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# SENATE BILL No. 536

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-7-33-3.7; IC 3-11; IC 3-11.5; IC 3-12.

**Synopsis:** Various election law matters. Provides that a voter registration application received in person or by mail by the election division, or an absentee ballot application received by the election division, is timely filed if the election division receives the application before the deadline established for a county to receive the application. Requires the election division to forward the application promptly to the county where the applicant resides. Provides that an absentee ballot application received from an absent uniformed services voter, an overseas voter, or an address confidentiality program participant is valid for the period that ends on December 31 after the filing of the application (rather than 12 months after the date of the application). Requires that all absentee ballots be counted at a central location. Provides that a voter who casts an absentee ballot before election day may not vote in person on election day. Provides that the office of the circuit court clerk (clerk) that is considered the clerk's primary office is the location at which a voter is entitled to cast an absentee ballot before an absentee voter board. Provides that the office of the board of elections and registration (board) in Lake County that is considered the board's primary office is the location at which a voter is entitled to cast an absentee ballot before an absentee voter board. Provides that all other locations at which the clerk or the board has an office must be established as satellite offices in order to be used as locations at which a voter is entitled to cast an absentee ballot before an absentee voter board. Repeals provisions that: (1) have been superseded concerning an absentee ballot application filed by an absent uniformed services voter or an overseas voter; (2) require the counting of absentee ballots  
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**Effective:** Upon passage; July 1, 2011.

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January 18, 2011, read first time and referred to Committee on Elections.

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Digest Continued

by precinct election boards at the polls on election day; and (2) allow voters who cast an absentee ballot to vote in person under certain circumstances on election day.

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Introduced

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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## SENATE BILL No. 536

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 3-7-33-3.7 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: **Sec. 3.7. (a) This section applies to a voter  
4 registration application submitted to the election division in person  
5 or by mail.**  
6 **(b) An eligible applicant:**  
7 **(1) who submits a completed application; or**  
8 **(2) on whose behalf a completed application is submitted;**  
9 **in person to the election division not later than 5 p.m. on the  
10 twenty-ninth day before an election shall be registered to vote in  
11 the election.**  
12 **(c) An eligible applicant:**  
13 **(1) who submits a completed application; or**  
14 **(2) on whose behalf a completed application is submitted;**  
15 **by mail to the election division shall be registered to vote in the**



1 election, if the application is postmarked not later than the  
2 twenty-ninth day before the election. If a postmark on an  
3 application submitted by mail is missing or illegible, an eligible  
4 applicant shall be registered to vote in the election, if the  
5 application is received by the election division not later than the  
6 Monday following the close of the registration period.

7 (d) The election division shall promptly forward an application  
8 received under this section to the county voter registration office  
9 of the county where the applicant resides.

10 SECTION 2. IC 3-11-2-16 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 16. (a) If the  
12 commission or an election board determines that a ballot printed under  
13 the authority of the commission or election board does not comply with  
14 a requirement imposed by this title or contains any other error or  
15 omission that might result in confusion or mistakes by voters, the  
16 election division or board shall:

- 17 (1) reprint or correct the ballot; or
- 18 (2) conduct a public hearing concerning the defective ballots.

19 (b) The commission or board may conduct the hearing after  
20 informing each political party, ticket, or candidate that the commission  
21 or board determines may have an interest in the matter.

22 (c) At the hearing, the commission or board shall hear any testimony  
23 offered by a person concerning the defective ballots and shall make  
24 findings of fact concerning the following:

- 25 (1) The number of ballots, if any, containing the error or omission  
26 that have already been cast.
- 27 (2) The cost of correcting the error through the use of pasters,  
28 reprinted ballots, or any other suitable method.
- 29 (3) Whether the error or omission would be likely to cause  
30 confusion or mistakes by voters.
- 31 (4) Whether any voter objects to the use of the ballots,  
32 notwithstanding the error or omission.

33 (d) If:

- 34 (1) a voter does not file a written objection to the use of the  
35 ballots with the commission or board before the commission or  
36 board concludes the hearing; and
- 37 (2) the commission or board determines that the use of the ballots  
38 would not be likely to cause confusion or mistakes by voters;

39 the commission or board shall authorize the use of the defective ballots,  
40 notwithstanding the error or omission.

