

Adopted	Rejected
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## COMMITTEE REPORT

YES:	6
NO:	3

### MR. SPEAKER:

*Your Committee on Elections and Apportionment*, to which was referred Senate Bill 209, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1           Page 1, between the enacting clause and line 1, begin a new  
2 paragraph and insert:  
3           "SECTION 1. IC 3-5-2-31.5 IS ADDED TO THE INDIANA CODE  
4 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
5 1, 2009]: **Sec. 31.5. "Member of the military or public safety  
6 officer" has the meaning set forth in IC 10-14-2-5.**"  
7           Page 3, between lines 8 and 9, begin a new paragraph and insert:  
8           "SECTION 3. IC 3-11-3-11, AS AMENDED BY P.L.230-2005,  
9 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2009]: Sec. 11. The county election board shall deliver the  
11 following to each inspector or the inspector's representative:  
12           (1) The supplies provided for the inspector's precinct by the  
13 election division.  
14           (2) The local sample ballots, the ballot labels, if any, and all poll  
15 lists, registration lists, and other supplies considered necessary to  
16 conduct the election in the inspector's precinct.

1 (3) The local ballots printed under the direction of the county  
2 election board as follows:

3 (A) In those precincts where ballot card voting systems are to  
4 be used, the number of ballots at least equal to one hundred  
5 percent (100%) of the number of voters in the inspector's  
6 precinct, according to the poll list.

7 (B) In those precincts where electronic voting systems are to  
8 be used, the number of ballots that will be required to be  
9 printed and furnished to the precincts for emergency purposes  
10 only.

11 (C) Provisional ballots in the number considered necessary by  
12 the county election board.

13 (4) Twenty (20) ink pens suitable for printing the names of  
14 write-in candidates on the ballot or ballot envelope.

15 (5) Copies of the voter's bill of rights for posting as required by 42  
16 U.S.C. 15482.

17 (6) Copies of the instructions for a provisional voter required by  
18 42 U.S.C. 15482 **and IC 3-11.7-2-2**. The county election board  
19 shall provide at least the number of copies of the instructions as  
20 the number of provisional ballots provided under subdivision (3).

21 SECTION 4. IC 3-11-8-25.2, AS AMENDED BY P.L.164-2006,  
22 SECTION 101, IS AMENDED TO READ AS FOLLOWS  
23 [EFFECTIVE JULY 1, 2009]: Sec. 25.2. (a) The poll clerk or assistant  
24 poll clerk shall examine the list provided under IC 3-7-29-1 to  
25 determine if the county election board has indicated that the voter is  
26 required to provide additional personal identification under 42 U.S.C.  
27 15483 and IC 3-7-33-4.5 before voting in person. If the list (or a  
28 certification concerning absentee voters under IC 3-11-10-12) indicates  
29 that the voter is required to present this identification before voting in  
30 person, the poll clerk shall advise the voter that the voter must present,  
31 in addition to the proof of identification required by section 25.1(a) of  
32 this chapter, a piece of identification described in subsection (b) to the  
33 poll clerk.

34 (b) As required by 42 U.S.C. 15483, and in addition to the proof of  
35 identification required by section 25.1(a) of this chapter, a voter  
36 described by IC 3-7-33-4.5 who has not complied with IC 3-7-33-4.5  
37 before appearing at the polls on election day must present one (1) of the  
38 following documents to the poll clerk:

- 1 (1) A current and valid photo identification.
- 2 (2) A current utility bill, bank statement, government check,  
3 paycheck, or government document that shows the name and  
4 address of the voter.
- 5 (c) If a voter presents a document under subsection (b), the poll  
6 clerk shall add a notation to the list indicating the type of document  
7 presented by the voter. The election division shall prescribe a  
8 standardized coding system to classify documents presented under this  
9 subsection for entry into the county voter registration system.
- 10 (d) If a voter required to present documentation under subsection (b)  
11 is unable to present the documentation to the poll clerk while present  
12 in the polls, the poll clerk shall notify the precinct election board. The  
13 board shall provide a provisional ballot to the voter under IC 3-11.7-2.
- 14 (e) The precinct election board shall advise the voter, **both orally**  
15 **and in writing**, that the voter may file a copy of the documentation  
16 with the county voter registration office to permit the provisional ballot  
17 to be counted under IC 3-11.7.
- 18 (f) **The circuit court clerk shall provide the notice required by**  
19 **IC 3-11.7-6-4 to a voter who casts a provisional ballot under this**  
20 **section.**
- 21 SECTION 5. IC 3-11-8-25.7 IS ADDED TO THE INDIANA CODE  
22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
23 1, 2009]: **Sec. 25.7. (a) This section applies only to a voter who is a**  
24 **member of the military or public safety officer.**
- 25 (b) **Notwithstanding section 25.5 of this chapter, a voter who**  
26 **signs the voter's name and either:**
- 27 (1) **signs the voter's address; or**  
28 (2) **checks the "Address Unchanged" box;**  
29 **on the poll list under section 25.1 of this chapter and then leaves**  
30 **the polls without casting a ballot or after casting a provisional**  
31 **ballot may reenter the polls to cast a ballot at the election as**  
32 **provided in this section.**
- 33 (c) **A voter who leaves the polls to respond to an emergency in**  
34 **the voter's capacity as a member of the military or public safety**  
35 **officer must notify a precinct election officer that the voter is**  
36 **leaving the polls to respond to an emergency in the voter's capacity**  
37 **as a member of the military or public safety officer.**
- 38 (d) **A poll clerk or assistant poll clerk shall make a notation on**

1       **the poll list with the voter's name indicating that the voter has left**  
 2       **the polls as permitted by this section and the time the voter left the**  
 3       **polls.**

4       **(e) If the voter returns to the polls, the voter shall be permitted**  
 5       **to vote if the voter executes an affidavit stating all of the following:**

6               **(1) The name of the voter.**

7               **(2) That the voter is a member of the military or public safety**  
 8               **officer.**

9               **(3) The military or public safety position the voter holds.**

10              **(4) That after the voter signed the poll list, but before the**  
 11              **voter voted, the voter was called to respond to an emergency**  
 12              **in the voter's capacity as a member of the military or public**  
 13              **safety officer.**

14              **(5) A brief description of the emergency to which the voter**  
 15              **responded.**

16              **(6) The time the voter returned to the polls.**

17       **(f) The commission shall prescribe the form of the affidavit**  
 18       **required by this section.**

19       SECTION 6. IC 3-11-10-24, AS AMENDED BY P.L.103-2005,  
 20       SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21       JULY 1, 2009]: Sec. 24. (a) Except as provided in subsection (b), a  
 22       voter who satisfies any of the following is entitled to vote by mail:

23              (1) The voter has a specific, reasonable expectation of being  
 24              absent from the county on election day during the entire twelve  
 25              (12) hours that the polls are open.

26              (2) The voter will be absent from the precinct of the voter's  
 27              residence on election day because of service as:

28                      (A) a precinct election officer under IC 3-6-6;

29                      (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;

30                      (C) a challenger or pollbook holder under IC 3-6-7; or

31                      (D) a person employed by an election board to administer the  
 32                      election for which the absentee ballot is requested.

33              (3) The voter will be confined on election day to the voter's  
 34              residence, to a health care facility, or to a hospital because of an  
 35              illness or injury during the entire twelve (12) hours that the polls  
 36              are open.

37              (4) The voter is a voter with disabilities.

38              (5) The voter is an elderly voter.

- 1 (6) The voter is prevented from voting due to the voter's care of  
 2 an individual confined to a private residence because of illness or  
 3 injury during the entire twelve (12) hours that the polls are open.
- 4 (7) The voter is scheduled to work at the person's regular place of  
 5 employment during the entire twelve (12) hours that the polls are  
 6 open.
- 7 (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.
- 8 (9) The voter is prevented from voting due to observance of a  
 9 religious discipline or religious holiday during the entire twelve  
 10 (12) hours that the polls are open.
- 11 (10) The voter is an address confidentiality program participant  
 12 (as defined in IC 5-26.5-1-6).
- 13 **(11) The voter is a member of the military or public safety**  
 14 **officer.**
- 15 (b) A voter with disabilities who:
- 16 (1) is unable to make a voting mark on the ballot or sign the  
 17 absentee ballot secrecy envelope; and
- 18 (2) requests that the absentee ballot be delivered to an address  
 19 within Indiana;
- 20 must vote before an absentee voter board under section 25(b) of this  
 21 chapter.
- 22 (c) If a voter receives an absentee ballot by mail, the voter shall  
 23 personally mark the ballot in secret and seal the marked ballot inside  
 24 the envelope provided by the county election board for that purpose.  
 25 The voter shall:
- 26 (1) deposit the sealed envelope in the United States mail for  
 27 delivery to the county election board; or
- 28 (2) authorize a member of the voter's household or the individual  
 29 designated as the voter's attorney in fact to:
- 30 (A) deposit the sealed envelope in the United States mail; or  
 31 (B) deliver the sealed envelope in person to the county  
 32 election board.
- 33 (d) If a member of the voter's household or the voter's attorney in  
 34 fact delivers the sealed envelope containing a voter's absentee ballot to  
 35 the county election board, the individual delivering the ballot shall  
 36 complete an affidavit in a form prescribed by the commission. The  
 37 affidavit must contain the following information:
- 38 (1) The name and residence address of the voter whose absentee

