Rep. King

Matthew Miller did his usual fine job in drafting SB 2. However, in reviewing the bill from my perspective as one who deals with the election code on a daily basis, I think that there are a couple of technical tweaks that might be beneficial in the context of the overall statutory scheme. Attached are some proposed revisions for your consideration.

My goal was to:

- Apply SB2’s expanded and more precise definition of long-term care facilities as they affect absentee voters to other parts of the absentee code that deal with voters in such facilities;
- Apply SB2’s requirement for voter ID consistently throughout the election code; and
- Clarify voting procedures in light of SB2’s voter ID requirement;

Toward that goal, this proposal:

- Changes the election law definition of “administrator” to match that suggested by SB2;
- Replaces existing language in the absentee voting code dealing with patients in long-term care facilities with the language from SB2 that identifies those facilities;
- Moves voter ID language out of 7-5-201 (which is about voter qualifications, not procedures) and into the various parts of the code dealing with procedures at polling places (election day and early voting);
- Eliminates Sections 2 and 3 of SB 2 for reasons stated below; and
- Generally clarifies some procedures in affected code sections.

Following is a section-by-section recap of the proposed changes:

7-1-101.

Changes the election law definition of “administrator” to match that suggested by SB2 because SB2’s definition of long-term care facility is more precise. Note that the SB2 definition clearly allows residents of out-of-state facilities to vote, a good change for residents of border communities. Current law implies that the facilities must be licensed by Arkansas.
- Take out Sections 2 and 3 of SB2, which amend current 7-5-201(d). Section 2 replaces the current 7-5-201(d), which deals with an ID requirement for first-time voters, with the new ID requirement. As such, it is basically the heart of the bill. It seems to me though, that the ID requirement (either as it stands now for first-time voters or as amended for all voters) is misplaced here. ID is not a qualification, but is rather a procedural step, like voting in the correct precinct. It seems to me that such a requirement more properly belongs in the procedural codes for in-person and absentee voting, and that is where this proposed revision puts it.

- Section 3 seems to require first time voters who registered by mail to submit both proof of identification and other forms of identification as well, and then exempts from this requirement certain categories of voters. I’m not sure that I am reading this the way it is intended. It might be that the purpose is to exempt certain voters from the ID requirement. Whatever the purpose, I would like to take a stab at re-writing it to clarify what is meant to occur. However, because I’m not clear on the intent, I have drafted my proposals on the assumption that all voters, including first-time voters would be subject to the requirement to show proof of identity.

- I also struck (e) because it is also not a qualification and the language is already in another part of the code (7-5-305(a)(11)).

7-5-305.

- Clarifies in (a) that this section deals with polling place procedures.

- In (a)(1) includes a requirement, not necessarily linked to ID, that the poll worker call out the voter’s name and address if poll watchers are present. Also eliminates the requirement that the voter state his or her date-of-birth. Many voters feel that the “out loud” DOB requirement compromises their security and it seems unnecessary where photo ID is required. These are “cleanup” provisions that I think could logically be included here. The provision that the poll worker call out the voter’s name and address is not substantively related to voter ID, though, so you might not want to deal with it.

- The voter ID requirement is in (a)(4) instead of (8) because of other cleanup.

7-5-308.

- Clarifies in (a) that these are the rules for casting and counting provisional ballots.

- In (a)(6), requires the poll worker to note the reason for the provisional ballot on the voter envelope.
In new section (d)(2)(A) provides for a voter to bring ID to the clerk (instead of the election commission, as in SB2) and for the affidavit of indigence and religious objection.

Specifically provides that provisional ballots of no-id voters will not be counted.

The voter should be able to bring ID to the clerk, in my opinion, because in most counties, the election commissions do not have offices and voters typically do not know who the commissioners are.

7-5-403, 404, 405, 409, 411, and 412

Makes those sections consistent with SB2 nomenclature for long-term care facilities.

7-5-409 and 412

Also in 7-5-409(b)(4)(A)(v) and 7-5-412(a)(2) requires absentee voters to provide copies of required ID. In 412(b), specifically states that absentee ballots not accompanied by copies of ID are not counted. It may be with regard to the latter that you want such absentee ballots to be provisional and allow absentee voters to bring in ID. I assumed not, though, because absentee voters, unlike in-person voters, are not on notice. If they are intended to be provisional, this needs to be clarified.

