

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Elections, to which was referred House Bill No. 1109, has had the same under consideration and begs leave to report the same back to the Senate 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 3-7-32-4, AS AMENDED BY P.L.164-2006,
4 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2010]: Sec. 4. A voter may not submit a registration
6 application by fax or an electronic transmission except: ~~as provided in:~~
7 (1) ~~IC 3-11-4 concerning a voter who is~~ an absent uniformed
8 services voter or overseas voter submitting a registration
9 application on the ~~standard~~ **combined absentee registration**
10 form **and absentee ballot request** approved under 42 U.S.C.
11 1973ff(b); ~~or~~
12 (2) **as provided in IC 3-7-26.3; or**
13 (3) **as provided in IC 3-7-26.7.**
14 SECTION 2. IC 3-7-36-5 IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) This section does not apply
16 to a voter who files a combined absentee registration form and absentee
17 ballot request.
18 (b) When a ~~circuit court clerk or board of county voter~~ registration
19 **office** receives an application for ~~absentee~~ registration **from an absent**

1 **uniformed services voter or an overseas voter, the clerk or board**
 2 **office shall promptly mail or deliver to the applicant the affidavit**
 3 **prescribed by this title for the registration of an absentee a voter. by**
 4 **absentee process. The county voter registration office shall transmit**
 5 **the voter registration application to the applicant by electronic**
 6 **mail or fax if:**

7 **(1) requested by the applicant; and**

8 **(2) the applicant provides an electronic mail address or a fax**
 9 **number that permits the county voter registration office to**
 10 **send an application not later than the end of the first business**
 11 **day after the county voter registration office receives the**
 12 **communication from the voter.**

13 **If the electronic mail address or the fax number provided by the**
 14 **voter does not permit the county voter registration office to send**
 15 **the voter an application not later than the end of the first business**
 16 **day after the county voter registration office receives the**
 17 **communication, the county voter registration office shall send the**
 18 **application to the voter by United States mail.**

19 (c) When the properly executed and certified affidavit is returned to
 20 the ~~clerk or board~~, **voter registration office and approved under this**
 21 **article**, the applicant becomes a registered voter in the precinct of
 22 residence.

23 SECTION 3. IC 3-7-36-6 IS AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2010]: Sec. 6. **(a) This section does not apply**
 25 **to a voter who files a combined absentee registration form and**
 26 **absentee ballot request.**

27 **(b) When a board of registration receives an application for**
 28 **absentee registration under section 5 of this chapter and a request for**
 29 **an absentee ballot application, the board shall also record the name;**
 30 **address; and other pertinent information on a suitable record form and**
 31 **then promptly mail or deliver the applicant's affidavit or form request**
 32 **to the circuit court clerk for the use of the clerk in mailing applications**
 33 **of an application for an absentee ballots: ballot.**

34 SECTION 4. IC 3-7-36-7 IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) If the election division
 36 receives an ~~affidavit or a form for absentee application~~ **application for registration**
 37 **from an absent uniformed services voter or an overseas voter** under
 38 this chapter, the election division shall promptly forward the ~~affidavit~~

1 ~~or form~~ **application** to the county voter registration office of the county
 2 where the applicant resides according to the address on the ~~affidavit or~~
 3 ~~form.~~ **application.**

4 (b) If the application is ~~both an~~ **a combined** application for voter
 5 registration and an application for an absentee ballot, the election
 6 division shall promptly forward the application to the county voter
 7 registration office.

8 SECTION 5. IC 3-7-36-8 IS AMENDED TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) This section does not apply
 10 to a combined absentee registration and request for an absentee ballot.

11 (b) When a circuit court clerk receives ~~an affidavit or a form~~
 12 **request for an absentee registration, ballot application,** the clerk shall
 13 promptly mail the absentee ballot ~~applications as soon as the~~
 14 ~~applications are available.~~ **application (or transmit the application**
 15 **to the voter by electronic mail or fax if requested by the voter).**

16 SECTION 6. IC 3-7-36-9 IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) If ~~an affidavit or a form is~~
 18 **mailed a voter registration application is delivered** to the circuit
 19 court clerk in a county where there is a board of registration, the clerk
 20 shall promptly ~~mail or~~ deliver to the board the ~~affidavit or form~~
 21 **application** requesting registration.

