergencies in first three columns as applicable.)

NAME OF VOTER	DATE FIRST BALLOT MAILED OR ISSUED	DATE SECOND BALLOT MAILED OR ISSUED	DATE BALLOT RETURNED	<u>OR</u> DATE VOTER VOTED IN-PERSON
Total Number				

NOT TO BE POSTED AT PRECINCT OR COUNTY CLERK'S OFFICE

County Clerk _____

Copies must be provided to:
Grand Jury
State Board of Elections
County Clerk

COMMONWEALTH OF KENTUCKY
STATE BOARD OF ELECTIONS

**NUMBER OF REJECTED ABSENTEE BALLOTS
AND REASONS FOR REJECTED BALLOTS**

County	Election (Primary or General)	Date of Election

Reason for Rejection of Absentee Ballot	Number Rejected

Copy must be provided to:
County Clerk
State Board of Elections