Additional Questions

If no-ID absentees are provisional (and subject to the cure period) should the instructions to absentee voters include an instruction that if they can’t make a copy when they send in their ballots, they can bring their id to the county clerk by the deadline? Should no-ID voters at the polls receive notice (posted? handed to them on paper?) about the deadline for bringing in ID? Is it assumed that nursing home voters vote absentee, and that is why the administrator affidavit is not mentioned in the cure process in SB2? (I assumed the answer to this question is “no” and that nursing home voters could present the administrator affidavit at the polls or during the cure period if they vote at the polls. If this is incorrect, I’ll need to make some changes in my proposed revisions.)

FINAL NOTE

I hope these notes are helpful. My goal is to not change the intent of the bill of the bill in any way, but to make it work in the broader statutory scheme. Please let me know if you have further questions or comments.
EXPLAINER

The purpose of these proposed amendments to SB 2 (Voter ID) is to

- adopt SB2’s expanded and more precise definition of long-term care facilities as they affect absentee voters;
- Apply SB2’s requirement for voter ID consistently throughout the election code; and
- Clarify voting procedures in light of SB2’s voter ID requirement;

Toward that goal, this proposal:

- Changes the election law definition of “administrator” to match that suggested by SB2;
- Replaces existing language in the absentee voting code dealing with patients in long-term care facilities with the language from SB2 that more specifically identifies those facilities;
- Moves voter ID language out of 7-5-201 (which is about voter qualifications, not procedures) and into the various parts of the code dealing with procedures at polling places (election day and early voting);
- Eliminates Section 3 of SB 2 which appears to deal with first-time voters in a different way than others – such a provision is not necessary where all are subject to the photo id requirement; and
- Generally clarifies some procedures in affected code sections.


As used in this title, unless the context or chapter otherwise requires:

(1) "Administrator" means the administrative head of a licensed hospital, licensed nursing home, licensed residential care facility, licensed assisted living facility or any licensed facility that provides long-term medical or personal care of a long-term care or residential care facility licensed by the state who is authorized in writing by a patient of the long-term care or residential care facility to deliver the application for an absentee ballot and to obtain or deliver the absentee ballot to the county clerk;

7-5-201. Voter qualification.

(a) To be qualified to vote, a person shall have registered at least thirty (30) calendar days immediately prior to the election and in the manner set forth by Arkansas Constitution, Amendment 51.
(b) "Voting residence" shall be a voter's domicile and shall be governed by the following provisions:

(1) The domicile of a person is that place in which his or her habitation is fixed to which he or she has the intention to return whenever he or she is absent;

(2) A change of domicile is made only by the act of abandonment, joined with the intent to remain in another place. A person can have only one (1) domicile at any given time;

(3) A person does not lose his or her domicile if he or she temporarily leaves his or her home and goes to another country, state, or place in this state with the intent of returning;

(4) The place where a person's family resides is presumed to be his or her place of domicile, but a person may acquire a separate residence if he or she takes another abode with the intention of remaining there;

(5) A married person may be considered to have a domicile separate from that of his or her spouse for the purposes of voting or holding office. For those purposes, domicile is determined as if the person were single; and

(6) Persons who are temporarily living in a particular place because of a temporary work-related assignment or duty post or as a result of their performing duties in connection with their status as military personnel, students, or office holders shall be deemed residents of that place where they established their home prior to beginning such assignments or duties.

(c) No person may be qualified to vote in more than one (1) precinct of any county at any one (1) time.

(d) (1) Any person registering to vote by mail and who has not previously voted in a federal election in this state shall:

(A) Present to the election official a current and valid photo identification or copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter when appearing to vote in person either early or at the polls on election day; or

(B) When voting by mail, submit with the ballot a copy of a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.
(2) The provision of subdivision (d)(1) of this section does not include:

(A) Persons whose applications are transmitted by state or federal voter registration agencies;

(B) Persons who are covered by the Uniformed and Overseas Citizens Absentee Voting Act;

(C) Persons covered by the Voting Accessibility for the Elderly and Handicapped Act;

(D) Persons who are entitled to vote otherwise than in person under any other federal law;

(E) Persons who register to vote by mail and submit as part of the registration any of the identification documents listed in subdivision (d)(1) of this section; or

(F) Persons who register to vote by mail and submit with the registration either a driver's license number or at least the last four (4) digits of the individual's social security number and with respect to whom a state or local election official matches the license number or social security number with an existing state identification record bearing the same number, name, and date of birth as provided in the registration;

(c) Any person who receives an absentee ballot according to the precinct voter registration list but who elects to vote by early voting or to vote at his or her polling site on election day shall be permitted to cast a provisional ballot.

