

1 INTERIM STUDY PROPOSAL 2013-132

2 State of Arkansas *As Engrossed: S3/4/13 S3/12/13 S3/13/13 S3/18/13*
3 89th General Assembly

A Bill

4 Regular Session, 2013

SENATE BILL 343

5
6 By: Senators K. Ingram, *Maloch, R. Thompson*

7 By: Representatives Slinkard, J. Edwards, Ferguson

8 Filed with: Interim Senate Committee on State Agencies and Governmental Affairs
9 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

10
11 AN ACT TO PREVENT ELECTION MISCONDUCT; TO AMEND THE
12 LAW CONCERNING ABSENTEE BALLOTS AND THE USE OF
13 ASSISTANTS, DESIGNATED BEARERS, OR ADMINISTRATORS IN
14 THE VOTING PROCESS; TO CLARIFY THE PROCEDURES FOR
15 CASTING AND COUNTING OF ABSENTEE BALLOTS; TO MAKE
16 TECHNICAL CORRECTIONS TO THE LAW; AND FOR OTHER
17 PURPOSES.

Subtitle

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19
20
21 TO PREVENT ELECTION MISCONDUCT; TO AMEND
22 THE LAW CONCERNING ABSENTEE BALLOTS,
23 ASSISTANTS, DESIGNATED BEARERS, AND
24 ADMINISTRATORS; AND TO CLARIFY THE
25 PROCEDURES FOR CASTING AND COUNTING OF
26 ABSENTEE BALLOTS.

27
28
29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

30
31 SECTION 1. Arkansas Code § 7-5-309(a)(4), concerning voting procedure,
32 is amended to read as follows:

33 (4) ~~A person other than the~~ Only a poll workers worker, and
34 ~~those admitted for the purpose of voting shall not be the voter, and an~~
35 assistant to a voter requiring assistance under § 7-5-310 are permitted
36 ~~within the immediate voting area, which shall be considered as within six~~

1 feet (6') of the voting booths, except ~~by authority of~~ when the election
2 judge ~~and then only when~~ determines it is necessary to keep order and enforce
3 the law.

4
5 SECTION 2. Arkansas Code § 7-5-309(c), concerning voting procedure, is
6 amended to read as follows:

7 (c)(1)(A) Upon receiving his or her ballot, the voter shall ~~proceed to~~
8 mark it ~~by placing an appropriate mark~~ appropriately.

9 (B) A voter shall not be allowed more than five (5)
10 minutes to mark his or her ballot.

11 (2) The voter or the person authorized by the voter to assist
12 him or her shall ~~then~~ personally deposit the ballot into the ballot box
13 provided.

14
15 SECTION 3. Arkansas Code § 7-5-310 is amended to read as follows:
16 7-5-310. Privacy – Assistance to disabled voters.

17 (a) ~~Each voter~~ The poll worker at each polling site or the county
18 clerk conducting early voting shall be provided provide the voter the privacy
19 to mark his or her ballot. ~~Privacy shall be provided by the poll workers at~~
20 ~~each polling site or by the county clerk, if the county clerk conducts early~~
21 ~~voting, to ensure that a voter desiring privacy is not singled out.~~

22 (b)(1) A voter who requires assistance to vote by reason of blindness,
23 disability, or inability to read or write or a qualified individual with a
24 disability under the Americans with Disability Act of 1990, 42 U.S.C. § 12101
25 et seq., shall inform the a poll workers worker at the time ~~that~~ the voter
26 presents himself or herself to vote that he or she ~~is unable to mark or cast~~
27 ~~the ballot without help and~~ needs assistance in casting his or her ballot.

28 (2)(A) ~~The voter~~ poll worker shall ~~be directed~~ direct the voter
29 who requires assistance to a voting machine equipped for use by persons with
30 disabilities. ~~by which he or she~~

31 (B) The voter who requires assistance may elect to cast:

32 (i) Cast his or her ballot on the voting machine
33 without assistance,; ~~or the voter may request~~

34 (ii) Request assistance with ~~either~~ the paper ballot
35 *or the voting machine, depending on the voting system in use for the*
36 *election, by:*

1 ~~(A)(a)~~ Two (2) poll workers; or
 2 ~~(B)(b)~~ A person named by the voter other than
 3 the voter's employer or agent of that employer or officer or agent of the
 4 voter's union.

5 (C) A candidate for office in the election in which a
 6 voter requests assistance shall not assist a voter if the voter is not:

- 7 (i) Married to the candidate; or
 8 (ii) Related to the candidate within the second
 9 degree, by consanguinity or affinity.

10 (D) If a candidate for office assists a person under
 11 subdivision (b)(2)(C) of this section, the candidate shall indicate on the
 12 register under subdivision (b)(5) of this section the candidate's
 13 relationship to the voter the candidate is assisting.

14 (3)(A) If the voter is assisted by two (2) poll workers, one (1)
 15 of the poll workers shall observe the voting process and one (1) may assist
 16 the voter in marking and casting the ballot according to the wishes of the
 17 voter without comment or interpretation.

18 ~~(4)(A)(B)~~ If the voter is assisted by one (1) person named by
 19 the voter, he or she may assist the voter in marking and casting the ballot
 20 according to the wishes of the voter without any comment or interpretation.

21 ~~(B)(4)~~ ~~No~~ A person other than the following shall not
 22 assist more than six (6) voters in marking and casting a ballot at a polling
 23 site or early voting location during an election except:

- 24 (i) A poll worker;
 25 (ii) The county clerk during early voting; or
 26 (iii) A deputy county clerk during early voting.