- 1 ballot is being delivered.
- 2 (2) A statement of the full name, residence and mailing address,  
3 and daytime and evening telephone numbers (if any) of the  
4 individual delivering the absentee ballot.
- 5 (3) A statement indicating whether the individual delivering the  
6 absentee ballot is a member of the voter's household or is the  
7 attorney in fact for the voter. If the individual is the attorney in  
8 fact for the voter, the individual must attach a copy of the power  
9 of attorney for the voter, unless a copy of this document has  
10 already been filed with the county election board.
- 11 (4) The date and location at which the absentee ballot was  
12 delivered by the voter to the individual delivering the ballot to the  
13 county election board.
- 14 (5) A statement that the individual delivering the absentee ballot  
15 has complied with Indiana laws governing absentee ballots.
- 16 (6) A statement that the individual delivering the absentee ballot  
17 is executing the affidavit under the penalties of perjury.
- 18 (7) A statement setting forth the penalties for perjury.
- 19 (e) The county election board shall record the date and time that the  
20 affidavit under subsection (d) was filed with the board.
- 21 (f) After a voter has mailed or delivered an absentee ballot to the  
22 office of the circuit court clerk, the voter may not recast a ballot, except  
23 as provided in:
- 24 (1) section 1.5 of this chapter; or  
25 (2) section 33 of this chapter.
- 26 SECTION 7. IC 3-11-10-26, AS AMENDED BY P.L.164-2006,  
27 SECTION 109, IS AMENDED TO READ AS FOLLOWS  
28 [EFFECTIVE JULY 1, 2009]: Sec. 26. (a) As an alternative to voting  
29 by mail, a voter is entitled to cast an absentee ballot before an absentee  
30 voter board:
- 31 (1) in the office of the circuit court clerk (or board of elections  
32 and registration in a county subject to IC 3-6-5.2); or  
33 (2) at a satellite office established under section 26.3 of this  
34 chapter.
- 35 (b) The voter must:
- 36 (1) sign an application on the form prescribed by the commission  
37 under IC 3-11-4-5.1; and  
38 (2) provide proof of identification;

1 before being permitted to vote. The application must be received by the  
2 circuit court clerk not later than the time prescribed by IC 3-11-4-3.

3 (c) The voter may vote before the board not more than twenty-nine  
4 (29) days nor later than noon on the day before election day.

5 (d) An absent uniformed services voter who is eligible to vote by  
6 absentee ballot in the circuit court clerk's office under IC 3-7-36-14  
7 may vote before the board not earlier than twenty-nine (29) days before  
8 the election and not later than noon on election day. If a voter described  
9 by this subsection wishes to cast an absentee ballot during the period  
10 beginning at noon on the day before election day and ending at noon on  
11 election day, the county election board or absentee voter board may  
12 receive and process the ballot at a location designated by resolution of  
13 the county election board.

14 (e) The absentee voter board in the office of the circuit court clerk  
15 must permit voters to cast absentee ballots under this section for at  
16 least seven (7) hours on each of the two (2) Saturdays preceding  
17 election day.

18 (f) Notwithstanding subsection (e), in a county with a population of  
19 less than twenty thousand (20,000), the absentee voter board in the  
20 office of the circuit court clerk, with the approval of the county election  
21 board, may reduce the number of hours available to cast absentee  
22 ballots under this section to a minimum of four (4) hours on each of the  
23 two (2) Saturdays preceding election day.