22 (b) If the application is ~~both an~~ **a combined** application for
 23 registration and an application for an absentee ballot, the clerk shall
 24 record the name, address, and other necessary information ~~on a suitable~~
 25 ~~record~~ for the use of the ~~clerk's office~~ **county election board or board**
 26 **of elections and registration** in mailing an application for an absentee
 27 ballot.

28 (c) The requested application for an absentee ballot shall be mailed
 29 ~~as soon as the applications are available. After making the required~~
 30 ~~record, or transmitted to the applicant by electronic mail or fax if:~~

31 **(1) requested by the applicant; and**

32 **(2) the applicant provides an electronic mail address or a fax**
 33 **number that permits the board to send an application not**
 34 **later than the end of the first business day after the board**
 35 **receives the communication from the voter.**

36 **If the electronic mail address or fax number provided by the**
 37 **applicant does not permit the board to send the application not**
 38 **later than the end of the first business day after the board receives**

1 **the communication, the board shall send the application by United**
 2 **States mail.**

3 **(d)** The clerk shall promptly ~~mail or deliver the dual a combined~~
 4 application to the board. The board shall promptly mail the ~~absentee~~
 5 registration ~~affidavits~~ **application** to the applicant at the address
 6 appearing on the ~~affidavit or form~~ **application** submitted by the
 7 applicant **or transmit the application to the applicant by electronic**
 8 **mail or fax if:**

9 **(1) requested by the applicant; and**
 10 **(2) the applicant provides an electronic mail address or a fax**
 11 **number that permits the board to send an application not**
 12 **later than the end of the first business day after the board**
 13 **receives the communication from the voter.**

14 **If the electronic mail address or fax number provided by the**
 15 **applicant does not permit the board to send the application not**
 16 **later than the end of the first business day after the board receives**
 17 **the communication, the board shall send the application by United**
 18 **States mail.**

19 SECTION 7. IC 3-8-8-3, AS ADDED BY P.L.230-2005, SECTION
 20 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 21 2010]: Sec. 3. (a) An individual who challenges the qualification of a
 22 candidate for election to an office must be a registered voter of the
 23 election district the candidate seeks to represent.

24 (b) A challenge under this chapter must be filed with the election
 25 division not later than ~~forty (40)~~ **noon seventy-four (74)** days before
 26 the date of the general election at which a candidate to the office is to
 27 be elected.

28 (c) The challenger must file a sworn statement with the election
 29 division:

30 (1) questioning the qualification of a candidate to seek the office;
 31 and
 32 (2) setting forth the facts known to the voter concerning this
 33 question.

34 SECTION 8. IC 3-8-8-7, AS ADDED BY P.L.230-2005, SECTION
 35 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 36 2010]: Sec. 7. (a) Regardless of the status of a challenge before the
 37 commission or the court of appeals, at noon ~~thirty (30)~~ **sixty (60)** days
 38 before the general election the following apply:

- 1 (1) The challenge is terminated.
- 2 (2) The name of the challenged candidate may not be removed
- 3 from the ballot.
- 4 (3) The name of another individual may not replace the name of
- 5 the challenged candidate on the ballot.
- 6 (4) Any votes cast for the challenged candidate shall be
- 7 canvassed, counted, and reported under the name of the
- 8 challenged candidate.

9 (b) All of the following apply if a candidate attempts to withdraw as

10 a candidate after noon ~~thirty (30)~~ **sixty (60)** days before the general

11 election:

- 12 (1) The name of the candidate may not be removed from the
- 13 ballot.
- 14 (2) The name of another individual may not replace the name of
- 15 the candidate on the ballot.
- 16 (3) Any votes cast for the candidate shall be canvassed, counted,
- 17 and reported under the name of the candidate.

18 SECTION 9. IC 3-11-4-1 IS AMENDED TO READ AS FOLLOWS

19 [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) A voter who is otherwise

20 qualified to vote in person is entitled to vote by absentee ballot. Except

21 as otherwise provided in this article, a voter voting by absentee ballot

22 must vote in the office of the circuit court clerk (or board of elections

23 and registration in a county subject to IC 3-6-5.2) or at a satellite office

24 established under IC 3-11-10-26.3.