27 (5)(A) ~~It shall be the duty of the~~ A poll workers worker at the
 28 a polling site and county clerk at an early voting location to shall make and
 29 maintain a ~~list of the names and addresses~~ register of all persons assisting
 30 voters.

31 (B) The register of persons assisting voters shall
 32 include:

- 33 (i) The following oath in bold lettering at the top
 34 of each page: "THE VOTER WHOSE NAME IS PRINTED BESIDE MY NAME BELOW HAS
 35 PERSONALLY INFORMED A POLL WORKER OR COUNTY CLERK THAT HE OR SHE REQUIRES
 36 ASSISTANCE TO VOTE. I WILL ASSIST THE VOTER IN MARKING AND CASTING HIS OR

1 HER BALLOT ACCORDING TO THE WISHES OF THE VOTER. I WILL NOT COMMENT ON OR
 2 INTERPRET THE BALLOT OR ITS CONTENTS. I UNDERSTAND THAT IF I PROVIDE FALSE
 3 INFORMATION ON THIS REGISTER, I MAY BE GUILTY OF PERJURY AND SUBJECT TO A
 4 FINE OF UP TO TEN THOUSAND DOLLARS (\$10,000) OR IMPRISONMENT FOR UP TO TEN
 5 (10) YEARS, OR BOTH."

6 (ii) The printed name of the voter being assisted;

7 (iii) The printed name and address of the assistant;

8 and

9 (iv) The signature of the assistant.

10 (c) A person shall not approach a voter and offer assistance if the
 11 voter is:

12 (1) In the polling site or early voting location;

13 (2) Waiting in line to cast his or her vote at the polling site
 14 or early voting location; or

15 (3) Within one hundred feet (100') of the primary entrance to
 16 the polling site or early voting location.

17 (d) Any If a voter who informs a poll worker or county clerk at a
 18 polling site or early voting location that he or she is unable to stand in
 19 line for extended periods of time because of physical, sensory, or other
 20 disability who presents himself or herself for voting and who then informs a
 21 poll worker at the polling site that he or she is unable to stand in line for
 22 extended periods of time, the poll worker or county clerk shall be entitled
 23 to and assisted by a poll worker allow and assist the voter to advance to the
 24 head of any the line of voters then waiting in line to vote at the polling
 25 site or early voting location.

26
 27 SECTION 4. Arkansas Code § 7-5-403 is amended to read as follows:

28 7-5-403. Designated bearers, authorized agents, and administrators.

29 (a)(1) A designated bearer may obtain absentee ballots from the county
 30 clerk for ~~not~~ no more than two (2) voters.

31 (2)(A) ~~At no time shall a~~ A designated bearer shall not have
 32 more than two (2) absentee ballots in his or her possession.

33 (B) If the county clerk knows or reasonably suspects that
 34 a designated bearer has more than two (2) absentee ballots in his or her
 35 possession, the county clerk shall notify the prosecuting attorney.

1 (3)(A) A designated bearer receiving an absentee ballot from the
 2 county clerk for a voter shall obtain the absentee ballot directly from the
 3 county clerk and deliver the absentee ballot directly to the voter.

4 (B) A designated bearer receiving an absentee ballot from
 5 a voter shall obtain the absentee ballot directly from the voter and deliver
 6 the absentee ballot directly to the county clerk.

7 (4)(A) A designated bearer may deliver to the county clerk the
 8 absentee ballots for ~~not~~ no more than two (2) voters.

9 (B) *The designated bearer shall be named on the voter*
 10 *statement accompanying the absentee ballot.*

11 (5) ~~In order~~ When a designated bearer seeks to obtain an
 12 absentee ballot from the county clerk:

13 (A) The designated bearer shall show a form of current
 14 photographic identification to the county clerk;

15 (B) The county clerk shall print the designated bearer's
 16 name and address beside the voter's name on a register;

17 (C) The designated bearer shall sign the register under
 18 oath indicating receipt of the voter's absentee ballot; and

19 (D) The county clerk shall indicate beside the designated
 20 bearer's name on the register that he or she obtained an absentee ballot for
 21 a voter.

22 (6) ~~Upon delivering~~ When a designated bearer delivers an
 23 absentee ballot to the county clerk:

24 (A) The designated bearer shall present current and valid
 25 photographic identification to the county clerk;

26 (B) The county clerk shall print the designated bearer's
 27 name and address beside the voter's name on a register;

28 (C) The designated bearer shall sign the register under
 29 oath indicating delivery of the voter's absentee ballot; ~~and~~

30 (D) The county clerk shall not accept an absentee ballot
 31 from a designated bearer who does not sign the register under oath; and

32 (E) The county clerk shall write or stamp the word
 33 "BEARER" and write the designated bearer's name and address on the absentee
 34 ballot return envelope.

35 (7) When providing an absentee ballot to a designated bearer or
 36 receiving an absentee ballot from a designated bearer, the county clerk shall

1 provide to the designated bearer a written notice informing the designated
2 bearer that:

3 (A) A designated bearer may obtain ballots for no more
4 than two (2) voters;

5 (B) A designated bearer shall ~~at no time~~ not have more
6 than two (2) ballots in his or her possession;

7 (C) A designated bearer ~~may~~ shall not deliver ballots to
8 the county clerk for ~~no~~ more than two (2) voters; and

9 (D) Possession of an absentee ballot with the intent to
10 defraud a voter or an election official is a felony under § 7-1-104.

