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# HOUSE BILL No. 1509

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-7-13-12; IC 3-7-33-5; IC 3-11.

**Synopsis:** Various election law matters. Provides that a voter becomes registered to vote when the county voter registration office determines the voter appears to be eligible to vote at the address on the voter's voter registration application. Requires a county voter registration office to note that a voter is in inactive status if the notice of voter registration is returned by the United States Postal Service due to an unknown or insufficient address. Eliminates the seven day period during which a voter's voter registration application is considered pending. Permits a voter who is qualified to vote in person to vote by absentee ballot. Removes all other qualifications for a voter to vote by absentee ballot except for a voter with disabilities who is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope. (Such a disabled voter is currently required to vote before an absentee voter board.) Makes the beginning date of absentee voting in the clerk's office or a satellite office one day later than under current law.

**Effective:** July 1, 2009.

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## GiaQuinta

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January 14, 2009, read first time and referred to Committee on Elections and Apportionment.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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# HOUSE BILL No. 1509



A BILL FOR AN ACT to amend the Indiana Code concerning elections.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 3-7-13-12, AS AMENDED BY P.L.1-2006,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2009]: Sec. 12. Except as otherwise provided in this article,  
4 if a county voter registration office receives a properly completed  
5 registration application during a time other than the registration period  
6 described in section 10 of this chapter, the county voter registration  
7 office shall enter the data from the application into the computerized  
8 list and designate the application as pending. ~~in the same manner as~~  
9 ~~other applications received while the registration period was open are~~  
10 ~~designated as pending under IC 3-7-33-5.~~ However, the county voter  
11 registration office shall ensure that  
12 (1) the notice required under IC 3-7-33-5 is not mailed to the  
13 applicant before the first day that the registration period reopens;  
14 and  
15 (2) the registration information provided by the applicant does not  
16 appear on any certified list of voters or certificate of error issued  
17 under this article.



1 SECTION 2. IC 3-7-33-5, AS AMENDED BY P.L.164-2006,  
 2 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2009]: Sec. 5. (a) When the county voter registration office  
 4 receives an application for a new registration or an application with  
 5 information that revises or adds information to the applicant's current  
 6 voter registration record, the county voter registration office shall  
 7 determine if the applicant appears to be eligible to register to vote  
 8 based on the information in the application.

9 (b) As required under 42 U.S.C. 1973gg-6(a)(2), the county voter  
 10 registration office shall send a notice to each person from whom the  
 11 county voter registration office receives a voter registration application.  
 12 The county voter registration office shall send a notice to the applicant  
 13 at the mailing address provided in the application.

14 (c) The notice required by subsection (b) must set forth the  
 15 following:

- 16 (1) A statement that the application has been received.
- 17 (2) The disposition of the application by the county voter  
 18 registration office.
- 19 (3) If the county voter registration office determines that the  
 20 applicant appears to be eligible, the notice must state the  
 21 following:

22 (A) ~~Except as provided under subsection (f),~~ The applicant is  
 23 registered to vote under the **applicant's** residence address.  
 24 ~~when the applicant receives the notice. An applicant is~~  
 25 ~~presumed to have received the notice unless the notice is~~  
 26 ~~returned by the United States Postal Service due to an~~  
 27 ~~unknown or insufficient address and received by the county~~  
 28 ~~voter registration office not later than seven (7) days after the~~  
 29 ~~notice is mailed to the applicant.~~

30 (B) The name of the precinct in which the voter is registered.

31 (C) The address of the polling place for the precinct in which  
 32 the voter is registered.

33 (D) The voter's voter identification number.

- 34 (4) In accordance with 42 U.S.C. 1973ff-1(d), if the county voter  
 35 registration office has denied the application, the notice must  
 36 include the reasons for the denial.

37 (d) The notice required by subsection (b) may include a voter  
 38 registration card.

39 (e) If the notice is returned by the United States Postal Service due  
 40 to an unknown or insufficient address, the county voter registration  
 41 office shall ~~determine indicate on the computerized list maintained~~  
 42 **under IC 3-7-26.3** that the ~~applicant is ineligible, and deny the~~

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1 application; **applicant's registration is inactive.**

2 (f) During the seven (7) days following the mailing of the notice to  
3 the voter under this section, the county voter registration office shall  
4 indicate in the computerized list maintained under IC 3-7-26.3 that the  
5 application is pending. If the notice:

6 (1) is not returned by the United States Postal Service and  
7 received by the county voter registration office at; or

8 (2) is received by the applicant by United States Postal Service  
9 delivery and presented in person by the applicant to the county  
10 voter registration office before;

11 the expiration of the seven (7) day period under subsection (c); the  
12 county voter registration office shall indicate in the computerized list  
13 that the applicant is a registered voter.