25 (b) A county election board, by unanimous vote of its entire

26 membership, may authorize a person who is otherwise qualified to vote

27 in person to vote by absentee ballot if the board determines that the

28 person has been hospitalized or suffered an injury following the final

29 date and hour for applying for an absentee ballot that would prevent the

30 person from voting in person at the polls.

31 (c) The commission, by unanimous vote of its entire membership,

32 may authorize a person who is otherwise qualified to vote in person to

33 vote by absentee ballot if the commission determines that an

34 emergency prevents the person from voting in person at a polling place.

35 (d) The absentee ballots used in subsection (b) or (c) must be the

36 same official absentee ballots as described in section ~~12 and 13~~ **12.5** of

37 this chapter. Taking into consideration the amount of time remaining

38 before the election, the commission shall determine whether the

1 absentee ballots are transmitted to and from the voter by mail or
 2 personally delivered. An absentee ballot that is personally delivered
 3 shall comply with the requirements in sections 19, 20, and 21 of this
 4 chapter.

5 SECTION 10. IC 3-11-4-3, AS AMENDED BY P.L.103-2005,
 6 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 UPON PASSAGE]: Sec. 3. Except as provided in section 6 of this
 8 chapter, an application for an absentee ballot must be received by the
 9 circuit court clerk (or, in a county subject to IC 3-6-5.2, the director of
 10 the board of elections and registration) not earlier than ~~ninety (90) days~~
 11 ~~before election day~~ **the date the registration period resumes**
 12 **following a primary election under IC 3-7-13-10** nor later than the
 13 following:

14 (1) Noon on election day if the voter registers to vote under
 15 IC 3-7-36-14.

16 (2) Noon on the day before election day if the voter completes the
 17 application in the office of the circuit court clerk or is an absent
 18 uniformed services voter or overseas voter who requests that the
 19 ballot be transmitted by **electronic mail or** fax under section 6(h)
 20 of this chapter.

21 (3) Noon on the day before election day if:

22 (A) the application is a mailed, transmitted by fax, or hand
 23 delivered application from a confined voter or voter caring for
 24 a confined person; and

25 (B) the applicant requests that the absentee ballots be
 26 delivered to the applicant by an absentee voter board.

27 (4) Midnight on the eighth day before election day if the
 28 application:

29 (A) is a mailed application; or

30 (B) was transmitted by fax;

31 from other voters.

32 SECTION 11. IC 3-11-4-4, AS AMENDED BY P.L.120-2009,
 33 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 UPON PASSAGE]: Sec. 4. (a) Applications may be made on
 35 application forms approved by the commission by any of the following
 36 means:

37 (1) In person.

38 (2) By fax transmission.

- 1 (3) By mail (**including United States mail or bonded courier**).
- 2 (4) By electronic mail with a scanned image of the application
- 3 and signature of the applicant, if transmitted by an **absent**
- 4 **uniformed services voter or an** overseas voter acting under
- 5 section 6 of this chapter.
- 6 (b) Application forms shall:
- 7 (1) be furnished to a central committee of the county at the
- 8 request of the central committee;
- 9 (2) be:
- 10 (A) mailed;
- 11 (B) transmitted by fax; or
- 12 (C) transmitted by electronic mail with a scanned image of the
- 13 application;
- 14 upon request, to a voter applying by mail, by telephone, by
- 15 electronic mail, or by fax; and
- 16 (3) be delivered to a voter in person who applies at the circuit
- 17 court clerk's office.
- 18 (c) ~~The county election board shall:~~
- 19 ~~(1) accept; and~~
- 20 ~~(2) transmit;~~
- 21 ~~applications for absentee ballots under subsection (a) by fax or~~
- 22 ~~electronic mail; if the county election board has access to a fax machine~~
- 23 ~~or electronic mail: A county election board shall accept an application~~
- 24 ~~for an absentee ballot transmitted by fax even though the application~~
- 25 ~~is delivered to the county election board by a person other than the~~
- 26 ~~person submitting the application.~~
- 27 (d) When an application is received under subsection (a)(4), the
- 28 circuit court clerk's office (or, in a county subject to IC 3-6-5.2 or
- 29 IC 3-6-5.4, the office of the board of elections and registration) shall
- 30 send an ~~automatic~~ electronic mail receipt acknowledging receipt of the
- 31 voter's application.
- 32 SECTION 12. IC 3-11-4-5.5 IS AMENDED TO READ AS
- 33 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5.5. In accordance with
- 34 42 U.S.C. 1973ff-1(b), **but subject to section 5.7 of this chapter**, the
- 35 election division is designated as the single office in Indiana
- 36 responsible for providing information regarding voter registration
- 37 procedures under IC 3-7 and absentee ballot procedures under this
- 38 chapter to be used by absent uniformed services voters and overseas