11 (b)(1) An authorized agent may deliver applications for absentee
12 ballots to the county clerk and obtain absentee ballots from the county clerk
13 for ~~not~~ no more than two (2) voters who cannot cast a ballot at the
14 appropriate polling place on election day because the voter is a patient in a
15 hospital ~~or~~, long-term care facility, or residential care facility licensed
16 by the state.

17 (2) ~~At no time shall an~~ An authorized agent shall not have more
18 than two (2) absentee ballots in his or her possession.

19 (3)(A) An authorized agent receiving an absentee ballot from the
20 county clerk for a voter shall obtain the absentee ballot directly from the
21 county clerk and deliver the absentee ballot directly to the voter.

22 (B) An authorized agent receiving an absentee ballot from
23 a voter shall obtain the absentee ballot directly from the voter and deliver
24 the absentee ballot directly to the county clerk.

25 (4)(A) ~~In order for an~~ An authorized agent ~~to~~ shall not obtain a
26 ballot from the county clerk, unless the authorized agent ~~shall submit~~
27 submits to the county clerk an affidavit from the administrative head of a
28 hospital ~~or~~, long-term care facility, or residential care facility licensed
29 by the state that the applicant is a patient of the hospital or long-term
30 care or residential care facility licensed by the state and is ~~thereby~~ unable
31 to vote on the election day at his or her regular polling site.

32 (B) A The county clerk shall retain a copy of the
33 affidavit ~~shall be retained by the county clerk~~ as an attachment to the
34 application for an absentee ballot.

35 (5) ~~In order to~~ When an authorized agent seeks to obtain an
36 absentee ballot from the county clerk, the:

1 (A) Authorized agent shall present current photographic
2 identification to the clerk;

3 (B) Clerk shall print the authorized agent's name and
4 address beside the voter's name on a register; and

5 (C) Authorized agent shall sign the register under oath
6 indicating receipt of the voter's ballot.

7 (6) ~~Upon delivering~~ When an authorized agent delivers an
8 absentee ballot to the county clerk, the:

9 (A) Authorized agent shall ~~show some form of~~ present
10 current photographic identification to the clerk;

11 (B) Clerk shall print the authorized agent's name and
12 address beside the voter's name on a register; and

13 (C) Authorized agent shall sign the register under oath
14 indicating delivery of the voter's ballot.

15 (c)(1) The county clerk shall keep a register of designated bearers
16 and authorized agents.

17 (2) The designated bearer and authorized agent register shall
18 contain the following oath on each page: "IF YOU PROVIDE FALSE INFORMATION ON
19 THIS FORM, YOU MAY BE GUILTY OF PERJURY AND SUBJECT TO A FINE OF UP TO TEN
20 THOUSAND DOLLARS (\$10,000) OR IMPRISONMENT FOR UP TO TEN (10) YEARS, OR BOTH,
21 UNDER FEDERAL AND STATE LAWS."

22 (d)(1) An administrator may deliver ~~to the county clerk~~ an application
23 for an absentee ballot to the county clerk for ~~any a~~ a voter who ~~is a~~:

24 (A) Is a patient of a long-term care facility or
25 residential care facility licensed by the state; ~~and who names~~

26 (B) Names the administrator on his or her application as
27 the administrator of the facility where the voter resides.

28 (2) An administrator may receive absentee ballots for as many
29 qualified residents of the facility as apply for absentee ballots upon
30 presentation of photographic identification to the county clerk.

31 (3)(A) An administrator may deliver the absentee ballot to the
32 county clerk for any voter who names the administrator on his or her
33 application and voter statement.

34 (B) Absentee ballots may be delivered to the county clerk
35 in person by the administrator or by mail.

1 (4) An administrator shall submit to the county clerk an
2 affidavit, signed and dated by the administrator, stating:

3 (A) That he or she is the administrative head of a long-
4 term care facility or residential care facility licensed by the state;

5 (B) The name and address of the facility; and

6 (C) That ~~he or she~~ the administrator has been authorized
7 by the voters of his or her facility who named ~~him or her~~ the administrator
8 in their applications for absentee ballot and voter statement ~~to deliver~~
9 ~~their absentee ballots~~.

10 (5) The county clerk shall attach a copy of the administrator's
11 affidavit to each application for an absentee ballot delivered by the
12 administrator to the county clerk.

13 (6) The county clerk shall write or stamp the word
14 "ADMINISTRATOR" and the administrator's name on the voter's absentee ballot
15 return envelope.

16 (e) ~~Any~~ A person who knowingly makes a false statement on an affidavit
17 required by this section ~~shall be guilty of~~ commits perjury and is subject to
18 a fine of up to ten thousand dollars (\$10,000) or imprisonment of up to ten
19 (10) years.

20
21 SECTION 5. Arkansas Code § 7-5-404(a), concerning applications for
22 ballots, is amended to read as follows:

23 (a)(1)(A)(i) Applications for absentee ballots ~~must~~ shall be signed by
24 the applicant ~~and verified by the~~.

25 (ii) Applications sent by electronic means must bear
26 a verifiable facsimile of the applicant's signature.