7-5-305. Requirements to obtain a ballot – Proof of identity.

(a) Before a person is permitted to vote at a polling place, the poll worker shall:

(1) Request the voter to state his or her name and address and then the poll worker shall repeat, in a voice audible to poll watchers present, the full name and address stated by the voter identify himself or herself in order to verify the existence of his or her name on the precinct voter registration list;

(2) Request the voter, in the presence of the poll worker, to state his or her address and state his or her date of birth;

(3) Determine that the voter's date of birth and address are the same as those shown on the precinct voter registration list;

(4) If the date of birth given by the voter is not the same as that on the precinct voter registration list, request the voter to provide identification as the poll worker deems appropriate;
(5) (A) If the voter's address is not the same as that on the precinct voter registration list, verify with the county clerk that the address is within the precinct.

(B) If the address is within the precinct, request the voter to complete a voter registration application form for the purpose of updating county voter registration record files.

(C) If the address is not within the precinct:

(i) Verify with the county clerk's office the proper precinct; and

(ii) Instruct the voter to go to the polling site serving that precinct in order for his or her vote to be counted;

(63) If the voter's name is not the same as that on the precinct voter registration list, request the voter to complete a voter registration application form for purposes of updating county voter registration record files;

(4) Request the voter to provide proof of identity or, if the voter is a resident of a licensed nursing home, licensed residential care facility, licensed assisted living facility or any licensed facility that provides long-term medical or personal care, provide an affidavit from the administrator of the facility attesting to the person's residence in the facility;

(A) If a voter is unable to provide proof of identity or the affidavit of an administrator, the poll worker shall indicate on the precinct voter registration list that the voter did not provide identification;

(B) Any voter who does not provide proof of identity shall be offered a provisional ballot;

(C) Following each election, the county board of election commissioners may review the precinct voter registration lists and may provide the information of the voters not providing proof of identity at the polls to the prosecuting attorney who may investigate possible voter fraud;

(75)(A) Request the voter, in the presence of the poll worker, to sign his or her name, including the given name, middle name or initial, if any, and last name in the space provided on the precinct voter registration list. If a person is unable to sign his or her signature or make his or her mark or cross, the poll worker shall enter his or her initials and the voter's date of birth in the space for the person's signature on the precinct voter registration list;

(B) If a person is unable to sign his or her signature or make his or her mark or cross, the poll worker shall enter his or her initials and the voter's date of birth in the space for the person's signature on the precinct voter registration list;
(8) (A) Request the voter for purposes of identification to provide a current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

(B) (i) If a voter is unable to provide this identification, the poll worker shall indicate on the precinct voter registration list that the voter did not provide identification.

(ii) A first-time voter who registers by mail without providing identification when registering and desires to vote in person but who does not meet the identification requirements of subdivision (a)(8)(A) of this section may cast a provisional ballot.

(iii) Following each election, the county board of election commissioners may review the precinct voter registration lists and may provide the information of the voters not providing identification at the polls to the prosecuting attorney.

(iv) The prosecuting attorney may investigate possible voter fraud;

(96) Record the voter's name or request the voter to print his or her name on the list-of-voters form;

(107) Follow the procedures under §§ 7-5-310 and 7-5-311 if the person is a voter with a disability and presents himself or herself to vote; and

(118) Permit the person to cast a provisional ballot if the person received an absentee ballot according to the precinct voter registration list.

(b) A person not listed on the precinct voter registration list may vote only in accordance with § 7-5-306.

7-5-308. Provisional ballot procedure.

(a) When the voter is required by law to cast a provisional ballot, the ballot shall be cast and counted pursuant to the following procedures:

(1) A poll worker shall notify the individual that the individual may cast a provisional ballot in that election;

(2) The voter shall execute a written eligibility affirmation in the presence of the poll worker stating that he or she is a registered voter in the precinct in which he or she desires to vote and is eligible to vote;
(3) The poll worker shall initial the back of the ballot, remove the ballot stub from the provisional ballot, and place the stub in the stub box provided;

(4) The voter shall mark his or her provisional ballot;

(5) The voter shall place the voted provisional ballot in a ballot secrecy envelope marked "provisional ballot" and seal the envelope;

(6) The voter shall place the sealed provisional ballot envelope containing the voted provisional ballot in a voter envelope, seal the envelope, and give it to the poll worker who shall note on the voter envelope the reason that the voter was required to vote a provisional ballot;

(7) The poll worker shall provide the voter written information instructing him or her on how to determine whether his or her provisional ballot was counted, and if not, the reason the ballot was not counted; and

(8) The poll worker shall make a separate list of the names and addresses of all persons voting a provisional ballot.