1 voters who wish to register to vote or vote in any jurisdiction in
2 Indiana.

3 SECTION 13. IC 3-11-4-5.7 IS ADDED TO THE INDIANA CODE
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
5 1, 2010]: **Sec. 5.7. (a) As used in this section, "MOVE" refers to the**
6 **Military and Overseas Voter Empowerment Act (Sections 577**
7 **through 589 of the National Defense Authorization Act for Fiscal**
8 **Year 2010).**

9 (b) Except as expressly provided by law, the state delegates its
10 responsibilities to carry out the requirements of MOVE to each
11 county election board (or board of elections and registration
12 established under IC 3-6-5.2 or IC 3-6-5.4).

13 (c) To implement 42 U.S.C. 1973ff-1, electronic mail, fax, and
14 web publication are designated as means of communication for an
15 absent uniformed services voter or an overseas voter to request a
16 voter registration application and an absentee ballot application
17 from the election division, a county election board, or a county
18 voter registration office.

19 (d) An office described in subsection (c) that receives an
20 electronic mail or fax from a voter shall provide an absentee ballot
21 application or a voter registration application by electronic mail or
22 fax to the voter if:

- 23 (1) requested by the voter; and
24 (2) the voter provides an electronic mail address or a fax
25 number that permits the office to send an application not later
26 than the end of the first business day after the office receives
27 the communication from the voter.

28 If the electronic mail address or the fax number provided by the
29 voter does not permit the office to send the voter an application not
30 later than the end of the first business day after the office receives
31 the communication, the office shall send the application to the
32 voter by United States mail.

33 (e) As required by 42 U.S.C. 1973ff-1, to the extent practicable
34 and permitted under state law (including IC 3-7 and IC 5-14-3), an
35 office described in subsection (c) shall ensure that the procedures
36 used to transmit an absentee ballot application or a voter
37 registration application to an absent uniformed services voter or
38 overseas voter protect the security and integrity of the application

1 **request processes, and that the privacy of the identity and other**
 2 **personal data of the voter who requests or is sent an application**
 3 **under subsection (d) is protected throughout the process of making**
 4 **the request or being sent the application.**

5 **(f) As required under 42 U.S.C. 1973ff-1, an office described in**
 6 **subsection (c) shall include information regarding the use of**
 7 **electronic mail, fax, and web publication with all informational and**
 8 **instructional materials that are sent with an absentee ballot**
 9 **application or an absentee ballot to an absent uniformed services**
 10 **voter or overseas voter.**

11 **(g) To implement Section 580 of MOVE, and in accordance with**
 12 **IC 3-7-26.3-3, the secretary of state shall develop a free access**
 13 **system that permits an absent uniformed services voter or overseas**
 14 **voter to determine whether the voter's absentee ballot has been**
 15 **received by the appropriate county election board (or board of**
 16 **elections and registration), regardless of the manner in which the**
 17 **absentee ballot was transmitted by the voter to the board. To the**
 18 **extent permitted by IC 3-7 and IC 5-14-3, the system must contain**
 19 **reasonable procedures to protect the security, confidentiality, and**
 20 **integrity of personal information collected, stored, or otherwise**
 21 **used on the system.**

22 SECTION 14. IC 3-11-4-6, AS AMENDED BY P.L.198-2005,
 23 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2010]: Sec. 6. (a) This section applies, notwithstanding any
 25 other provision of this title, to absentee ballot applications for the
 26 following:

- 27 (1) An absent uniformed services voter.
- 28 (2) An address confidentiality program participant (as defined in
- 29 IC 5-26.5-1-6).
- 30 (3) An overseas voter.