41 (e) If:

- 42 (1) a voter files a written objection to the use of the ballots with

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1 the election division or board before the commission or board  
 2 concludes the hearing; or  
 3 (2) the commission or board determines that the use of the ballots  
 4 would be likely to cause confusion or mistakes by voters;  
 5 the commission or board shall order the ballots to be reprinted or  
 6 altered to conform with the requirements of this title.

7 (f) If the commission or board acts under subsection (a) or (e), a  
 8 voter who has already voted a defective ballot by absentee ballot is  
 9 entitled to recast the voter's ballot in accordance with ~~IC 3-11-10-1.5.~~  
 10 **IC 3-11.5-4-2.** Notwithstanding the issuance of an order under  
 11 subsection (e), a defective ballot shall be counted if the intent of the  
 12 voter can be determined and the ballot would otherwise be counted  
 13 under IC 3-12-1.

14 SECTION 3. IC 3-11-4-3, AS AMENDED BY P.L.66-2010,  
 15 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 UPON PASSAGE]: Sec. 3. (a) Except as provided in section 6 of this  
 17 chapter, an application for an absentee ballot must be received by the  
 18 circuit court clerk (or, in a county subject to IC 3-6-5.2, the director of  
 19 the board of elections and registration) not earlier than the date the  
 20 registration period resumes following a primary election under  
 21 IC 3-7-13-10 nor later than the following:

- 22 (1) Noon on election day if the voter registers to vote under
- 23 IC 3-7-36-14.
- 24 (2) Noon on the day before election day if the voter:
  - 25 (A) completes the application in the office of the circuit court
  - 26 clerk; or
  - 27 (B) is an absent uniformed services voter or overseas voter
  - 28 who requests that the ballot be transmitted by electronic mail
  - 29 or fax under section 6(h) of this chapter.
- 30 (3) Noon on the day before election day if:
  - 31 (A) the application is a mailed, transmitted by fax, or hand
  - 32 delivered application from a confined voter or voter caring for
  - 33 a confined person; and
  - 34 (B) the applicant requests that the absentee ballots be
  - 35 delivered to the applicant by an absentee voter board.
- 36 (4) ~~Midnight 11:59 p.m.~~ on the eighth day before election day if
- 37 the application:
  - 38 (A) is a mailed application; or
  - 39 (B) was transmitted by fax;
  - 40 from other voters.

41 **(b) An application for an absentee ballot received by the election**  
 42 **division by the time and date specified by subsection (a)(2)(B),**

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1 (a)(3), or (a)(4) is considered to have been timely received for  
 2 purposes of processing by the county. The election division shall  
 3 immediately transmit the application to the circuit court clerk, or  
 4 the director of the board of elections and registration, of the county  
 5 where the applicant resides. The election division is not required to  
 6 complete or file the affidavit required under section 2(h) of this  
 7 chapter whenever the election division transmits an application  
 8 under this subsection.

9 SECTION 4. IC 3-11-4-6, AS AMENDED BY P.L.66-2010,  
 10 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2011]: Sec. 6. (a) This section applies, notwithstanding any  
 12 other provision of this title, to absentee ballot applications for the  
 13 following:

- 14 (1) An absent uniformed services voter.  
 15 (2) An address confidentiality program participant (as defined in  
 16 IC 5-26.5-1-6).  
 17 (3) An overseas voter.

18 (b) A county election board shall make blank absentee ballot  
 19 applications available for persons covered by this section. ~~after~~  
 20 ~~November 20~~ preceding the election to which the application applies.  
 21 ~~Except as provided in subsection (c);~~ **The A** person may apply for an  
 22 absentee ballot at any time after the ~~applications are made available:~~  
 23 **registration period resumes under IC 3-7-13-10.**

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

- 27 (1) A combined absentee registration form and absentee ballot  
 28 request approved under 42 U.S.C. 1973ff(b)(2).  
 29 (2) A form prescribed under IC 3-5-4-8 that identifies the  
 30 applicant as an absent uniformed services voter or an overseas  
 31 voter. A form prescribed under this subdivision must permit the  
 32 applicant to designate whether the applicant wishes to receive the  
 33 absentee ballot by electronic mail, fax, or United States mail.