(b) The poll worker shall preserve, secure, and separate all provisional ballots from the remaining ballots so that the right of any person to vote may be determined later by the county board of election commissioners or the court in which an election contest may be filed.

(c) (1) Whenever a person casts a provisional ballot, the poll worker shall provide the voter written information that states that the individual who casts a provisional ballot will be able to ascertain whether the vote was counted, and if not, the reason the vote was not counted.

(2) The Secretary of State shall establish a free access system to allow a provisional voter to ascertain whether his or her vote was counted, and if not, the reason his or her vote was not counted.

(3) Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot.

(d) (1) Before certification of the results of the election, the county board shall determine whether the provisional ballots are valid.

(2) Unless enjoined by a court of competent jurisdiction, a provisional ballot shall be counted if it is cast by a registered voter and is the correct ballot, according to the precinct listed on the voter's eligibility affirmation, for the precinct of the voter's residence.
(A) However, provisional ballots cast by voters at a polling place who fail to provide proof of identity or an affidavit of an administrator pursuant to 7-5-305(a)(4) shall be not be counted unless the voter provides in person to the county clerk by noon on the Monday following the election:

(i) Proof of identity or the affidavit from an administrator; or

(ii) An affidavit, on a form prescribed by the State Board of Election Commissioners, that the voter cannot provide proof of identity because the voter is indigent or has a religious objection to being photographed.

(e) If, upon examination of any provisional ballots, the county board suspects that a violation of the election laws has occurred, the county board may refer the matter to the prosecuting attorney.

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

(b) (1) An authorized agent may deliver applications for absentee ballots to the county clerk and obtain absentee ballots from the county clerk for not more than two (2) voters who cannot cast a ballot at the appropriate polling place on election day because the voter is a patient in a licensed hospital or a licensed nursing home, residential care facility, licensed assisted living facility or any licensed facility that provides long-term medical or personal care hospital or long-term care or residential care facility licensed by the state.

(2) At no time shall an authorized agent have more than two (2) absentee ballots in his or her possession.

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

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

(4) (A) In order for an authorized agent to obtain a ballot from the county clerk, the authorized agent shall submit to the county clerk an affidavit from the administrator administrative head of a hospital or a licensed nursing home, residential care facility, licensed assisted living facility or any licensed facility that provides long-term medical or personal care hospital or long-term care or residential care facility licensed by the state that the applicant is a patient in the administrator's facility of the hospital or long-term care or residential care facility licensed by the state and is thereby unable to vote on the election day at his or her regular polling site.

(B) A copy of the affidavit shall be retained by the county clerk as an attachment to the
application for an absentee ballot.

(5) In order to obtain an absentee ballot from the county clerk, the:

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

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

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

(6) Upon delivering an absentee ballot to the county clerk, the:

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

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

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

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

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

d) (1) An administrator may deliver to the county clerk an application for an absentee ballot for any voter who is a patient of the administrator's licensed nursing home, licensed residential care facility, licensed assisted living facility or any licensed facility that provides long-term medical or personal care long-term care or residential care facility licensed by the state and who names the administrator on his or her application as the administrator of the facility where the voter resides.

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

(3) (A) An administrator may deliver the absentee ballot to the county clerk for any voter who names the administrator on his or her application and voter statement.
(B) Absentee ballots may be delivered to the county clerk in person by the administrator or by mail.

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

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

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

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

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

7-5-404. Applications for ballots.

(b) (1) Any person eligible to vote by absentee ballot may request the county clerk to mail to an address within the continental United States an application for an absentee ballot.

(2) (A) For those persons voting by absentee ballot who reside outside the county in which they are registered to vote, the application shall remain in effect for one (1) year unless revoked by the voter, and the county clerk shall thereafter automatically mail, no later than twenty-five (25) days before each election, an absentee ballot for each election.

(B) (i) Except for patients of licensed hospitals, licensed nursing homes, licensed residential care facilities, licensed assisted living facilities or any licensed facility that provides long-term medical or personal care, or other persons who are voters with disabilities as defined in § 7-5-311(d), for those persons voting by absentee ballot who reside within the county in which they are registered to vote, the application shall be valid for only one (1) election cycle.