31 (b) A county election board shall make blank absentee ballot
 32 applications available for persons covered by this section after
 33 November 20 preceding the election to which the application applies.
 34 Except as provided in subsection (c), the person may apply for an
 35 absentee ballot at any time after the applications are made available.

36 (c) A person covered by this section may apply for an absentee
 37 ballot for the next scheduled primary, general, or special election at any
 38 time by filing **either of the following:**

1 (1) A ~~standard combined absentee registration form and~~
2 **absentee ballot request** approved under ~~42 U.S.C. 1973ff(b)~~ **42**
3 **U.S.C. 1973ff(b)(2)**.

4 (2) A form prescribed under IC 3-5-4-8 that identifies the
5 **applicant as an absent uniformed services voter or an**
6 **overseas voter. A form prescribed under this subdivision must**
7 **permit the applicant to designate whether the applicant**
8 **wishes to receive the absentee ballot by electronic mail, fax, or**
9 **United States mail.**

10 (d) If the county election board receives an absentee ballot
11 application from a person described by ~~this section;~~ **subsection (c)**, the
12 circuit court clerk shall mail to the person, free of postage as provided
13 by 39 U.S.C. 3406, all ballots for the election immediately upon receipt
14 of the ballots under ~~sections 13 and~~ **section 15** of this chapter, **unless**
15 **the person has indicated under subsection (c) that the person**
16 **wishes to receive the absentee ballot by electronic mail or fax.**

17 (e) ~~In accordance with 42 U.S.C. 1973ff-3;~~ Whenever a voter files
18 an application for an absentee ballot and indicates on the application
19 that the voter:

20 (1) is an absent uniformed services voter or an overseas voter; and
21 (2) does not expect to be in the county ~~on the next general~~
22 ~~election day following the date the application is filed and expects~~
23 ~~to remain absent from the county until at least the date of the~~
24 ~~second general election~~ **during the twelve (12) months** following
25 the date the application is filed;

26 the application is an adequate application for an absentee ballot for
27 both subsequent general elections and any municipal or special election
28 conducted during that period, **unless an absentee ballot mailed to the**
29 **voter at the address set forth in the application is returned to the**
30 **county election board during that period as undeliverable.** The
31 circuit court clerk and county election board shall process this
32 application and send general election absentee ballots to the voter in
33 the same manner as other general election and special election absentee
34 ballot applications and ballots are processed and sent under this
35 chapter.

36 (f) Whenever a voter described in subsection (a)(2) files an
37 application for a primary election absentee ballot and indicates on the
38 application that the voter is an address confidentiality program

1 participant, the application is an adequate application for a general
 2 election absentee ballot under this chapter and an absentee ballot for a
 3 special election conducted during the twelve (12) months following the
 4 date of the application. The circuit court clerk and county election
 5 board shall process this application and send general election and
 6 special election absentee ballots to the voter in the same manner as
 7 other general election and special election absentee ballot applications
 8 and ballots are processed and sent under this chapter.

9 (g) The name, address, telephone number, and any other identifying
 10 information relating to a program participant (as defined in
 11 IC 5-26.5-1-6) in the address confidentiality program, as contained in
 12 a voting registration record, is declared confidential for purposes of
 13 IC 5-14-3-4(a)(1). The county voter registration office may not disclose
 14 for public inspection or copying a name, an address, a telephone
 15 number, or any other information described in this subsection, as
 16 contained in a voting registration record, except as follows:

17 (1) To a law enforcement agency, upon request.

18 (2) As directed by a court order.

19 (h) The county election board shall by fax or electronic mail ~~when~~
 20 ~~authorized under this section~~) transmit an absentee ballot to and receive
 21 an absentee ballot from an absent uniformed services voter or an
 22 overseas voter **by electronic mail or fax** at the request of the voter
 23 **indicated in the application filed under this section.** If the voter
 24 wants to submit absentee ballots by fax or electronic mail, the voter
 25 must separately sign and date a statement ~~on the cover of submitted~~
 26 **with the electronic mail or** the fax transmission that states
 27 substantively the following: "I understand that by faxing or e-mailing
 28 my voted ballot I am voluntarily waiving my right to a secret ballot."