24 (g) As provided by 42 U.S.C. 15481, a voter casting an absentee  
25 ballot under this section must be:

26 (1) permitted to verify in a private and independent manner the  
27 votes selected by the voter before the ballot is cast and counted;  
28 (2) provided with the opportunity to change the ballot or correct  
29 any error in a private and independent manner before the ballot is  
30 cast and counted, including the opportunity to receive a  
31 replacement ballot if the voter is otherwise unable to change or  
32 correct the ballot; and

33 (3) notified before the ballot is cast regarding the effect of casting  
34 multiple votes for the office and provided an opportunity to  
35 correct the ballot before the ballot is cast and counted.

36 (h) As provided by 42 U.S.C. 15481, when an absentee ballot is  
37 provided under this section, the board must also provide the voter with:

38 (1) information concerning the effect of casting multiple votes for

- 1 an office; and
- 2 (2) instructions on how to correct the ballot before the ballot is
- 3 cast and counted, including the issuance of replacement ballots.
- 4 (i) If:
- 5 (1) the voter is unable or declines to present the proof of
- 6 identification; or
- 7 (2) a member of the board determines that the proof of
- 8 identification provided by the voter does not qualify as proof of
- 9 identification under IC 3-5-2-40.5;

10 the voter shall be permitted to cast an absentee ballot and the voter's

11 absentee ballot shall be treated as a provisional ballot.

12 **(j) This subsection applies to a voter who casts an absentee**

13 **ballot that is treated as a provisional ballot under subsection (i).**

14 **The board shall provide the voter, both orally and in writing, an**

15 **explanation of what actions, if any, the voter must take in order to**

16 **have the voter's ballot counted. The commission shall prescribe the**

17 **form of the explanation required by this subsection. The circuit**

18 **court clerk shall also provide the notice required by IC 3-11.7-6-4**

19 **to the voter.**

20 SECTION 8. IC 3-11.7-2-2 IS AMENDED TO READ AS

21 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A provisional

22 voter shall do the following:

- 23 (1) Mark the ballot in the presence of no other person, unless the
- 24 voter requests help in marking a ballot under IC 3-11-9.
- 25 (2) Fold each ballot separately.
- 26 (3) Fold each ballot so as to conceal the marking.
- 27 (4) Enclose each ballot, with the seal and signature of the circuit
- 28 court clerk on the outside, together with any unused ballot, in the
- 29 envelope provided by the county election board under
- 30 IC 3-11.7-1-8.
- 31 (5) Securely seal the envelope.

32 (b) A provisional voter may mark a ballot with a pen or a lead

33 pencil.

34 (c) This subsection applies to a provisional voter described in

35 section 1(a)(1), 1(a)(2), or 1(a)(3) of this chapter. As provided by 42

36 U.S.C. 15482, a precinct election officer shall give the provisional

37 voter a copy of the written instructions prescribed by the county

38 election board under IC 3-11.7-6-3 after the voter returns the envelope

1 containing the provisional voter's ballots.

2 **(d) This subsection applies to a provisional voter described in**  
 3 **section 1(a) or 1(b) of this chapter. In addition to the written**  
 4 **instructions required by subsection (c), a precinct election officer**  
 5 **shall provide the provisional voter, both orally and in writing, an**  
 6 **explanation of what actions, if any, the provisional voter must take**  
 7 **in order to have the provisional voter's ballot counted. The**  
 8 **commission shall prescribe the form of the explanation required by**  
 9 **this subsection. The circuit court clerk shall also provide the notice**  
 10 **required by IC 3-11.7-6-4 to the provisional voter."**

11 Page 3, after line 30, begin a new paragraph and insert:

12 **"(e) Notwithstanding subsections (b) and (c), the county election**  
 13 **board shall provide to the following, upon request, a list of the**  
 14 **name and address of all voters who have cast a provisional ballot**  
 15 **in an election held in the county:**

16 **(1) A candidate whose name was on the ballot in the county at**  
 17 **the election.**

18 **(2) The county chairman of a political party of the county in**  
 19 **which the election was held.**

20 **The county election board shall provide a list requested under this**  
 21 **subsection not later than seventy-two (72) hours after the time the**  
 22 **list is requested.**

23 SECTION 10. IC 3-11.7-6-4 IS ADDED TO THE INDIANA CODE  
 24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 25 1, 2009]: **Sec. 4. (a) This section applies to a county that conducts**  
 26 **an election in which a voter casts a provisional ballot.**

27 **(b) Not later than three (3) calendar days after election day, the**  
 28 **circuit court clerk shall provide a notice containing the following**  
 29 **information to each voter described in subsection (a):**