14 (g) This subsection applies if the notice is mailed by the county  
15 voter registration office after the certified list is prepared under  
16 IC 3-7-29. If:

17 (1) the seven (7) day period under subsection (c) expires before  
18 election day;

19 (2) the applicant has not presented the notice mailed under  
20 subsection (b) to the county voter registration office as provided  
21 under subsection (f); and

22 (3) the applicant would otherwise have been included on the  
23 certified list;

24 the county voter registration office shall prepare a certificate of error  
25 under IC 3-7-48 to note the addition of the voter to the certified list.

26 (h) This subsection applies if the notice is mailed by the county  
27 voter registration office after the certified list is prepared under  
28 IC 3-7-29. If:

29 (1) the seven (7) day period has not expired before election day;  
30 and

31 (2) the applicant has not presented the notice mailed under  
32 subsection (b) to the county voter registration office as provided  
33 under subsection (f);

34 the county voter registration office shall notify the county election  
35 board. The county election board shall certify to the inspector of the  
36 precinct where the applicant resides that the applicant's voter  
37 registration application is pending, and that the voter, subject to  
38 fulfilling the requirements of IC 3-11-7, is entitled to cast a provisional  
39 ballot.

40 SECTION 3. IC 3-11-4-1 IS AMENDED TO READ AS FOLLOWS  
41 [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) A voter who is otherwise  
42 qualified to vote in person is entitled to vote by absentee ballot: ~~Except~~

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- 1           **(1) by mail;**
- 2           **(2) before an absentee voter board** as ~~otherwise~~ provided in this
- 3           article; ~~a voter voting by absentee ballot must vote~~
- 4           **(3) in the office of the circuit court clerk (or board of elections**
- 5           and registration in a county subject to IC 3-6-5.2); or
- 6           **(4) at a satellite office established under IC 3-11-10-26.3.**

7           (b) A county election board, by unanimous vote of its entire  
 8 membership, may authorize a person who is otherwise qualified to vote  
 9 in person to vote by absentee ballot if the board determines that the  
 10 person has been hospitalized or suffered an injury following the final  
 11 date and hour for applying for an absentee ballot that would prevent the  
 12 person from voting in person at the polls.

13           (c) The commission, by unanimous vote of its entire membership,  
 14 may authorize a person who is otherwise qualified to vote in person to  
 15 vote by absentee ballot if the commission determines that an  
 16 emergency prevents the person from voting in person at a polling place.

17           (d) The absentee ballots used in subsection (b) or (c) must be the  
 18 same official absentee ballots as described in section 12 and 13 of this  
 19 chapter. Taking into consideration the amount of time remaining before  
 20 the election, the commission shall determine whether the absentee  
 21 ballots are transmitted to and from the voter by mail or personally  
 22 delivered. An absentee ballot that is personally delivered shall comply  
 23 with the requirements in sections 19, 20, and 21 of this chapter.

24           SECTION 4. IC 3-11-4-2, AS AMENDED BY P.L.103-2005,  
 25 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2009]: Sec. 2. (a) A voter who wants to vote by absentee  
 27 ballot must apply to the county election board for an official absentee  
 28 ballot. Except as provided in subsection (b), the voter must sign the  
 29 absentee ballot application.

30           (b) If a voter with disabilities is unable to sign the absentee ballot  
 31 application and the voter has not designated an individual to serve as  
 32 attorney in fact for the voter, the county election board may designate  
 33 an individual to sign the application on behalf of the voter. If an  
 34 individual applies for an absentee ballot as the properly authorized  
 35 attorney in fact for a voter, the attorney in fact must attach a copy of the  
 36 power of attorney to the application.

37           (c) A person may provide an individual with an application for an  
 38 absentee ballot with the following information already printed or  
 39 otherwise set forth on the application when provided to the individual:

- 40           (1) The name of the individual.
- 41           (2) The voter registration address of the individual.
- 42           (3) The mailing address of the individual.