29 (i) The county election board shall send confirmation to a voter
 30 described in subsection (h) that the voter's absentee ballot has been
 31 received as follows:

32 (1) If the voter provides a fax number to which a confirmation
 33 may be sent, the county election board shall send the confirmation
 34 to the voter at the fax number provided by the voter.

35 (2) If the voter provides an electronic mail address to which a
 36 confirmation may be sent, the county election board shall send the
 37 confirmation to the voter at the electronic mail address provided
 38 by the voter.

- 1 (3) If:
- 2 (A) the voter does not provide a fax number or an electronic
- 3 mail address; or
- 4 (B) the number or address provided does not permit the board
- 5 to send the confirmation not later than the end of the first
- 6 business day after the board receives the voter's absentee
- 7 ballot;
- 8 the county election board shall send the confirmation by United
- 9 States mail.

10 The county election board shall send the confirmation required by this
 11 subsection not later than the end of the first business day after the
 12 county election board receives the voter's absentee ballot.

13 (j) A county election board may transmit an absentee ballot to an
 14 absent uniformed services voter or an overseas voter by electronic mail
 15 under a program authorized and administered by the Federal Voting
 16 Assistance Program of the United States Department of Defense **or**
 17 **directly to the voter at the voter's electronic mail address, if**
 18 **requested to do so by the voter.** A voter described by this section may
 19 transmit the voted absentee ballot to a county election board by
 20 electronic mail in accordance with the procedures established under
 21 this program. An electronic mail message transmitting a voted absentee
 22 ballot under this subsection must include an optically scanned image
 23 of the voter's signature on the statement required under subsection (h).

24 SECTION 15. IC 3-11-4-6.1 IS ADDED TO THE INDIANA CODE
 25 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
 26 1, 2010]: **Sec. 6.1. (a) This section applies to a voter who:**

- 27 **(1) filed an application for an absentee ballot under section**
- 28 **6(e) of this chapter not later than June 30, 2010; and**
- 29 **(2) indicated on the application that the voter:**
 - 30 **(A) was an absent uniformed services voter or overseas**
 - 31 **voter;**
 - 32 **(B) did not expect to be in the county on the next general**
 - 33 **election day following the date the application is filed; and**
 - 34 **(C) expects to remain absent from the county until at least**
 - 35 **the date of the second general election following the date**
 - 36 **the application is filed.**

37 **(b) Notwithstanding section 6 of this chapter, the application is**
 38 **an adequate application for an absentee ballot for both subsequent**

1 **general elections and any municipal or special election conducted**
 2 **during the period described in subsection (a) unless an absentee**
 3 **ballot mailed to the voter at the address set forth in the application**
 4 **has been or is returned to the county election board during that**
 5 **period as undeliverable.**

6 **(c) This section expires June 30, 2012.**

7 SECTION 16. IC 3-11-4-12.5 IS ADDED TO THE INDIANA
 8 CODE AS A NEW SECTION TO READ AS FOLLOWS
 9 [EFFECTIVE UPON PASSAGE]: **Sec. 12.5. (a) This section applies**
 10 **to an absent uniformed services voter or overseas voter.**

11 **(b) If a voter makes a timely application for and does not receive**
 12 **an absentee ballot from a county election board, the voter may use**
 13 **a federal write-in absentee ballot in the form prescribed by the**
 14 **Federal Voting Assistance Program of the United States**
 15 **Department of Defense and in accordance with the requirements**
 16 **set forth in 42 U.S.C. 1973ff-2 to cast a vote for any of the**
 17 **following:**

18 **(1) Any candidate for nomination at a primary election.**

19 **(2) Any candidate, political party, or public question on a**
 20 **general election, municipal election, or special election ballot.**

21 SECTION 17. IC 3-11-4-14 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. (a) All absentee
 23 ballots other than those specified in section ~~12.5~~ of this chapter shall
 24 be prepared and printed under the direction of each county election
 25 board. After completing the estimate required by section 10 of this
 26 chapter and receiving all certifications from the election division
 27 required under IC 3-8 or IC 3-10, the county election board shall
 28 immediately proceed to prepare and have printed the ballots.

