

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

*As Engrossed: H1/20/17*

# A Bill

HOUSE BILL 1047

5 By: Representatives Lowery, Drown, Ballinger, Barker, Bentley, Bragg, Brown, Coleman, Cozart, Davis,  
6 Dotson, C. Douglas, Gazaway, Gonzales, M. Gray, Henderson, Hollowell, Ladyman, Lundstrum, Lynch,  
7 Maddox, A. Mayberry, D. Meeks, S. Meeks, Payton, Penzo, Pilkington, Richmond, Rushing, Rye, B.  
8 Smith, Sorvillo, Speaks, Sturch, Sullivan, Tosh, Vaught, Warren, Wing, Womack  
9 By: Senator Rapert

## For An Act To Be Entitled

12 AN ACT TO REQUIRE THAT A VOTER PROVIDE VERIFICATION  
13 OF VOTER REGISTRATION WHEN VOTING; TO AMEND AMENDMENT  
14 51 OF THE ARKANSAS CONSTITUTION; AND FOR OTHER  
15 PURPOSES.

## Subtitle

19 TO REQUIRE THAT A VOTER PROVIDE  
20 VERIFICATION OF VOTER REGISTRATION WHEN  
21 VOTING; AND TO AMEND AMENDMENT 51 OF THE  
22 ARKANSAS CONSTITUTION.

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

27 SECTION 1. Arkansas Constitution, Amendment 51, § 6(a)(2), concerning  
28 statements included on the mail voter registration application form, is  
29 amended to read as follows:

30 (2) Such forms shall include, in identical print, statements  
31 that:

- 32 (A) Specify voter eligibility requirements;  
33 (B) Contain an attestation that the applicant meets all  
34 voter eligibility requirements and that the applicant does not claim the  
35 right to vote in another county or state;  
36 (C) Specify the penalties provided by law for submission



1 of a false voter registration application;

2 (D) Inform applicants that where they register to vote  
3 will be kept confidential; ~~and~~

4 (E) Inform applicants that declining to register will also  
5 be kept confidential; and

6 (F) Inform applicants that they will be required to verify  
7 their registration when voting in person or by absentee ballot by providing a  
8 required document or identification card as provided in Arkansas  
9 Constitution, Amendment 51, § 13.

10

11 SECTION 2. Arkansas Constitution, Amendment 51, § 13 is amended to  
12 read as follows:

13 § 13. Fail-safe voting.

14 (a) If a voter presents himself or herself at a polling place on the  
15 date of an election but no record of his or her voter registration can be  
16 located by the judges of the election on the precinct voter registration  
17 list, ~~such~~ the voter shall be permitted to vote only under the conditions set  
18 forth in § 7-5-306 or § 7-7-308.

19 (b)(1)(A) In order to determine that all who cast ballots in general,  
20 special, and primary elections in this state are legally qualified to vote in  
21 that election, each voter shall verify his or her registration by:

22 (i) Presenting to the election official when  
23 appearing to vote in person either early or at the polls on election day  
24 verification of registration in the form of a document or identification card  
25 that:

26 (a) Shows the name of the person to whom the  
27 document or identification card was issued;

28 (b) Shows a photograph of the person to whom  
29 the document or identification card was issued;

30 (c) Is issued by the United States, the State  
31 of Arkansas, or an accredited postsecondary educational institution in the  
32 State of Arkansas; and

33 (d) If displaying an expiration date, is not  
34 expired or expired no more than four (4) years before the date of the  
35 election in which the voter seeks to vote; or

36 (ii) Submitting with an absentee ballot a copy of a

1 document or identification card that complies with the requirements of  
2 subdivision (b)(1)(A)(i) of this section.

3 (B) Documents and identification cards that comply with  
4 the requirements of subdivision (b)(1)(A) of this section include without  
5 limitation:

6 (i) A driver's license;

7 (ii) A photo identification card;

8 (iii) A concealed handgun carry license;

9 (iv) A United States passport;

10 (v) An employee badge or identification document;

11 (vi) A United States military identification  
12 document;

13 (vii) A student identification card issued by an  
14 accredited postsecondary educational institution in the State of Arkansas;

15 (viii) A public assistance identification card; and

16 (ix) A voter verification card under § 7-5-323.