34 (d) If the county election board receives an absentee ballot  
 35 application from a person described by subsection (c), the circuit court  
 36 clerk shall mail to the person, free of postage as provided by 39 U.S.C.  
 37 3406, all ballots for the election immediately upon receipt of the ballots  
 38 under section 15 of this chapter, unless the person has indicated under  
 39 subsection (c) that the person wishes to receive the absentee ballot by  
 40 electronic mail or fax.

41 (e) Whenever a voter files an application for an absentee ballot and  
 42 indicates on the application that the voter

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1           ~~(1)~~ is an absent uniformed services voter or an overseas voter, ~~and~~  
 2           ~~(2)~~ does not expect to be in the county during the twelve ~~(12)~~  
 3           months following the date the application is filed;  
 4           the application is an adequate application for an absentee ballot for  
 5           both subsequent general elections and any municipal or special an  
 6           election conducted during ~~that the~~ period **that ends on December 31**  
 7           **following the date the application is filed**, unless an absentee ballot  
 8           mailed to the voter at the address set forth in the application is returned  
 9           to the county election board during that period as undeliverable. The  
 10          circuit court clerk and county election board shall process this  
 11          application and send general election absentee ballots to the voter in  
 12          the same manner as other general election and special election absentee  
 13          ballot applications and ballots are processed and sent under this  
 14          chapter.

15          (f) Whenever a voter described in subsection (a)(2) files an  
 16          application for a primary election absentee ballot and indicates on the  
 17          application that the voter is an address confidentiality program  
 18          participant, the application is an adequate application for a general  
 19          election absentee ballot under this chapter and an absentee ballot for a  
 20          special election conducted during the ~~twelve (12) months~~ **period that**  
 21          **ends on December 31** following the date ~~of~~ the application **is filed**.  
 22          The circuit court clerk and county election board shall process this  
 23          application and send general election and special election absentee  
 24          ballots to the voter in the same manner as other general election and  
 25          special election absentee ballot applications and ballots are processed  
 26          and sent under this chapter.

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

- 35               (1) To a law enforcement agency, upon request.
- 36               (2) As directed by a court order.

37          (h) The county election board shall by fax or electronic mail  
 38          transmit an absentee ballot to and receive an absentee ballot from an  
 39          absent uniformed services voter or an overseas voter by electronic mail  
 40          or fax at the request of the voter indicated in the application filed under  
 41          this section. If the voter wants to submit absentee ballots by fax or  
 42          electronic mail, the voter must separately sign and date a statement

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1 submitted with the electronic mail or the fax transmission that states  
2 substantively the following: "I understand that by faxing or e-mailing  
3 my voted ballot I am voluntarily waiving my right to a secret ballot."

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

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

10 (2) If the voter provides an electronic mail address to which a  
11 confirmation may be sent, the county election board shall send the  
12 confirmation to the voter at the electronic mail address provided  
13 by the voter.

14 (3) If:  
15 (A) the voter does not provide a fax number or an electronic  
16 mail address; or  
17 (B) the number or address provided does not permit the board  
18 to send the confirmation not later than the end of the first  
19 business day after the board receives the voter's absentee  
20 ballot;

21 the county election board shall send the confirmation by United  
22 States mail.

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

26 (j) A county election board may transmit an absentee ballot to an  
27 absent uniformed services voter or an overseas voter by electronic mail  
28 under a program authorized and administered by the Federal Voting  
29 Assistance Program of the United States Department of Defense or  
30 directly to the voter at the voter's electronic mail address, if requested  
31 to do so by the voter. A voter described by this section may transmit the  
32 voted absentee ballot to a county election board by electronic mail. **If  
33 a voter described in this section transmits the voted absentee ballot  
34 through the United States Department of Defense program, the  
35 ballot must be transmitted** in accordance with the procedures  
36 established under ~~this~~ **that** program. An electronic mail message  
37 transmitting a voted absentee ballot under this subsection must include  
38 an optically scanned image of the voter's signature on the statement  
39 required under subsection (h).