29 (b) Except as provided in subsection (c), ballots prepared by the
 30 county election board under this section must provide space for the
 31 voter to cast a write-in ballot.

32 (c) Space for write-in voting for an office is not required if there are
 33 no declared write-in candidates for that office. However, procedures
 34 must be implemented to permit write-in voting for candidates for
 35 federal offices.

36 SECTION 18. IC 3-11-4-15 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15. ~~(a) Except as~~
 38 ~~provided in subsection (b);~~ The absentee ballots that are prepared and

1 printed under the direction of a county election board shall be delivered
2 to the circuit court clerk (or the board acting under IC 3-6-5.2) at least

3 ~~(1) forty-five (45)~~ **50** days before a general, primary,
4 **special**, or municipal election.

5 ~~(2) thirty-two (32) days before a special election:~~

6 (b) This subsection applies to the printing of absentee ballots for a
7 general election in which the names of nominees for President and
8 Vice President of the United States are to be printed on the ballot. The
9 absentee ballots that are prepared and printed under the direction of a
10 county election board shall be delivered to the circuit court clerk (or the
11 board acting under IC 3-6-5.2) not later than thirty-eight (38) days
12 before the general election:

13 SECTION 19. IC 3-11-4-18, AS AMENDED BY P.L.164-2006,
14 SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2010]: Sec. 18. (a) If a voter satisfies any of the qualifications
16 described in IC 3-11-10-24 that entitle a voter to cast an absentee ballot
17 by mail, the county election board shall, at the request of the voter, mail
18 the official ballot, postage fully prepaid, to the voter at the address
19 stated in the application.

20 (b) If the county election board mails an absentee ballot to a voter
21 required to file additional documentation with the county voter
22 registration office before voting by absentee ballot under this chapter,
23 the board shall include a notice to the voter in the envelope mailed to
24 the voter under section 20 of this chapter. The notice must inform the
25 voter that the voter must file the additional documentation required
26 under IC 3-7-33-4.5 with the county voter registration office not later
27 than noon on election day for the absentee ballot to be counted as an
28 absentee ballot, and that, if the documentation required under
29 IC 3-7-33-4.5 is filed after noon and before 6 p.m. on election day, the
30 ballot will be processed as a provisional ballot. The commission shall
31 prescribe the form of this notice under IC 3-5-4-8.

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

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

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

37 whichever is later.

38 ~~(d) In addition to the ballot mailed under subsection (c); the county~~

1 election board shall mail a special absentee ballot for overseas voters:

2 (e) Except as provided in section 18.5 of this chapter, the ballot
3 described in subsection (d)

4 (1) must be mailed:

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

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

9 whichever is later; and

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

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

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

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

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

24 Page 2, strike lines 33 through 41.

25 Page 5, after line 31, begin a new paragraph and insert:

26 "SECTION 26. IC 3-11.5-5-14, AS AMENDED BY P.L.198-2005,
27 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2010]: Sec. 14. (a) This section applies to the counting of
29 **federal** write-in absentee ballots for

30 (1) a federal office received under 42 U.S.C. 1973ff and

31 (2) a federal office, state office, or public question under
32 IC 3-11-4-12(a).

33 **described in IC 3-11-4-12.5.**

34 (b) If a voter writes an abbreviation, a misspelling, or other minor
35 variation instead of the correct name of a candidate or political party,
36 that vote shall be counted if the intent of the voter can be determined.

37 (c) If a voter casts a ballot under this section for President or Vice
38 President and writes in the name of a candidate or political party that

1 has not certified a list of electors under IC 3-10-4-5, the vote for
 2 President or Vice President is void. The remaining votes on the ballot
 3 may be counted.

4 (d) IC 3-12-1-7 applies to a ballot subject to this section.

5 (e) A ballot subject to this section may not be counted if:

6 (1) the ballot was submitted from within the United States;

7 (2) the voter's application for a regular absentee ballot was
 8 received by the circuit court clerk or board of registration less
 9 than thirty (30) days before the election;

10 (3) the voter's completed regular state absentee ballot was
 11 received by the circuit court clerk or board of registration by the
 12 deadline for receiving absentee ballots under IC 3-11.5-4-7; or

13 (4) the ballot subject to this section was not received by the circuit
 14 court clerk or board of registration by the deadline for receiving
 15 absentee ballots under IC 3-11.5-4-7.