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- 1 (4) The date of birth of the individual.
- 2 (5) The voter identification number of the individual.
- 3 (d) A person may not provide an individual with an application for
- 4 an absentee ballot with the following information already printed or
- 5 otherwise set forth on the application when provided to the individual:
- 6 (1) The address to which the absentee ballot would be mailed, if
- 7 different from the voter registration address of the individual.
- 8 (2) In a primary election, the major political party ballot requested
- 9 by the individual.
- 10 (3) In a primary or general election, the types of absentee ballots
- 11 requested by the individual.
- 12 ~~(4) The reason why the individual is entitled to vote an absentee~~
- 13 ~~ballot:~~
- 14 ~~(A) by mail; or~~
- 15 ~~(B) before an absentee voter board (other than an absentee~~
- 16 ~~voter board located in the office of the circuit court clerk or a~~
- 17 ~~satellite office);~~
- 18 ~~in accordance with IC 3-11-4-18; IC 3-11-10-24; or~~
- 19 ~~IC 3-11-10-25.~~
- 20 (e) If the county election board determines that an absentee ballot
- 21 application does not comply with subsection (d), the board shall deny
- 22 the application under section 17.5 of this chapter.
- 23 (f) A person who assists an individual in completing any
- 24 information described in subsection (d) on an absentee ballot
- 25 application shall state under the penalties for perjury the following
- 26 information on the application:
- 27 (1) The full name, residence and mailing address, and daytime
- 28 and evening telephone numbers (if any) of the person providing
- 29 the assistance.
- 30 (2) The date this assistance was provided.
- 31 (3) That the person providing the assistance has complied with
- 32 Indiana laws governing the submission of absentee ballot
- 33 applications.
- 34 (4) That the person has no knowledge or reason to believe that the
- 35 individual submitting the application:
- 36 (A) is ineligible to vote or to cast an absentee ballot; or
- 37 (B) did not properly complete and sign the application.
- 38 (g) This subsection does not apply to an employee of the United
- 39 States Postal Service or a bonded courier company acting in the
- 40 individual's capacity as an employee of the United States Postal Service
- 41 or a bonded courier company. A person who receives a completed
- 42 absentee ballot application from the individual who has applied for the

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1 absentee ballot shall file the application with the appropriate county  
2 election board not later than:

- 3 (1) noon seven (7) days after the person receives the application;
- 4 or
- 5 (2) the deadline set by Indiana law for filing the application with
- 6 the board;

7 whichever occurs first.

8 (h) This subsection does not apply to an employee of the United  
9 States Postal Service or a bonded courier company acting in the  
10 individual's capacity as an employee of the United States Postal Service  
11 or a bonded courier company. A person filing an absentee ballot  
12 application, other than the person's own absentee ballot application,  
13 must sign an affidavit at the time of filing the application. The affidavit  
14 must be in a form prescribed by the commission. The form must  
15 include the following:

- 16 (1) A statement of the full name, residence and mailing address,
- 17 and daytime and evening telephone numbers (if any) of the person
- 18 submitting the application.
- 19 (2) A statement that the person filing the affidavit has complied
- 20 with Indiana laws governing the submission of absentee ballot
- 21 applications.
- 22 (3) A statement that the person has no knowledge or reason to
- 23 believe that the individual whose application is to be filed:
- 24 (A) is ineligible to vote or to cast an absentee ballot; or
- 25 (B) did not properly complete and sign the application.
- 26 (4) A statement that the person is executing the affidavit under the
- 27 penalties of perjury.
- 28 (5) A statement setting forth the penalties for perjury.

29 (i) The county election board shall record the date and time of the  
30 filing of the affidavit.

31 SECTION 5. IC 3-11-4-18, AS AMENDED BY P.L.164-2006,  
32 SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
33 JULY 1, 2009]: Sec. 18. (a) ~~If a voter satisfies any of the qualifications~~  
34 ~~described in IC 3-11-10-24 that entitle a voter to cast an absentee ballot~~  
35 ~~by mail;~~ The county election board shall, at the request of the voter,  
36 mail the official ballot, postage fully prepaid, to the voter at the address  
37 stated in the application.

38 (b) If the county election board mails an absentee ballot to a voter  
39 required to file additional documentation with the county voter  
40 registration office before voting by absentee ballot under this chapter,  
41 the board shall include a notice to the voter in the envelope mailed to  
42 the voter under section 20 of this chapter. The notice must inform the

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1 voter that the voter must file the additional documentation required  
 2 under IC 3-7-33-4.5 with the county voter registration office not later  
 3 than noon on election day for the absentee ballot to be counted as an  
 4 absentee ballot, and that, if the documentation required under  
 5 IC 3-7-33-4.5 is filed after noon and before 6 p.m. on election day, the  
 6 ballot will be processed as a provisional ballot. The commission shall  
 7 prescribe the form of this notice under IC 3-5-4-8.