27 (iii) An applicant who cannot sign his or her name
28 due to blindness, disability, or inability to read or write or due to the
29 voter's status as a qualified individual with a disability under the
30 Americans with Disability Act of 1990, 42 U.S.C. § 12101 et seq., may sign
31 the application by mark if there is a witness to the signature and the
32 witness:

33 (a) Prints the witness's name and address on
34 the application; and

35 (b) Signs the application.

1 (B)(i) The county clerk shall verify all applications by
 2 checking the applicant's name, address, date of birth, and signature from the
 3 application to the voter's name, address, date of birth, and signature from
 4 the registration records or, if sent by electronic means, the application
 5 must bear a verifiable facsimile of the applicant's signature.

6 ~~(2)(ii) Delivery of the request~~ An application for an absentee
 7 ballot using the form prescribed under § 7-5-405 shall be delivered to the
 8 county clerk ~~may be made in one (1) of the following ways, and in no other~~
 9 ~~manner by:~~

10 ~~(A) For applications submitted using the form prescribed~~
 11 ~~in § 7-5-405:~~

12 ~~(i)(a)~~ In person Hand delivery by the applicant, the
 13 applicant's designated bearer, or the applicant's administrator at the office
 14 of the county clerk of the county of residence of the voter no later than the
 15 time the county clerk's office regularly closes on the day before election
 16 day;

17 ~~(ii)(b)~~ Applications by mail must be Mail if
 18 received in the office of the county clerk of the county of residence of the
 19 voter not later than seven (7) days before the election for which the
 20 application was made;

21 ~~(iii)(c)~~ A designated bearer may deliver the
 22 completed application to the office of the county clerk of the county of
 23 residence of the applicant not later than the time the county clerk's office
 24 regularly closes on the day before the day of the election;

25 ~~(iv)~~ A person declared as Hand delivery by the
 26 authorized agent of the applicant may deliver the application to the office
 27 of the county clerk of the county of residence of the applicant not later
 28 than 1:30 p.m. on the day of the election;

29 ~~(v)~~ An administrator may deliver the application in
 30 person at the office of the county clerk of the county of residence of the
 31 voter no later than the time the county clerk's office regularly closes on
 32 the day before election day; or

33 ~~(vi)(a)(d)(1)~~ Delivery by electronic Electronic
 34 means to the county clerk's office of the county of residence of the voter
 35 ~~not~~ no later than seven (7) days before the election for which the
 36 application was made.

1 ~~(b)(2)~~ The county clerk shall accept the
 2 completed application sent by electronic means ~~will be accepted~~ only upon
 3 verification of the facsimile signature of the applicant by the county clerk.

4 ~~(e)(3)~~ Once verified as a reasonable likeness
 5 of the voter's signature, the signature appearing on a copy of an application
 6 sent by electronic means shall be presumed to be authentic until proven
 7 otherwise; or

8 ~~(B)(C)(i)~~ If the applicant does not use the An application
 9 for absentee ballot not using the form prescribed in § 7-5-405, he or she may
 10 make an application for an absentee ballot as follows: may be made by letter,
 11 postcard, or electronic means received by the county clerk not later than
 12 seven (7) days before the date of the election.

13 ~~(i)~~ A letter or postcard must be received in the
 14 office of the county clerk not later than seven (7) days before the date of
 15 the election. The letter or postcard shall contain information sufficient for
 16 the county board of election commissioners and the county clerk to accept the
 17 letter or postcard in lieu of the application form; or

18 ~~(ii)~~ An applicant may transmit a written request for
 19 an absentee ballot by electronic means that shall contain the voter's
 20 signature and other information sufficient for acceptance in lieu of the
 21 application form.

22 ~~(ii)~~ An application for absentee ballot by letter,
 23 postcard, or electronic means shall contain the information prescribed by §
 24 7-5-405.

25
 26 SECTION 6. Arkansas Code § 7-5-405(a), concerning application form, is
 27 amended to read as follows:

28 ~~(a)(1)~~ Applications for absentee ballots may be made on a form or
 29 forms prescribed by the The Secretary of State and furnished by the county
 30 clerk at least sixty (60) days before the election shall:

31 ~~(A)~~ Prescribe a form or forms for application for absentee
 32 ballot;

33 ~~(B)~~ Disseminate the form or forms to the county clerks;
 34 and

35 ~~(C)~~ Continuously publish the form or forms on the
 36 Secretary of State's website.

1 (2) The form or forms for application for absentee ballot shall
 2 contain the following information:

3 (A) The ~~following~~ statement+ “IF YOU PROVIDE FALSE
 4 INFORMATION ON THIS FORM, YOU MAY BE GUILTY OF PERJURY AND SUBJECT TO A FINE
 5 OF UP TO TEN THOUSAND DOLLARS (\$10,000) OR IMPRISONMENT FOR UP TO TEN (10)
 6 YEARS.”;

7 (B) A statement ~~in which the voter must indicate that he~~
 8 ~~or she~~ indicating that the voter is requesting an absentee ballot because he
 9 or she will be:

10 (i) Unavoidably absent from the polling site on
 11 election day; or

12 (ii) Unable to attend the polls on election day
 13 because of illness or physical disability; ~~or~~

14 ~~(iii) Unable to attend the polls on election day~~
 15 ~~because of residence in a long-term care or residential facility licensed by~~
 16 ~~the state;~~

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

19 (D) A statement indicating whether the voter is a United
 20 States citizen residing outside the territorial limits of the United States;

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

23 (F) A statement indicating whether the voter resides in a
 24 long-term care facility or residential facility licensed by the state;

25 (G) Mailing information for the ballot or the name and
 26 signature of a designated bearer, an administrator, or an authorized agent;

27 ~~(G)~~(H) The date, the voter’s printed or typed name, voting
 28 residence address, date of birth, and the voter’s signature attesting to the
 29 correctness of the information provided under penalty of perjury; and

30 ~~(H)~~(I) The election in which the voter wishes to cast an
 31 absentee ballot.