17 (2)(A) Except as provided in subdivision (b)(2)(B) of this  
18 section, if a voter is unable to verify his or her registration when voting  
19 in person by presenting a document or identification card that complies with  
20 subdivision (b)(1)(A)(i) of this section, the election official shall:

21 (i) Indicate on the precinct voter registration list  
22 that the voter did not present a required document or identification card;  
23 and

24 (ii) Permit the voter to cast a provisional ballot  
25 and inform the voter of the requirements under subdivision (b)4) of this  
26 section.

27 (B)(i) A person who is a resident of a long-term care or  
28 residential care facility licensed by the state of Arkansas is not required  
29 to verify his or her registration by presenting a document or identification  
30 card that complies with subdivision (b)(1)(A)(i) of this section when voting  
31 in person.

32 (ii) A person not required to present a document or  
33 identification card under subdivision (b)(2)(B)(i) of this section shall  
34 provide documentation from the administrator of the facility attesting that  
35 the person is a resident of the facility.

36 (3)(A) Except as provided in subdivision (b)(3)(B) of this

1 section, if a voter voting by absentee ballot fails to submit with the ballot  
2 documentation that complies with subdivision (b)(1)(A)(ii) of this section,  
3 the absentee ballot shall be considered a provisional ballot.

4 (B) The following persons shall not be required to submit  
5 with his or her absentee ballot documentation that complies with subdivision  
6 (b)(1)(A)(ii) of this section:

7 (i) A member on active duty of the uniformed  
8 services or merchant marine who is absent from the country on election day  
9 because of his or her service; or

10 (ii) The spouse or dependant of an active duty  
11 member of the uniformed services or merchant marine under subdivision  
12 (b)(3)(B)(i) of this section.

13 (4) A provisional ballot cast by a voter who did not present a  
14 required document or identification card shall be counted if:

15 (A) The voter returns to the county board of election  
16 commissioners or the county clerk by 12:00 noon on the Monday following the  
17 election and:

18 (i) Presents a document or identification card that  
19 complies with subdivision (b)(1) of this section; or

20 (ii) Provides an affidavit stating that the voter  
21 cannot provide a document or identification card because the voter is  
22 indigent or has a religious objection to being photographed; and

23 (B) The county board of election commissioners does not  
24 determine that the provisional ballot is invalid and should not be counted  
25 based on other grounds.

26 (5) A provisional ballot cast by an absentee voter who failed to  
27 submit with an absentee ballot documentation that complies with subdivision  
28 (b)(1)(A)(ii) of this section shall be counted if:

29 (A) The voter returns to the county board of election  
30 commissioners or the county clerk by 12:00 noon on the Monday following the  
31 election and:

32 (i) Presents a copy of a document or identification  
33 card that complies with the requirements of subdivision (b)(1)(A)(i) of this  
34 section; or

35 (ii) Provides an affidavit stating that the voter  
36 cannot provide documentation under subdivision (b)(5)(A)(i) of this section

1 because the voter is indigent or has a religious objection to being  
 2 photographed; and

3 (B) The county board of election commissioners does not  
 4 determine that the provisional ballot is invalid and should not be counted  
 5 based on other grounds.

6 (6) A person registering to vote by mail and who has not  
 7 previously voted in a federal election in this state shall comply with § 7-5-  
 8 201(d).

9 (7)(A) Following each election, the county board of election  
 10 commissioners may review the precinct voter registration lists and may  
 11 provide the information of the voters not presenting a document or  
 12 identification card necessary to verify his or her voter registration when  
 13 voting in person or by absentee ballot to the prosecuting attorney.

14 (B) The prosecuting attorney may investigate possible  
 15 voter fraud.

16 (C) Upon application based upon affidavits of one (1) or  
 17 more qualified voters by the appropriate prosecuting attorney alleging  
 18 possible voter fraud, the appropriate circuit judge, for good cause shown,  
 19 may order the permanent registrar to cancel the registration of the voter  
 20 failing to verify his or her registration as provided by this subsection.