8 (c) Except as provided in section 18.5 of this chapter, the ballot  
 9 shall be mailed:

10 (1) on the day of the receipt of the voter's application; or

11 (2) not more than five (5) days after the date of delivery of the  
 12 ballots under section 15 of this chapter;

13 whichever is later.

14 (d) In addition to the ballot mailed under subsection (c), the county  
 15 election board shall mail a special absentee ballot for overseas voters.

16 (e) Except as provided in section 18.5 of this chapter, the ballot  
 17 described in subsection (d):

18 (1) must be mailed:

19 (A) on the day of the receipt of the voter's application; or

20 (B) not more than five (5) days after the latest date for delivery  
 21 of the ballots under section 13(b) of this chapter applicable to  
 22 that election;

23 whichever is later; and

24 (2) may not be mailed after the absentee ballots described by  
 25 section 13(a) of this chapter have been delivered to the circuit  
 26 court clerk or the clerk's authorized deputy.

27 (f) As required by 42 U.S.C. 15481, an election board shall establish  
 28 a voter education program (specific to a paper ballot or optical scan  
 29 ballot card provided as an absentee ballot under this chapter) to notify  
 30 a voter of the effect of casting multiple votes for a single office.

31 (g) As provided by 42 U.S.C. 15481, when an absentee ballot is  
 32 mailed under this section, the mailing must include:

33 (1) information concerning the effect of casting multiple votes for  
 34 an office; and

35 (2) instructions on how to correct the ballot before the ballot is  
 36 cast and counted, including the issuance of replacement ballots.

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

41 ~~(1) The voter has a specific, reasonable expectation of being~~  
 42 ~~absent from the county on election day during the entire twelve~~

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- 1 (12) hours that the polls are open.
- 2 (2) The voter will be absent from the precinct of the voter's
- 3 residence on election day because of service as:
- 4 (A) a precinct election officer under IC 3-6-6;
- 5 (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;
- 6 (C) a challenger or pollbook holder under IC 3-6-7; or
- 7 (D) a person employed by an election board to administer the
- 8 election for which the absentee ballot is requested.
- 9 (3) The voter will be confined on election day to the voter's
- 10 residence; to a health care facility; or to a hospital because of an
- 11 illness or injury during the entire twelve (12) hours that the polls
- 12 are open.
- 13 (4) The voter is a voter with disabilities.
- 14 (5) The voter is an elderly voter.
- 15 (6) The voter is prevented from voting due to the voter's care of
- 16 an individual confined to a private residence because of illness or
- 17 injury during the entire twelve (12) hours that the polls are open.
- 18 (7) The voter is scheduled to work at the person's regular place of
- 19 employment during the entire twelve (12) hours that the polls are
- 20 open.
- 21 (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.
- 22 (9) The voter is prevented from voting due to observance of a
- 23 religious discipline or religious holiday during the entire twelve
- 24 (12) hours that the polls are open.
- 25 (10) The voter is an address confidentiality program participant
- 26 (as defined in IC 5-26.5-1-6).
- 27 (b) A voter with disabilities who:
- 28 (1) is unable to make a voting mark on the ballot or sign the
- 29 absentee ballot secrecy envelope; and
- 30 (2) requests that the absentee ballot be delivered to an address
- 31 within Indiana;
- 32 must vote before an absentee voter board under section 25(b) of this
- 33 chapter.
- 34 (c) If a voter receives an absentee ballot by mail, the voter shall
- 35 personally mark the ballot in secret and seal the marked ballot inside
- 36 the envelope provided by the county election board for that purpose.
- 37 The voter shall:
- 38 (1) deposit the sealed envelope in the United States mail for
- 39 delivery to the county election board; or
- 40 (2) authorize a member of the voter's household or the individual
- 41 designated as the voter's attorney in fact to:
- 42 (A) deposit the sealed envelope in the United States mail; or

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1 (B) deliver the sealed envelope in person to the county  
2 election board.

3 (d) If a member of the voter's household or the voter's attorney in  
4 fact delivers the sealed envelope containing a voter's absentee ballot to  
5 the county election board, the individual delivering the ballot shall  
6 complete an affidavit in a form prescribed by the commission. The  
7 affidavit must contain the following information:

8 (1) The name and residence address of the voter whose absentee  
9 ballot is being delivered.

10 (2) A statement of the full name, residence and mailing address,  
11 and daytime and evening telephone numbers (if any) of the  
12 individual delivering the absentee ballot.

13 (3) A statement indicating whether the individual delivering the  
14 absentee ballot is a member of the voter's household or is the  
15 attorney in fact for the voter. If the individual is the attorney in  
16 fact for the voter, the individual must attach a copy of the power  
17 of attorney for the voter, unless a copy of this document has  
18 already been filed with the county election board.