(ii) The election cycle shall include any one (1) election and the corresponding runoff election.
7-5-405. Application form.

(b) The Secretary of State may prescribe separate absentee ballot application forms for:

(1) (A) Persons who reside within the county in which they are registered to vote and will be unavoidably absent from the polls on the date of the election.

(B) The application shall be valid for one (1) election cycle, which includes any one (1) election and the corresponding runoff election;

(2) (A) Persons whose application would be valid for one (1) calendar year.

(B) This includes the following:

(i) Persons who reside outside the county in which they are registered to vote;

(ii) Persons in a licensed hospital, licensed nursing home, licensed residential care facility, licensed assisted living facility or any licensed facility that provides long-term medical or personal care long-term care or residential facilities licensed by the state; and

(iii) Voters with disabilities; and

(3) Persons whose applications would be valid through the next two (2) regularly scheduled general elections for federal office, including any resulting runoff elections.

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

(b) If the applicant is registered or is otherwise eligible to vote absentee, the county clerk, prior to mailing or delivering the ballot, shall detach the ballot stub and deposit the ballot stub into a sealed box designated as "Absentee Stub Box" and deliver to the applicant or to the applicant's designated bearer, authorized agent, or administrator for delivery to the applicant the following materials:

(1) An official absentee ballot for each election named in the application;

(2) Instructions for voting and returning the official absentee ballot to the county clerk;
(3) An official absentee ballot secrecy envelope on which there shall be written or printed the words "Ballot Only";

(4) (A) (i) A voter statement.

(ii) The voter statement shall include the following heading in bold capitalized letters: "THIS VOTER STATEMENT MUST BE COMPLETED AND RETURNED IN THE MAILING ENVELOPE OR THE ABSENTEE BALLOT WILL NOT BE COUNTED."

(iii) The voter statement shall include the following statement in bold capitalized letters at the bottom of the page: "THE INFORMATION I HAVE PROVIDED IS TRUE TO THE BEST OF MY KNOWLEDGE UNDER PENALTY OF PERJURY. IF I HAVE PROVIDED FALSE INFORMATION, I MAY BE SUBJECT TO A FINE OF UP TO TEN THOUSAND DOLLARS ($10,000) OR IMPRISONMENT FOR UP TO TEN (10) YEARS, OR BOTH, UNDER FEDERAL OR STATE LAWS."

(iv) The voter statement shall include a statement that the voter resides at the address on his or her application.

(v) The voter statement shall include the following statement for a first-time voter who registers by mail: "If I am a newly-registered voter of this county and this is the first time I am voting in this county, I am enclosing a copy of a document or card showing proof of identity, current and valid photo identification card or a current utility bill, bank statement, government check, paycheck, or other government document that shows my name and address, or the affidavit of the administrator of a licensed nursing home, licensed residential care facility, licensed assisted living facility or any licensed facility that provides long-term medical or personal care facility attesting to my residence in the facility."

(B) Blanks shall be provided for the voter to provide his or her printed name, signature, address, date of birth, signature of administrator, authorized agent, or designated bearer, and address of the administrator, authorized agent, or designated bearer;

(5) A sealable envelope upon which shall be printed or written the words: "Return Envelope", the address of the county clerk, the precinct of the voter, and the words: "ABSENTEE BALLOT, .................., .................., ELECTION"; and

(6) An authorized agent authorization form, as follows:
"AGENT AUTHORIZATION FORM

If applicable, fill out and sign this form and place it in the Return Envelope.

I hereby authorize .......................(insert his or her name) as my authorized agent, to deliver this ballot as I am medically unable to vote on election day. An affidavit verifying my medical status as unable to deliver the application or to vote on the day of the election is attached or has been provided with my application.

............................

signature of voter

............................

printed name of voter

............................

address of voter

............................

date of birth of voter"

(c) (1) Except for absentee ballots mailed to an address outside the county in which the applicant is registered, an absentee ballot shall be mailed to the address that appears on the applicant's registration record or absentee ballot application if the voter is temporarily at a different address.