21  
 22 SECTION 3. Arkansas Code § 7-1-101(31)-(38), concerning definitions  
 23 applicable to Title 7 of the Arkansas Code, are amended to read as follows:

24 ~~(31)(A) "Proof of identity" means:~~

25 ~~(i) A voter identification card under § 7-5-322; or~~

26 ~~(ii) A document or identification card that:~~

27 ~~(a) Shows the name of the person to whom the~~  
 28 ~~document was issued;~~

29 ~~(b) Shows a photograph of the person to whom~~  
 30 ~~the document was issued;~~

31 ~~(c) Is issued by the United States, the State~~  
 32 ~~of Arkansas, or an accredited postsecondary educational institution in the~~  
 33 ~~State of Arkansas; and~~

34 ~~(d) If displaying an expiration date:~~

35 ~~(1) Is not expired; or~~

36 ~~(2) Expired no more than four (4) years~~

1 ~~before the date of the election in which the person seeks to vote.~~

2 ~~(B) A proof of identity that complies with the~~  
 3 ~~requirements under subdivision (31)(A) of this section may include without~~  
 4 ~~limitation:~~

5 ~~(i) A driver's license;~~

6 ~~(ii) A photo identification card;~~

7 ~~(iii) A concealed handgun carry license;~~

8 ~~(iv) A United States passport;~~

9 ~~(v) An employee badge or identification document;~~

10 ~~(vi) A United States military identification~~  
 11 ~~document;~~

12 ~~(vii) A student identification card issued by an~~  
 13 ~~accredited postsecondary educational institution in the State of Arkansas;~~

14 ~~(viii) A public assistance identification card; and~~

15 ~~(ix) A voter identification card under § 7-5-322;~~

16 ~~(32)~~(31) "Provisional ballot" means a ballot:

17 (A) Cast by special procedures to record a vote when there  
 18 is some question concerning a voter's eligibility; and

19 (B) Counted contingent upon the verification of the  
 20 voter's eligibility;

21 ~~(33)~~(32) "Qualified elector" means a person who holds the  
 22 qualifications of an elector and who is registered pursuant to Arkansas  
 23 Constitution, Amendment 51;

24 ~~(34)~~(33) "Sample ballot" means a ballot for distribution to the  
 25 public or the press marked with the word "SAMPLE" so as to prevent the  
 26 production of counterfeit ballots;

27 ~~(35)~~(34) "Uniformed services" means the United States Army,  
 28 United States Navy, United States Air Force, United States Marine Corps,  
 29 United States Coast Guard, the United States Public Health Service  
 30 Commissioned Corps, and the National Oceanic and Atmospheric Administration  
 31 Commissioned Officer Corps, or as defined in the federal Uniformed and  
 32 Overseas Citizens Absentee Voting Act, ~~42 U.S.C. § 1973ff et seq.~~ 52 U.S.C. §  
 33 20301 et seq., if different from the definition stated in this subdivision  
 34 ~~(35)~~(34);

35 ~~(36)~~(35) "Vacancy in election" means the vacancy in an elective  
 36 office created by death, resignation, or other good and legal cause arising

1 prior to election to the office at a general or special election but arising  
2 subsequent to the certification of the ballot;

3 ~~(37)~~(36) "Vacancy in nomination" means the circumstances in  
4 which:

5 (A) The person who received the majority of votes at the  
6 preferential primary election or general primary election cannot accept the  
7 nomination due to death or notifies the party that he or she will not accept  
8 the nomination due to serious illness, moving out of the area from which the  
9 person was elected as the party's nominee, or filing for another office  
10 preceding the final date for certification of nominations; or

11 (B) There is a tie vote for the same office at a general  
12 primary election;

13 ~~(38)(A)~~(37)(A) "Vacancy in office" means the vacancy in an  
14 elective office created by death, resignation, or other good and legal cause  
15 arising subsequent to election to the office at a general or special election  
16 or arising subsequent to taking office and before the expiration of the term  
17 of office in those circumstances wherein the vacancy must be filled by a  
18 special election rather than by appointment.

19 (B) "Vacancy in office" does not apply to the election of  
20 a person at a general election to fill an unexpired portion of a term of  
21 office;

22 (38)(A)(i) "Verification of voter registration" means presenting  
23 a document or identification card that:

24 (a) Shows the name of the person to whom the  
25 document or identification card was issued;

26 (b) Shows a photograph of the person to whom  
27 the document or identification card was issued;

28 (c) Is issued by the United States, the State  
29 of Arkansas, or an accredited postsecondary educational institution in the  
30 State of Arkansas; and

31 (d) If displaying an expiration date, is not  
32 expired or expired no more than four (4) years before the date of the  
33 election in which the voter seeks to vote; or

34 (ii) Submitting with an absentee ballot verification of  
35 voter registration in the form of a copy of a document or identification card  
36 that complies with the requirements of subdivision (38)(A)(i) of this

1 section.