30 **(1) The reason or reasons that the voter's ballot is being**  
 31 **treated as a provisional ballot.**

32 **(2) A description of what actions, if any, the provisional voter**  
 33 **must take in order to have the provisional voter's ballot**  
 34 **counted under this article.**

35 **(3) The deadlines by which the provisional voter is required**  
 36 **to take any actions described in subdivision (2) in order to**  
 37 **have the provisional voter's ballot counted under this article.**

38 **(4) The following information that will enable the provisional**

- 1           **voter to inquire about the provisional voter's ballot:**
- 2           **(A) The name of the office that the provisional voter may**
- 3           **contact.**
- 4           **(B) The address of the office described in clause (A).**
- 5           **(C) The telephone number at the office described in clause**
- 6           **(A) that the voter may use to contact the office about the**
- 7           **voter's provisional ballot.**
- 8           **(D) Any other information the circuit court clerk considers**
- 9           **useful to provide assistance to the provisional voter in**
- 10           **inquiring about the provisional ballot.**
- 11       **(c) The notice required by subsection (b) must be:**
- 12           **(1) sent by first class United States mail; or**
- 13           **(2) given by another method the circuit court clerk determines**
- 14           **will provide actual notice to the voter.**
- 15       **(d) The notice required by subsection (b) must be in a form**
- 16       **prescribed by the commission.**
- 17       **(e) A circuit court clerk who knowingly or intentionally fails to**
- 18       **provide the notice required by subsection (b) commits a Class A**
- 19       **misdemeanor under IC 3-14-4-3(b).**
- 20       SECTION 11. IC 3-11.7-6-5 IS ADDED TO THE INDIANA CODE
- 21       AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 22       1, 2009]: **Sec. 5. (a) Not later than thirty (30) days after an election,**
- 23       **the circuit court clerk shall compile a report that includes the**
- 24       **following information:**
- 25           **(1) The number of provisional ballots cast at the election in**
- 26           **the county.**
- 27           **(2) The following information relating to the provisional**
- 28           **ballots cast:**
- 29               **(A) A list of the reasons that provisional ballots were cast.**
- 30               **(B) For each reason listed, the number of provisional**
- 31               **ballots cast for that reason.**
- 32           **(3) The number of provisional ballots counted for that**
- 33           **election.**
- 34           **(4) The following information relating to the provisional**
- 35           **ballots that were not counted:**
- 36               **(A) A list of reasons that provisional ballots were not**
- 37               **counted.**
- 38               **(B) For each reason listed, the number of provisional**

1                    **ballots not counted for that reason.**

2                    **(b) The circuit court clerk shall:**

3                    **(1) make the report available for public inspection and**

4                    **copying under IC 5-14-3; and**

5                    **(2) send a copy of the report to the secretary of state.**

6                    **(c) The secretary of state shall compile the reports sent by the**

7                    **circuit court clerks under subsection (b). Not later than December**

8                    **31 of each year, the secretary of state shall issue a statewide**

9                    **compilation of all the reports sent to the secretary of state under**

10                   **subsection (b). The statewide compilation must include the**

11                   **following information:**

12                   **(1) All the information contained in the county reports, by**

13                   **county.**

14                   **(2) Statewide totals for each item of information required to**

15                   **be contained in the county reports under subsection (a).**

16                   **(d) The secretary of state shall make the statewide compilation**

17                   **available for public inspection and copying under IC 5-14-3.**

18                   **(e) The secretary of state shall develop uniform descriptions of**

19                   **the following information required to be compiled under**

20                   **subsection (a):**

21                   **(1) The reasons that a provisional ballot is cast.**

22                   **(2) The reasons that a provisional ballot is not counted.**

23                   SECTION 12. IC 3-14-4-3 IS AMENDED TO READ AS

24                   FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. **(a) Except as**

25                   **provided in subsection (b), a precinct election officer or public**

26                   **official upon whom a duty is imposed by this title who knowingly omits**

27                   **to perform the duty commits a Class D felony.**

1           **(b) A circuit court clerk who knowingly or intentionally fails to**  
2 **provide the notice required by IC 3-11.7-6-4(b) commits a Class A**  
3 **misdemeanor."**

4           Renumber all SECTIONS consecutively.  
            (Reference is to SB 209 as printed February 10, 2009.)

**and when so amended that said bill do pass.**

---

Representative Battles