19 (4) The date and location at which the absentee ballot was  
20 delivered by the voter to the individual delivering the ballot to the  
21 county election board.

22 (5) A statement that the individual delivering the absentee ballot  
23 has complied with Indiana laws governing absentee ballots.

24 (6) A statement that the individual delivering the absentee ballot  
25 is executing the affidavit under the penalties of perjury.

26 (7) A statement setting forth the penalties for perjury.

27 (e) The county election board shall record the date and time that the  
28 affidavit under subsection (d) was filed with the board.

29 (f) After a voter has mailed or delivered an absentee ballot to the  
30 office of the circuit court clerk, the voter may not recast a ballot, except  
31 as provided in:

32 (1) section 1.5 of this chapter; or

33 (2) section 33 of this chapter.

34 SECTION 7. IC 3-11-10-26, AS AMENDED BY P.L.164-2006,  
35 SECTION 109, IS AMENDED TO READ AS FOLLOWS  
36 [EFFECTIVE JULY 1, 2009]: Sec. 26. (a) As an alternative to voting  
37 by mail, a voter is entitled to cast an absentee ballot before an absentee  
38 voter board:

39 (1) in the office of the circuit court clerk (or board of elections  
40 and registration in a county subject to IC 3-6-5.2); or

41 (2) at a satellite office established under section 26.3 of this  
42 chapter.

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- 1 (b) The voter must:
- 2 (1) sign an application on the form prescribed by the commission
- 3 under IC 3-11-4-5.1; and
- 4 (2) provide proof of identification;
- 5 before being permitted to vote. The application must be received by the
- 6 circuit court clerk not later than the time prescribed by IC 3-11-4-3.
- 7 (c) The voter may vote before the board not more than ~~twenty-nine~~
- 8 **(29) twenty-eight (28)** days nor later than noon on the day before
- 9 election day.
- 10 (d) An absent uniformed services voter who is eligible to vote by
- 11 absentee ballot in the circuit court clerk's office under IC 3-7-36-14
- 12 may vote before the board not earlier than ~~twenty-nine (29)~~
- 13 **twenty-eight (28)** days before the election and not later than noon on
- 14 election day. If a voter described by this subsection wishes to cast an
- 15 absentee ballot during the period beginning at noon on the day before
- 16 election day and ending at noon on election day, the county election
- 17 board or absentee voter board may receive and process the ballot at a
- 18 location designated by resolution of the county election board.
- 19 (e) The absentee voter board in the office of the circuit court clerk
- 20 must permit voters to cast absentee ballots under this section for at
- 21 least seven (7) hours on each of the two (2) Saturdays preceding
- 22 election day.
- 23 (f) Notwithstanding subsection (e), in a county with a population of
- 24 less than twenty thousand (20,000), the absentee voter board in the
- 25 office of the circuit court clerk, with the approval of the county election
- 26 board, may reduce the number of hours available to cast absentee
- 27 ballots under this section to a minimum of four (4) hours on each of the
- 28 two (2) Saturdays preceding election day.
- 29 (g) As provided by 42 U.S.C. 15481, a voter casting an absentee
- 30 ballot under this section must be:
- 31 (1) permitted to verify in a private and independent manner the
- 32 votes selected by the voter before the ballot is cast and counted;
- 33 (2) provided with the opportunity to change the ballot or correct
- 34 any error in a private and independent manner before the ballot is
- 35 cast and counted, including the opportunity to receive a
- 36 replacement ballot if the voter is otherwise unable to change or
- 37 correct the ballot; and
- 38 (3) notified before the ballot is cast regarding the effect of casting
- 39 multiple votes for the office and provided an opportunity to
- 40 correct the ballot before the ballot is cast and counted.
- 41 (h) As provided by 42 U.S.C. 15481, when an absentee ballot is
- 42 provided under this section, the board must also provide the voter with:

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1 (1) information concerning the effect of casting multiple votes for  
2 an office; and  
3 (2) instructions on how to correct the ballot before the ballot is  
4 cast and counted, including the issuance of replacement ballots.  
5 (i) If:  
6 (1) the voter is unable or declines to present the proof of  
7 identification; or  
8 (2) a member of the board determines that the proof of  
9 identification provided by the voter does not qualify as proof of  
10 identification under IC 3-5-2-40.5;  
11 the voter shall be permitted to cast an absentee ballot, and the voter's  
12 absentee ballot shall be treated as a provisional ballot.

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