2 (B) Documents and identification cards that comply with  
3 the requirements of subdivision (38)(A) of this section include without  
4 limitation:

5 (i) A driver's license;

6 (ii) A photo identification card;

7 (iii) A concealed handgun carry license;

8 (iv) A United States passport;

9 (v) An employee badge or identification document;

10 (vi) A United States military identification

11 document;

12 (vii) A student identification card issued by an  
13 accredited postsecondary educational institution in the State of Arkansas;

14 (viii) A public assistance identification card; and

15 (ix) A voter verification card under § 7-5-323;

16

17 SECTION 5. Arkansas Code § 7-5-201(d), concerning voter qualification,  
18 is amended to read as follows:

19 (d)(1) Except as provided in subdivision (d)(2) of this section and  
20 subsection (e) of this section, any person desiring to vote in this state  
21 shall:

22 (A) Present ~~proof of identity~~ verification of voter  
23 registration to the election official when appearing to vote in person either  
24 early or at the polls on election day; or

25 (B) When voting by absentee ballot, submit with the ballot  
26 verification of voter registration in the form of a copy of a current and  
27 valid photo identification or a copy of a current utility bill, bank  
28 statement, government check, paycheck, or other government document that  
29 shows the name and address of the voter unless the voter is:

30 (i) A member of the uniformed services on active  
31 duty who is absent from the county on election day because of active duty;

32 (ii) A member of the merchant marine who is absent  
33 from the county on election day because of his or her service in the merchant  
34 marine; or

35 (iii) The spouse or dependent of a member identified  
36 in subdivision (d)(1)(B)(i) of this section or subdivision (d)(1)(B)(ii) of



1 this section who is absent from the county on election day because of the  
2 active duty or service of the member.

3 (2)(A) A person who is a resident of a long-term care or  
4 residential care facility licensed by the state is not required to ~~provide~~  
5 ~~proof of identity~~ present verification of voter registration before voting.

6 (B) A person not required to ~~provide proof of identity~~  
7 present verification of voter registration under subdivision (d)(2)(A) of  
8 this section shall provide documentation from the administrator of the  
9 facility, attesting that the person is a resident of the facility.

10  
11 SECTION 6. Arkansas Code § 7-5-305(a)(8), concerning requests for  
12 identification when voting, is amended to read as follows:

13 (8)(A)~~(i)~~ Except as provided in ~~subdivisions (a)(8)(A)(ii) and~~  
14 ~~(a)(8)(B)(ii) of this section, request the voter for purposes of~~  
15 ~~identification to provide proof of identity~~ that the voter present  
16 verification of voter registration by providing a document or identification  
17 card that meets the requirements of Arkansas Constitution, Amendment 51, §  
18 13, if required by that section.

19 ~~(ii)(a) A person who is a resident of a long-term~~  
20 ~~care or residential care facility licensed by the state is not required to~~  
21 ~~provide proof of identity before voting.~~

22 ~~(b) A person not required to provide proof of~~  
23 ~~identity under subdivision (a)(8)(A)(ii)(a) of this section shall provide~~  
24 ~~documentation from the administrator of the facility attesting that the~~  
25 ~~person is a resident of the facility.~~

26 (B)(i) If a voter is unable to ~~provide this proof of~~  
27 ~~identity~~ present verification of voter registration in the form of a document  
28 or identification card required by Arkansas Constitution, Amendment 51, § 13,  
29 the poll worker shall:

30 (a) Indicate on the precinct voter  
31 registration list that the voter did not ~~provide proof of identity~~ present  
32 verification of voter registration by providing a document or identification  
33 card required by Arkansas Constitution, Amendment 51, § 13, to the Arkansas  
34 Constitution; and

35 (b) Permit the voter to cast a provisional  
36 ballot.