40 SECTION 5. IC 3-11-4-17.7 IS AMENDED TO READ AS  
41 FOLLOWS: Sec. 17.7. (a) This section applies when a voter:

42 (1) has been mailed the official ballot under this chapter; and

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1 (2) notifies the county election board that the ballot has been  
 2 destroyed, spoiled, lost, or not received by the voter after a  
 3 reasonable time has elapsed for delivery of the ballot by mail.

4 (b) As required under 42 U.S.C. 15481, the voter may obtain a  
 5 replacement official ballot under the procedures set forth in this chapter  
 6 after the voter files a statement with the county election board. The  
 7 statement must affirm, under penalties of perjury, that the voter did not  
 8 receive the official ballot (or that the ballot was received by the voter,  
 9 but was destroyed, spoiled, or lost), and must set forth any facts known  
 10 by the voter concerning the destruction, spoiling, or loss of the ballot.

11 (c) After a voter files the statement required under subsection (b),  
 12 the county election board may issue a replacement official ballot to the  
 13 voter in accordance with this chapter. ~~and shall include information~~  
 14 ~~regarding the official replacement ballot in the certification provided~~  
 15 ~~to the precinct inspector under section 22 of this chapter.~~

16 (d) After receiving the official replacement ballot, the voter shall  
 17 destroy any spoiled ballot in the possession of the voter or any lost or  
 18 delayed official ballot that comes into the possession of the voter.

19 SECTION 6. IC 3-11-8-25.2, AS AMENDED BY P.L.164-2006,  
 20 SECTION 101, IS AMENDED TO READ AS FOLLOWS  
 21 [EFFECTIVE JULY 1, 2011]: Sec. 25.2. (a) The poll clerk or assistant  
 22 poll clerk shall examine the list provided under IC 3-7-29-1 to  
 23 determine if the county election board has indicated that the voter is  
 24 required to provide additional personal identification under 42 U.S.C.  
 25 15483 and IC 3-7-33-4.5 before voting in person. If the list ~~(or a~~  
 26 ~~certification concerning absentee voters under IC 3-11-10-12)~~ indicates  
 27 that the voter is required to present this identification before voting in  
 28 person, the poll clerk shall advise the voter that the voter must present,  
 29 in addition to the proof of identification required by section 25.1(a) of  
 30 this chapter, a piece of identification described in subsection (b) to the  
 31 poll clerk.

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

- 37 (1) A current and valid photo identification.  
 38 (2) A current utility bill, bank statement, government check,  
 39 paycheck, or government document that shows the name and  
 40 address of the voter.

41 (c) If a voter presents a document under subsection (b), the poll  
 42 clerk shall add a notation to the list indicating the type of document

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1 presented by the voter. The election division shall prescribe a  
2 standardized coding system to classify documents presented under this  
3 subsection for entry into the county voter registration system.

4 (d) If a voter required to present documentation under subsection (b)  
5 is unable to present the documentation to the poll clerk while present  
6 in the polls, the poll clerk shall notify the precinct election board. The  
7 board shall provide a provisional ballot to the voter under IC 3-11.7-2.

8 (e) The precinct election board shall advise the voter that the voter  
9 may file a copy of the documentation with the county voter registration  
10 office to permit the provisional ballot to be counted under IC 3-11.7.

11 SECTION 7. IC 3-11-10-3 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. A county election  
13 board must receive an absentee ballot ~~in time for the board to deliver~~  
14 ~~the ballot to the precinct election board of the voter's precinct before~~  
15 ~~the closing of the polls noon~~ on election day.

16 SECTION 8. IC 3-11-10-4.5, AS AMENDED BY P.L.221-2005,  
17 SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
18 JULY 1, 2011]: Sec. 4.5. (a) Upon receipt of an absentee ballot from  
19 a voter required to provide additional information to the county voter  
20 registration office under IC 3-7-33-4.5, the county election board shall  
21 contact the county voter registration office to determine if the  
22 additional information has been filed with the office by the voter.

23 (b) If the voter has filed the information with the county voter  
24 registration office, the county election board shall add a notation to the  
25 application indicating that the required information has been filed and  
26 that the absentee ballot may be counted if the ballot otherwise complies  
27 with this article.