32
 33 SECTION 7. Arkansas Code § 7-5-408 is amended to read as follows:

34 7-5-408. List of applications – Preparation, preservation, and
 35 inspection.

36 (a)(1) The county clerk shall ~~make~~ :

1 (A) Make a list of the applications for absentee ballots
2 as the applications are received; and ~~shall keep~~

3 (B) Maintain the list of applications and ~~retain~~ the
4 application forms ~~after the election in which they are to be used~~ for the
5 same period as is required for retaining ballots.

6 (2) For each absentee ballot that is returned to the county
7 clerk, the clerk shall place a mark on the list of applications indicating
8 that the absentee ballot was returned.

9 (b) The list of applications and the applications shall be available
10 ~~to~~ for public inspection during regular business hours from sixty (60) days
11 prior to the election until they are destroyed.

12
13 SECTION 8. Arkansas Code § 7-5-409 is amended to read as follows:

14 7-5-409. Materials furnished to qualified voters.

15 (a)(1)~~(A)~~ The county clerk ~~must satisfy himself or herself that the~~
16 shall determine whether:

17 (A) The applicant for an absentee ballot is:

18 (i) A qualified registered elector in the ward,
19 precinct, or township in which he or she claims to be a resident; ~~or that the~~
20 ~~applicant is exempted~~

21 (ii) Exempt from registration under § 7-5-406~~r~~; and

22 (B) The ~~county clerk shall verify that the~~ application for
23 absentee ballot has been properly signed by ~~the~~:

24 (i) The applicant; and, ~~if necessary, the~~

25 (ii) The designated bearer, administrator, or
26 authorized agent if required by law.

27 (2)(A) If the application is does not properly signed meet the
28 requirements of subdivision (a)(1) of this section, the application shall be
29 rejected by the county clerk.

30 ~~(C)~~(B) The county clerk shall ~~notify~~:

31 (i) Contact the applicant; and

32 (ii) Notify the applicant of the reason for the
33 rejection deficiency.

34 ~~(2)~~(3)(A) If the county clerk is unable to contact the applicant
35 to cure ~~the~~ a deficiency in the application, the county clerk shall forward

1 *the application with the reason for the rejection to the county board of*
 2 *election commissioners.*

3 (B) ~~The~~ When the county board of election
 4 commissioners ~~shall determine~~ determines whether the applicant is a qualified
 5 elector, the county board of election commissioners shall notify the
 6 applicant of a determination that the applicant is not a qualified elector.

7 (b)(1) If the applicant is registered or is otherwise eligible to vote
 8 absentee, the application meets the requirements of subdivision (a)(1) of
 9 this section, the county clerk, prior to mailing or delivering the ballot,
 10 shall detach:

11 (A) Detach the ballot stub ~~and deposit;~~

12 (B) Deposit the ballot stub into a sealed box designated
 13 as "Absentee Stub Box"; ~~and deliver~~

14 (C) Deliver the absentee ballot materials required under
 15 subdivision (b)(2) of this section to the applicant or to the applicant's
 16 designated bearer, authorized agent, or administrator for delivery to the
 17 applicant ~~the following materials+.~~

18 (2) The absentee ballot materials shall include:

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

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

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

26 ~~(4)(A)(i)(D)~~ A voter statement+ that includes:

27 ~~(ii) The voter statement shall include the following~~

28 (i) A heading in bold capitalized letters+ that
 29 states: "THIS VOTER STATEMENT MUST BE COMPLETED AND RETURNED IN THE MAILING
 30 ENVELOPE OR THE ABSENTEE BALLOT WILL NOT BE COUNTED+";

31 ~~(iii) The voter statement shall include the~~
 32 ~~following statement~~

33 (ii) A footer in bold capitalized letters at the
 34 bottom of the page that states: "THE INFORMATION I HAVE PROVIDED IS TRUE TO
 35 THE BEST OF MY KNOWLEDGE UNDER PENALTY OF PERJURY. IF I HAVE PROVIDED FALSE
 36 INFORMATION, I MAY BE SUBJECT TO A FINE OF UP TO TEN THOUSAND DOLLARS

1 (\$10,000) OR IMPRISONMENT FOR UP TO TEN (10) YEARS, OR BOTH, UNDER FEDERAL OR
2 STATE LAWS.”;

3 ~~(iv) The voter statement shall include a~~

4 (iii) A statement that the voter resides at the
5 address on his or her application;

6 ~~(v) The voter statement shall include a statement~~
7 ~~for~~

8 (iv) A section applicable only to a voter who is a
9 first-time voter who registers by mail stating: “If I am a newly registered
10 voter of this county and this is the first time I am voting in this county, I
11 am enclosing a copy of a current and valid photo identification card or a
12 current utility bill, bank statement, government check, paycheck, or other
13 government document that shows my name and address.”;

14 ~~(B) Blanks shall be provided~~

15 (v) Spaces for the voter to provide his or her
16 printed name, signature, address, and date of birth, ~~signature of;~~