1 (ii) When a voter is unable to provide proof of  
 2 identity, the voter and the election official shall follow the procedure  
 3 under ~~§ 7-5-321~~ Arkansas Constitution, Amendment 51, § 13.

4 (iii) A first-time voter who registers by mail  
 5 without providing identification when registering and desires to vote in  
 6 person but who does not meet the ~~identification~~ verification of voter  
 7 registration requirements of ~~§ 7-5-201(e)~~ § 7-5-201(d) may cast a provisional  
 8 ballot.

9 (iv) Following each election, the county board of  
 10 election commissioners may review the precinct voter registration lists and  
 11 may provide the information of the voters not ~~providing proof of identity~~  
 12 presenting verification of voter registration at the polls to the prosecuting  
 13 attorney.

14 (v) The prosecuting attorney may investigate  
 15 possible voter fraud;

16  
 17 SECTION 7. Arkansas Code §§ 7-5-321 and 7-5-322 are repealed.

18 ~~7-5-321. Procedure when voter fails to provide proof of identity.~~

19 ~~(a) If the voter is listed on the precinct voter registration list but~~  
 20 ~~fails to provide proof of identity, the election official shall:~~

21 ~~(1) Indicate on the precinct voter registration list that the~~  
 22 ~~voter did not provide proof of identity; and~~

23 ~~(2) Permit the voter to cast a provisional ballot.~~

24 ~~(b)(1) A person who is a resident of a long-term care or residential~~  
 25 ~~care facility licensed by the state is not required to provide proof of~~  
 26 ~~identity before voting.~~

27 ~~(2) A person not required to provide proof of identity under~~  
 28 ~~subdivision (b)(1) of this section shall provide documentation from the~~  
 29 ~~administrator of the facility attesting that the person is a resident of the~~  
 30 ~~facility.~~

31 ~~(c) A provisional ballot cast by a voter who did not provide proof of~~  
 32 ~~identity shall be counted if:~~

33 ~~(1) The voter returns to the county board of election~~  
 34 ~~commissioners or the county clerk by 12:00 noon on the Monday following the~~  
 35 ~~election and:~~

36 ~~(A) Provides proof of identity; or~~

1                   ~~(B) Provides an affidavit stating that the voter cannot~~  
2 ~~provide proof of identity because the voter:~~

3                   ~~(i) Is indigent; or~~

4                   ~~(ii) Has a religious objection to being~~  
5 ~~photographed; and~~

6                   ~~(2) The voter has not been challenged or required to vote a~~  
7 ~~provisional ballot for any other reason.~~

8  
9           7-5-322. ~~Voter identification card.~~

10           ~~(a)(1)(A) The Secretary of State shall provide by rule for the~~  
11 ~~issuance of a voter identification card that may be requested by an~~  
12 ~~individual to be used as proof of identity when appearing to vote in person.~~

13                   ~~(B) The rules shall include without limitation:~~

14                   ~~(i) A requirement that the voter identification card~~  
15 ~~include a photograph of the voter;~~

16                   ~~(ii) Specification of the information to be included~~  
17 ~~on the voter identification card;~~

18                   ~~(iii) Provisions concerning the expiration of a~~  
19 ~~voter identification card; and~~

20                   ~~(iv) Provisions for the proof of identity to be~~  
21 ~~provided by the county clerk of the county in which the voter is registered~~  
22 ~~to vote.~~

23                   ~~(2) Providing for the issuance of a voter identification card~~  
24 ~~under subdivision (a)(1)(A) of this section may include without limitation~~  
25 ~~the purchase by the Secretary of State of cameras and other equipment~~  
26 ~~necessary to generate a voter identification card in the office of the county~~  
27 ~~clerk.~~

28           ~~(b) A voter identification card shall be issued without the payment of~~  
29 ~~a fee or charge to an individual who:~~

30                   ~~(1) Does not have another valid form of proof of identity; and~~

31                   ~~(2)(A) Is registered to vote; or~~

32                   ~~(B) Will be at least eighteen (18) years of age at the~~  
33 ~~next election and has submitted a voter registration application.~~

34           ~~(c)(1) The Secretary of State or the county clerk shall not require or~~  
35 ~~accept payment for a voter identification card issued for the sole purpose of~~  
36 ~~voter identification.~~

1           ~~(2)(A) A person requesting a voter identification card for the~~  
2 ~~sole purpose of voter identification shall sign an oath that he or she does~~  
3 ~~not possess proof of identity under § 7-1-101(31).~~

4           ~~(B) The oath shall include the definition of proof of~~  
5 ~~identity under § 7-1-101(31).~~

6  
7           SECTION 8. Arkansas Code Title 7, Chapter 5, Subchapter 3, is amended  
8 to add an additional section to read as follows:

9           7-5-323. Voter verification card.