28 (c) If the voter has not filed the information with the county voter  
29 registration office, the county election board shall add a notation on the  
30 application filed by a voter described under subsection (b) and on the  
31 envelope provided under this chapter reading substantially as follows:

32 ~~"INSPECTOR: "~~**ABSENTEE BALLOT COUNTERS: AS OF**  
33 **(insert date absentee ballot application approved) THIS VOTER**  
34 **WAS REQUIRED TO FILE ADDITIONAL**  
35 **DOCUMENTATION WITH THE COUNTY VOTER**  
36 **REGISTRATION OFFICE BEFORE THIS BALLOT MAY BE**  
37 **COUNTED. CHECK THE POLL LIST AND COUNTY**  
38 **ELECTION BOARD CERTIFICATION TO SEE IF THE**  
39 **VOTER HAS FILED THIS INFORMATION. IF NOT, PROCESS**  
40 **AS A PROVISIONAL BALLOT IF THIS BALLOT**  
41 **OTHERWISE COMPLIES WITH INDIANA LAW."**

42 SECTION 9. IC 3-11-10-5 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. If a county election  
 2 board unanimously finds that the signature on a ballot envelope or  
 3 transmitted affidavit is not genuine, the board shall write upon the  
 4 ballot envelope or transmitted affidavit the words "The county election  
 5 board has ~~questioned the genuineness of~~ **rejected this ballot because**  
 6 the signature of this voter **is not genuine.**". These ballots shall be  
 7 delivered to ~~the polls on election day under section 12 of this chapter~~  
 8 ~~with instructions to verify the voter's signature under section 15 of this~~  
 9 ~~chapter: the absentee ballot counters on election day under~~  
 10 **IC 3-11.5.**

11 SECTION 10. IC 3-11-10-6 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. If a county election  
 13 board is unable to unanimously determine whether the signature on a  
 14 ballot envelope is genuine, the board shall write upon the ballot  
 15 envelope or transmitted affidavit the words "Signature Disputed". The  
 16 board then shall deliver all disputed ballot envelopes, together with any  
 17 evidence of a documentary nature presented before the board, to the  
 18 ~~proper precinct at the same time that undisputed ballots are delivered:~~  
 19 **absentee ballot counters on election day under IC 3-11.5.**

20 SECTION 11. IC 3-11-10-8 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. If a county election  
 22 board (or the absentee voter board in the office of the circuit court  
 23 clerk) unanimously finds that the signature on a ballot envelope or  
 24 transmitted affidavit is genuine, the board shall enclose immediately  
 25 the accepted and unopened ballot envelope together with the voter's  
 26 application for the absentee ballot in a large or carrier envelope. The  
 27 envelope shall be securely sealed and endorsed with the name and  
 28 official title of the circuit court clerk and the following words: "This  
 29 envelope contains an absentee ballot and must be opened ~~only at the~~  
 30 ~~polls on election day while the polls are open.":~~ **as provided under**  
 31 **IC 3-11.5."**

32 SECTION 12. IC 3-11-10-9 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. Each circuit court  
 34 clerk shall keep all accepted ballot envelopes securely in the clerk's  
 35 office until ~~they are delivered to the proper precincts in accordance~~  
 36 ~~with section 12 of this chapter: the ballot envelopes are opened by~~  
 37 **the absentee ballot counters under IC 3-11.5-4.**

38 SECTION 13. IC 3-11-10-11, AS AMENDED BY P.L.221-2005,  
 39 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 40 JULY 1, 2011]: Sec. 11. (a) **Not later than noon** on election day, each  
 41 circuit court clerk (or an agent of the clerk) shall visit the appropriate  
 42 post office to accept delivery of absentee envelopes. ~~at the latest~~

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1 possible time that will permit delivery of the ballots to the appropriate  
2 precinct election boards before 6 p.m.