17 (vi) Spaces for the administrator, authorized agent,
18 ~~or designated bearer, or assistant of the voter to provide his or her printed~~
19 name, signature, and address, and date of birth of the administrator,
20 ~~authorized agent, or designated bearer; and~~

21 (vii) A section applicable only to a voter who
22 requires assistance to vote by reason of blindness, disability, or inability
23 to read or write or because he or she is a qualified individual with a
24 disability under the Americans with Disabilities Act OF 1990, 42 U.S.C. §
25 12101 et seq., including:

26 (a) A statement that the absentee voter
27 requires assistance to mark and cast his or her ballot;

28 (b) A space to state the printed name and
29 address of the assistant;

30 (c) A space to state the date assistance was
31 provided;

32 (d) A space for a description of the
33 assistant’s current and valid photographic identification or a description of
34 the assistant’s current utility bill, bank statement, government check,
35 paycheck, or other government document that shows the name and address of the
36 assistant;

1 (e) An oath in bold capitalized letters
2 stating: "I HAVE ASSISTED THE VOTER IN MARKING AND CASTING THE BALLOT
3 ACCORDING TO THE WISHES OF THE VOTER. I HAVE ASSISTED OR WILL ASSIST NO MORE
4 THAN SIX (6) ABSENTEE VOTERS FOR ANY ONE ELECTION. I UNDERSTAND THAT IF I
5 PROVIDE FALSE INFORMATION ON THIS STATEMENT, I MAY BE GUILTY OF PERJURY AND
6 SUBJECT TO A FINE OF UP TO TEN THOUSAND DOLLARS (\$10,000) OR IMPRISONMENT FOR
7 UP TO TEN (10) YEARS, OR BOTH"; and

8 (f) A space adjacent to the oath for the
9 assistant's signature;

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

14 ~~(6)(F)~~ An authorized agent authorization form, as follows
15 stating:

16
17 "AGENT AUTHORIZATION FORM
18 If applicable, fill out and sign this form and place it in the Return
19 Envelope
20 I hereby authorize (insert his
21 or her name) as my authorized agent, to deliver this ballot as I am
22 medically unable to vote on election day. An affidavit verifying my
23 medical status as unable to deliver the application or to vote on the
24 day of the election is attached or has been provided with my
25 application.
26
27 signature of voter
28
29 printed name of voter
30
31 address of voter
32
33 date of birth of voter"

34 (c)(1) ~~Except for absentee ballots mailed to an address outside the~~
35 ~~county in which the applicant is registered, an~~ The county clerk shall mail
36 an absentee ballot shall be mailed to the voter at the address that appears:

1 (A) Appears on the applicant's registration record; or
 2 (B) Appears on the applicant's absentee ballot application
 3 if the voter is temporarily at a different address.

4 (2) The county clerk shall not mail more than two (2) absentee
 5 ballots to the same address unless:

6 (A) The address is outside the territorial limits of the
 7 United States;

8 (B) The address is for a long-term care facility or
 9 residential care facility licensed by the state; or

10 (C) There are more than two (2) persons lawfully
 11 registered at the same address.

12 (d) The county clerk shall not deliver an absentee ballot to ~~any~~ a
 13 person other than the absentee voter unless the person ~~picking up the ballot~~
 14 provides current and valid photographic identification to the county clerk
 15 that he or she is:

16 (1) The voter's+

17 ~~(A) Designated~~ designated bearer; or

18 ~~(B) Authorized~~ authorized agent; or

19 (2) The administrator of a long-term care facility or
 20 residential care facility licensed by the state in which the voter resides.

21 (e)(1) The county clerk shall not provide more than two (2) absentee
 22 ballots per election to any designated bearer or authorized agent, ~~nor shall~~
 23 ~~the.~~

24 (2) The county clerk shall not accept delivery of more than two
 25 (2) absentee ballots per election from any designated bearer or authorized
 26 agent.

27 (f) A designated bearer ~~shall be allowed to~~ may pick up ~~only~~ no more
 28 than two (2) absentee ballots from the county clerk ~~only~~ during the fifteen
 29 (15) days ~~prior to~~ before a school election, special election, preferential
 30 primary election, or general election and seven (7) days ~~prior to~~ before a
 31 runoff election, including a general primary election.

32 (g) Upon delivery of an absentee ballot to an individual authorized to
 33 receive an absentee ballot, the county clerk shall mark the precinct voter
 34 registration list to indicate that an absentee ballot has been delivered to
 35 the voter.

36

1 SECTION 9. Arkansas Code § 7-5-412 is amended to read as follows:

2 7-5-412. Marking and return of absentee ballots – Delivery of mailed
3 absentee ballots.

4 (a) ~~Upon receiving~~ When the voter receives the ~~blank~~ absentee ballot,
5 ~~statement, and envelopes, whether in the office of the county clerk or~~
6 ~~elsewhere, materials,~~ the voter shall mark:

7 (1) Mark the absentee ballot ~~and place;~~

8 (2) Place the absentee ballot in the provided ballot secrecy
9 ~~envelope. He or she shall then seal;~~

10 (3) Seal the ballot secrecy envelope containing the absentee
11 ~~ballot and place it; and~~

12 (4) Place in the ~~other provided outer~~ return envelope with the
13 ~~following:~~

14 (A) The absentee ballot sealed in the ballot secrecy
15 envelope;