10          (a)(1)(A) The Secretary of State shall provide by rule for the  
11 issuance of a voter verification card that may be requested by an individual  
12 to be used to verify his or her voter registration under Arkansas  
13 Constitution, Amendment 51, § 13, when appearing to vote in person or by  
14 absentee ballot.

15          (B) The rules shall include without limitation:

16                 (i) A requirement that the voter verification card  
17 include a photograph of the voter;

18                 (ii) Specification of the information to be included  
19 on the voter verification card;

20                 (iii) Provisions concerning the expiration of a  
21 voter verification card; and

22                 (iv) Provisions for the voter verification card to  
23 be provided by the county clerk of the county in which the voter is  
24 registered to vote.

25          (2) Providing for the issuance of a voter verification card  
26 under subdivision (a)(1)(A) of this section may include without limitation  
27 the purchase by the Secretary of State of cameras and other equipment  
28 necessary to generate a voter verification card in the office of the county  
29 clerk.

30          (b) A voter verification card shall be issued without the payment of a  
31 fee or charge to an individual who:

32                 (1) Does not have another valid form of identification meeting  
33 the requirements of Arkansas Constitution, Amendment 51, § 13; and

34                 (2)(A) Is registered to vote; or

35                 (B) Will be at least eighteen (18) years of age at the  
36 next election and has submitted a voter registration application.

1           (c)(1) The Secretary of State or the county clerk shall not require or  
2 accept payment for a voter verification card issued for the sole purpose of  
3 voter verification.

4           (2) A person requesting a voter verification card for the sole  
5 purpose of voter verification shall sign an oath that he or she does not  
6 possess a valid form of identification meeting the requirements of Arkansas  
7 Constitution, Amendment 51, § 13.

8  
9           SECTION 9. Arkansas Code § 7-5-418(c) and (d), concerning early voting  
10 procedures, are amended to read as follows:

11           (c) Before a person is permitted to cast an early vote, the county  
12 clerk or election official shall:

13                   (1) Request the voter to identify himself or herself by stating  
14 his or her name, date of birth, and address in order to verify his or her  
15 registration;

16                   (2) ~~Request the voter to present proof of identity to the county~~  
17 ~~clerk or election official~~ that the voter verify his or her registration by  
18 providing a document or identification card that meets the requirements of  
19 Arkansas Constitution, Amendment 51, § 13, if required by that section;

20                   (3) If the voter's name or address is not the same as that in  
21 the county voter registration record files, request the voter to complete an  
22 updated voter registration application form;

23                   (4) Request the voter to sign an early voting roster or early  
24 voting request form that identifies his or her name, address, date of birth,  
25 and the date on the roster or form; and

26                   (5) Enter the voter's precinct number on the early voting roster  
27 or early voting request form.

28           (d)(1) If the voter is not listed in the county voter registration  
29 record files and the county clerk is unable to verify the voter's  
30 registration and if the voter contends that he or she is eligible to vote,  
31 then the voter may vote a provisional ballot that shall be counted only upon  
32 verification of the voter's registration status.

33                   (2)(A) ~~If the voter fails to provide proof of identity to~~  
34 ~~present verification of voter registration,~~ the election official shall  
35 follow the procedure in ~~§ 7-5-321~~ Arkansas Constitution, Amendment 51, § 13.

36                   ~~(B)(i) A person who is a resident of a long-term care or~~

1 ~~residential care facility licensed by the state is not required to provide~~  
2 ~~proof of identity before voting.~~

3 ~~(ii) A person not required to provide proof of~~  
4 ~~identity under subdivision (d)(2)(B)(i) of this section shall provide~~  
5 ~~documentation from the administrator of the facility attesting that the~~  
6 ~~person is a resident of the facility.~~

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*/s/Lowery*

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