16 SECTION 27. IC 3-12-1-18 IS ADDED TO THE INDIANA CODE
 17 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 18 **UPON PASSAGE]: Sec. 18. (a) This section applies to a federal**
 19 **write-in absentee ballot cast in a primary election as provided in**
 20 **IC 3-11-4-12.5(b)(1) by an absent uniformed services voter or**
 21 **overseas voter.**

22 (b) **If a voter does any of the following, the voter's vote is void:**

23 (1) **The voter votes for more than one (1) candidate, and the**
 24 **candidates are not on the official primary ballot of the same**
 25 **political party.**

26 (2) **The voter votes for a candidate who is not on the official**
 27 **primary ballot of any political party.**

28 (3) **The voter votes for a candidate who is on the official**
 29 **primary ballot of a political party, but the voter does not**
 30 **indicate the office for which the candidate seeks to be**
 31 **nominated.**

32 (c) **If the voter votes for a political party, but the voter does not**
 33 **vote for any individual candidates who are on that political party's**
 34 **official primary ballot, the voter's vote is void.**

35 SECTION 28. IC 3-12-1-19 IS ADDED TO THE INDIANA CODE
 36 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 37 **1, 2010]: Sec. 19. (a) This section applies to a federal write-in**
 38 **absentee ballot cast in a general election, municipal election, or**

1 **special election as provided in IC 3-11-4-12.5(b)(2) by an absent**
 2 **uniformed services voter or overseas voter.**

3 **(b) If a voter designates a candidate by writing in the name of**
 4 **a political party on the ballot, the voter's vote shall be counted for**
 5 **all candidates of that political party on the ballot.**

6 **(c) If a voter writes an abbreviation, misspelling, or other minor**
 7 **variation instead of the correct name of a candidate or a political**
 8 **party, the voter's vote shall be counted if the intent of the voter can**
 9 **be determined.**

10 SECTION 29. IC 3-12-2-7.5, AS AMENDED BY P.L.198-2005,
 11 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2010]: Sec. 7.5. (a) This section applies to the counting of
 13 **federal** write-in absentee ballots for

14 ~~(1) a federal office received under 42 U.S.C. 1973ff and~~
 15 ~~(2) a federal office, state office, or public question under~~
 16 ~~IC 3-11-4-12.~~

17 **described in IC 3-11-4-12.5.**

18 (b) If a voter writes an abbreviation, misspelling, or other minor
 19 variation instead of the correct name of a candidate or political party,
 20 that vote shall be counted if the intent of the voter can be determined.

21 (c) If a voter casts a ballot under this section for President or Vice
 22 President of the United States and writes in the name of a candidate or
 23 political party that has not:

24 (1) certified a list of electors under IC 3-10-4-5; or
 25 (2) included a list of electors on the declaration for candidacy
 26 filed by a write-in candidate under IC 3-8-2-2.5;

27 the vote for President or Vice President is void. The remaining votes on
 28 the ballot may be counted.

29 (d) IC 3-12-1-7 applies to a ballot subject to this section.

30 (e) A ballot subject to this section may not be counted if:

31 (1) the ballot was submitted:
 32 (A) by an overseas voter who is not an absent uniformed
 33 services voter; and
 34 (B) from within the United States;

35 (2) the voter's completed regular state absentee ballot was
 36 received by the county election board by the deadline for
 37 receiving absentee ballots under IC 3-11-10-11; or

38 (3) the ballot subject to this section was not received by the

1 county election board by the deadline for receiving absentee
2 ballots under IC 3-11-10-11.

3 SECTION 30. THE FOLLOWING ARE REPEALED [EFFECTIVE
4 UPON PASSAGE]: IC 3-11-4-12; IC 3-11-4-13.

5 SECTION 31. **An emergency is declared for this act."**

6 Renumber all SECTIONS consecutively.

(Reference is to HB 1109 as printed January 8, 2010.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

Landske

Chairperson