16 ~~(1)(B)~~ (B) The executed voter statement; and

17 ~~(2)(C)~~ (C) A copy of a current and valid photographic
18 identification or a copy of a current utility bill, bank statement,
19 government check, paycheck, or other government document that shows the name
20 and address of the first-time voter, for first-time voters who registered by
21 mail. ~~However, this requirement does not apply if unless:~~

22 ~~(A)(i)~~ (i) The voter registered to vote by mail and
23 provided the identification at ~~that~~ the time he or she registered to vote; or

24 ~~(B)(ii)(a)~~ (a) ~~The first-time voter registered to vote~~
25 ~~by mail and~~ submitted his or her driver's license number or ~~at least~~ the last
26 four (4) digits of his or her social security number at the time the voter
27 registered to vote by mail; ~~and this information~~

28 (b) The driver's license number or social
29 security card number provided matches the information in an existing state
30 identification record bearing the same number, name, and date of birth as
31 provided in the registration; and

32 (5) Seal the return envelope.

33 (b) ~~A voter who desires to cast an~~ An absentee ballot ~~but~~ cast by a
34 voter who does not meet the identification requirements of subdivision ~~(a)(2)~~
35 ~~(a)(4)(C)~~ of this section ~~may cast his or her absentee ballot by mail, and~~
36 ~~the absentee ballot~~ shall be considered as a provisional ballot.

1 (c)(1) An absentee voter who requires assistance to mark and cast his
 2 or her ballot by reason of blindness, disability, or inability to read or
 3 write or because the voter is a qualified individual with a disability under
 4 the Americans with Disability Act of 1990, 42 U.S.C. § 12101 et seq., may be
 5 assisted by the person of his or her choice.

6 (2) The assistant shall:

7 (A) Follow the wishes of the voter in assisting in marking
 8 and casting the ballot; and

9 (B) Not comment on or interpret the ballot or the contents
 10 of the ballot.

11 (3) A person may not assist more than six (6) absentee voters in
 12 marking and casting a ballot for an election.

13 (4) An assistant shall:

14 (A) Sign the voter statement under penalty of perjury;

15 (B) Provide a copy of the assistant's current and valid
 16 photographic identification or a copy of a current utility bill, bank
 17 statement, government check, paycheck, or other government document that
 18 shows the name and address of the assistant; and

19 (C) Provide all other information required on the voter
 20 statement provided under § 7-5-409.

21 (d) The county clerk promptly shall deliver Absentee absentee ballots
 22 received by mail on election day before the polls close ~~shall be delivered~~
 23 ~~promptly by the county clerk~~ to the election officials designated to canvass
 24 and count absentee ballots.

25
 26 SECTION 10. Arkansas Code § 7-5-416 is amended to read as follows:

27 7-5-416. Counting of absentee ballots.

28 (a)(1) The election officials for absentee ballots shall meet ~~in the~~
 29 ~~courthouse~~ in a place designated by the county board of election
 30 commissioners on election day for the purpose of processing absentee ballots.

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

34 (3)(A) The county clerk shall ~~forward the absentee ballot~~
 35 ~~applications sorted alphabetically or by precinct~~ provide to the election
 36 officials for absentee ballots.

1 (i) The absentee ballot applications sorted
2 alphabetically or by precinct; and

3 (ii) The absentee ballots.

4 (B) The county clerk shall:

5 (i) Report in writing to the election officials for
6 absentee ballots:

7 (ii) The number of absentee ballots received;

8 (iii) The number of absentee ballots marked as
9 received on the absentee ballot applications list; and

10 (iv) If the numbers are different and the reason for
11 the difference is known, the reason for the difference in numbers.

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

18 (5)(A) Absentee or early votes may be processed and counted
19 ~~prior to~~ before the closing of the polls on election day.

20 (B) Election results shall not be printed or released
21 before the closing of the polls.

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

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

26 (B) If more than one (1) ballot secrecy envelope is
27 contained in the return envelope, the ballots contained in the return
28 envelope shall not be counted unless the ballots were mailed by:

29 (i) An administrator of a long-term care facility or
30 residential care facility licensed by the State of Arkansas or a hospital
31 that provided the required affidavit and is named on the voters' absentee
32 ballot applications; or

33 (ii) An elections officer on behalf of a member of
34 the uniformed services of the United States while on active duty or service;

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

4 ~~(C)~~(D) If the required materials are not properly placed
5 in the ~~outer absentee ballot~~ return envelope, a second election official
6 shall open the ~~inner absentee~~ ballot secrecy envelope to verify the contents
7 under the observation of another election official;

8 ~~(D)~~(E) If all required materials are present ~~within one~~
9 ~~(1) or the other envelopes~~ in the ballot secrecy envelope or the return
10 envelope, the election officials shall ~~put~~:

11 (i) Place the materials in the proper envelopes
12 ~~while preserving the secrecy of the voter's ballot~~; and ~~shall proceed to read~~

13 (ii) Read aloud from the voter statement the name of
14 the voter and the voting precinct in which the voter claims to be a legal
15 voter;

16 ~~(E)~~(F) As each ~~outer~~ return envelope is opened and the
17 name of the voter is read, the election officials for the absentee box shall
18 compile:

19 (i) A list in duplicate of the name and voting
20 precinct of the voter who returned the ballot; and

21 (ii) A duplicate copy of that list;

22 ~~(F)~~(i)(G)(i) After the election official reads aloud from
23 the voter statement, the election officials shall compare the ~~name, address,~~
24 ~~date of birth,~~:

25 (a) Name on the voter's absentee application
26 and name on the voter's statement;