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

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

(B) The address is for a licensed nursing home, licensed residential care facility, licensed assisted living facility or any licensed facility that provides long-term medical or personal care, long-term care or residential care facility licensed by the state; or

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

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

(1) The voter's:

(A) Designated bearer; or

(B) Authorized agent; or

(2) The administrator of a licensed nursing home, licensed residential care facility, licensed assisted living facility or any licensed facility that provides long-term medical or personal care long-term care or residential care facility licensed by the state in which the voter resides.

7-5-411. Methods of voting absentee.

(a) Absentee voting may be accomplished in one (1) of the following methods and in no other manner:

(1) (A) By delivery of the ballot by mail that must be received in the office of the county clerk of the county of residence of the voter not later than 7:30 p.m. on election day.

(B) (i) However, except as provided in subdivision (a)(1)(B)(ii) of this section, by ballots applied for not later than thirty (30) days before the election by qualified electors outside the United States on election day that are signed, dated, postmarked, and mailed by the voters no later than the day of the election and received by the county clerk no later than 5:00 p.m. ten (10) calendar days after the date of the election.

(ii) The absentee ballots of armed services personnel serving in active status shall be counted if received by the county clerk no later than 5:00 p.m. ten (10) calendar days after the date of the election and if the absentee ballots were executed no later than the date of the election.

(C) Each absentee ballot shall be mailed separately by the voter and shall not be included with any other absentee ballot in a bulk mailing, except that an administrator of a licensed hospital, licensed nursing home, licensed residential care facility, licensed assisted living facility or any licensed facility that provides long-term medical or personal care long-term care or residential care facility licensed by the state of Arkansas or hospital may mail the absentee ballots of the residents and patients by bulk mail. Absentee ballots in any bulk mailing not otherwise permitted in this subsection shall not be counted;

(2) By delivery of the ballot to the county clerk of the county of residence of the voter not later than 7:30 p.m. on election day by the designated bearer, administrator, or the authorized agent of
the absentee voter who is medically unable to vote at the regular polling site, upon proper verification of the signature of the voter by the county clerk and validation of the identity of the authorized agent; or

(3) The voter may deliver the ballot to the county clerk of the county of his or her residence not later than the close of regular business hours on the day before the election.

(b) Any person to whom an absentee ballot is delivered according to the precinct voter registration list but who elects to vote by early voting or to vote at his or her polling site on election day shall be permitted to cast a provisional ballot.

7-5-412. Marking and return of absentee ballots — Delivery of mailed absentee ballots.

(a) Upon receiving the blank absentee ballot, statement, and envelopes, whether in the office of the county clerk or elsewhere, the voter shall mark the absentee ballot and place the absentee ballot in the provided envelope. He or she shall then seal the envelope containing the absentee ballot and place it in the other provided outer envelope with the following:

(1) The executed voter statement; and

(2) (A) A copy of a document or card showing proof of identity a current and valid photographic identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the first-time voter, for first-time voters who registered by mail. However, this requirement does not apply if:

(A) The voter registered to vote by mail and provided the identification at that time; or

(B) For a voter who resides in a licensed nursing home, residential care facility, licensed assisted living facility or any licensed facility that provides long-term medical or personal care, an affidavit from the administrator of the facility attesting to the person's residence in the facility. The first-time voter registered to vote by mail and submitted his or her driver's license number or at least the last four (4) digits of his or her social security number at the time and this information matches the information in an existing state identification record bearing the same number, name, and date of birth as provided in the registration.

(b) A The absentee ballot of a voter who desires to cast an absentee ballot but who does not meet the identification requirements of subdivision (a)(2) of this section may cast his or her absentee ballot by mail, and the absentee ballot shall be considered as a provisional ballot not be counted.

(c) Absentee ballots received by mail on election day before the polls close shall be delivered
promptly by the county clerk to the election officials designated to canvass and count absentee ballots.

(2) The provision of subdivision (d)(1) of this section does not include:

(A) Persons whose applications are transmitted by state or federal voter registration agencies;

(B) Persons who are covered by the Uniformed and Overseas Citizens Absentee Voting Act;

(C) Persons covered by the Voting Accessibility for the Elderly and Handicapped Act;

(D) Persons who are entitled to vote otherwise than in person under any other federal law;

(E) Persons who register to vote by mail and submit as part of the registration any of the identification documents listed in subdivision (d)(1) of this section; or

(F) Persons who register to vote by mail and submit with the registration either a driver's license number or at least the last four (4) digits of the individual's social security number and with respect to whom a state or local election official matches the license number or social security number with an existing state identification record bearing the same number, name, and date of birth as provided in the registration.