27 (b) Address on the voter's absentee
28 application and address on the voter's statement;

29 (c) Date of birth on the voter's absentee
30 application and date of birth on the voter's statement; and ~~signature of~~

31 (d) Signature on the voter's absentee
32 application with the and signature on the voter's statement; and, ~~for~~

33 (ii) The election official shall verify a voter's
34 identification document if the voter is a first-time voters voter who
35 registered by mail and did not provide identification at the time of mailing
36 the voter registration application, the first time voter's identification

1 ~~document unless the voter previously provided identification at the time of~~
 2 ~~mailing the voter registration application.;~~

3 ~~(ii)(iii)~~ If the county board of election
 4 commissioners determines that the application and the ~~voter's~~ voter statement
 5 do not compare as to name, address, date of birth, and signature, the
 6 absentee ballot shall not be counted.;

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

13 (v) If the ballot was returned by a designated
 14 bearer or authorized agent, the ballot shall be designated as provisional;
 15 and

16 (vi)(a) If the return envelope was returned by an
 17 administrator or authorized agent, the election officials shall verify that
 18 the required affidavits were submitted to the clerk.

19 (b) If the required affidavits were not
 20 submitted to the clerk, the ballots shall be designated as provisional;

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

23 ~~(H)(I)~~ ~~Failure of the voter to~~ The voter shall not be
 24 disqualified for failure to submit the required absentee materials in the
 25 proper envelopes ~~shall not be grounds for disqualifying the voter;~~

26 ~~(I)(J)~~ If ~~no~~ a qualified poll watcher does not make a
 27 challenge is made by a qualified poll watcher, the election official shall
 28 remove:

29 (i) Remove the inner sealed ballot secrecy envelope,
 30 without opening the inner envelope containing the ballot,; and place it

31 (ii) Place the sealed ballot secrecy envelope
 32 containing the ballot in the ballot box without marking it in any way;

33 ~~(J)(i)(K)(i)~~ After all of the outer the return envelopes
 34 have been are opened and a ~~list has been made in duplicate~~ the lists of the
 35 name and voting precinct of the voters have been completed as required in

1 this section, the election officials of supervising the absentee box shall
 2 ~~preserve all:~~

3 (a) Preserve the voter statements of voters
 4 ~~and the voters' identification documents; and deliver them~~

5 (b) Deliver the voter statements and voters'
 6 identification documents to the county clerk, ~~who.~~

7 (ii) The county clerk shall file and keep ~~them for~~
 8 ~~the same length of time after the election as is required for retention of~~
 9 ~~other ballots~~ the voter statements and voters' identification documents for
 10 at least two (2) years.

11 ~~(ii)(iii)~~ (iii) The voter statements shall be made
 12 available for public inspection during regular business hours.

13 ~~(iii)(iv)~~ (iv) The voters' identification documents shall
 14 not be subject to public inspection except as part of a judicial proceeding
 15 to contest the election;

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

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

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

23 (c) If ~~any~~ a person casting an absentee ballot dies before the polls
 24 open on election day, his or her vote shall not be counted.

25 ~~(d) It is the intent of this section to permit the election officials~~
 26 ~~for absentee ballots to meet and process, canvass, and count absentee ballots~~
 27 ~~according to this section prior to the closing of the polls on election day.~~

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

29 (2)(A) ~~The ballots~~ First, the election officials shall ~~first be~~
 30 ~~counted for~~ count the write-in votes ~~by the election officials.~~

31 (B) Then, at the discretion of the county board, ~~the~~
 32 ~~ballots~~ the poll workers may ~~be either hand counted or counted on~~ count the
 33 ballots by hand or by using an electronic vote tabulating device.

34 ~~(f)(1)(e)(1)~~ (1) Absentee ballots marked as "special runoff ballots"
 35 ~~received from a qualified voter from one (1) of the categories in § 7-5-~~
 36 ~~406(a) and who is temporarily residing outside the territorial limits of the~~

1 ~~United States shall be opened for~~ In a general primary elections election and
2 or a general runoff elections election, an election official shall:

3 (A) Identify a ballot marked as a "special runoff ballot"
4 received from a qualified voter from one (1) of the categories in § 7-5-
5 406(a);

6 (B) Open the "special runoff ballot" according to the
7 procedures described in subsection (b) of this section; and

8 ~~(2) However, in counting the special runoff ballot, one (1) of~~
9 ~~the election officials shall open the envelope containing the special runoff~~
10 ~~ballot and read~~

11 (C) Read the numbers indicated next to the names of the
12 two (2) candidates in the general primary election or in the general runoff
13 election.

14 ~~(3)~~(2) The candidate with the highest ranking on the "special
15 runoff ballot" under § 7-5-406 shall receive the vote.

16 ~~(4)~~(3) A special runoff ballot under § 7-5-406 received with the
17 preferential primary absentee ballot shall be counted in the general primary
18 election, ~~and a.~~

19 (4) A special runoff ballot under § 7-5-406 received with the
20 general election absentee ballot shall be counted in the general runoff
21 election.

22 (5) The Secretary of State shall ~~prepare:~~

23 (A) Prepare instructions for opening, counting, and
24 canvassing special runoff ballots; ~~and provide~~

25 (B) Provide the instructions to each county board of
26 election commissioners.

27
28 */s/K. Ingram*

29
30
31 Referred by the Arkansas Senate

32 Prepared by: JAW/VJF