3 (b) Not later than noon on election day, the county voter registration  
4 office shall visit the appropriate post office to accept delivery of mail  
5 containing documentation submitted by a voter to comply with  
6 IC 3-7-33-4.5. The office shall immediately notify the county election  
7 board regarding the filing of this documentation to permit the board to  
8 provide certification of this filing to the appropriate precinct election  
9 boards before 6 p.m. **absentee ballot counters under IC 3-11.5-4.**

10 SECTION 14. IC 3-11-10-11.5 IS ADDED TO THE INDIANA  
11 CODE AS A NEW SECTION TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 2011]: **Sec. 11.5. The county election board**  
13 **shall count absentee ballots voted by any method provided under**  
14 **this chapter at a central location using the procedures in IC 3-11.5,**  
15 **including the procedures for challenging absentee ballots.**

16 SECTION 15. IC 3-11-10-24, AS AMENDED BY P.L.120-2009,  
17 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
18 JULY 1, 2011]: Sec. 24. (a) Except as provided in subsection (b), a  
19 voter who satisfies any of the following is entitled to vote by mail:

- 20 (1) The voter has a specific, reasonable expectation of being
- 21 absent from the county on election day during the entire twelve
- 22 (12) hours that the polls are open.
- 23 (2) The voter will be absent from the precinct of the voter's
- 24 residence on election day because of service as:
  - 25 (A) a precinct election officer under IC 3-6-6;
  - 26 (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;
  - 27 (C) a challenger or pollbook holder under IC 3-6-7; or
  - 28 (D) a person employed by an election board to administer the
  - 29 election for which the absentee ballot is requested.
- 30 (3) The voter will be confined on election day to the voter's
- 31 residence, to a health care facility, or to a hospital because of an
- 32 illness or injury during the entire twelve (12) hours that the polls
- 33 are open.
- 34 (4) The voter is a voter with disabilities.
- 35 (5) The voter is an elderly voter.
- 36 (6) The voter is prevented from voting due to the voter's care of
- 37 an individual confined to a private residence because of illness or
- 38 injury during the entire twelve (12) hours that the polls are open.
- 39 (7) The voter is scheduled to work at the person's regular place of
- 40 employment during the entire twelve (12) hours that the polls are
- 41 open.
- 42 (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

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- 1 (9) The voter is prevented from voting due to observance of a
- 2 religious discipline or religious holiday during the entire twelve
- 3 (12) hours that the polls are open.
- 4 (10) The voter is an address confidentiality program participant
- 5 (as defined in IC 5-26.5-1-6).
- 6 (11) The voter is a member of the military or public safety officer.
- 7 (b) A voter with disabilities who:
- 8 (1) is unable to make a voting mark on the ballot or sign the
- 9 absentee ballot secrecy envelope; and
- 10 (2) requests that the absentee ballot be delivered to an address
- 11 within Indiana;
- 12 must vote before an absentee voter board under section 25(b) of this
- 13 chapter.
- 14 (c) If a voter receives an absentee ballot by mail, the voter shall
- 15 personally mark the ballot in secret and seal the marked ballot inside
- 16 the envelope provided by the county election board for that purpose.
- 17 The voter shall:
- 18 (1) deposit the sealed envelope in the United States mail for
- 19 delivery to the county election board; or
- 20 (2) authorize a member of the voter's household or the individual
- 21 designated as the voter's attorney in fact to:
- 22 (A) deposit the sealed envelope in the United States mail; or
- 23 (B) deliver the sealed envelope in person to the county
- 24 election board.
- 25 (d) If a member of the voter's household or the voter's attorney in
- 26 fact delivers the sealed envelope containing a voter's absentee ballot to
- 27 the county election board, the individual delivering the ballot shall
- 28 complete an affidavit in a form prescribed by the commission. The
- 29 affidavit must contain the following information:
- 30 (1) The name and residence address of the voter whose absentee
- 31 ballot is being delivered.
- 32 (2) A statement of the full name, residence and mailing address,
- 33 and daytime and evening telephone numbers (if any) of the
- 34 individual delivering the absentee ballot.
- 35 (3) A statement indicating whether the individual delivering the
- 36 absentee ballot is a member of the voter's household or is the
- 37 attorney in fact for the voter. If the individual is the attorney in
- 38 fact for the voter, the individual must attach a copy of the power
- 39 of attorney for the voter, unless a copy of this document has
- 40 already been filed with the county election board.
- 41 (4) The date and location at which the absentee ballot was
- 42 delivered by the voter to the individual delivering the ballot to the

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1 county election board.  
 2 (5) A statement that the individual delivering the absentee ballot  
 3 has complied with Indiana laws governing absentee ballots.  
 4 (6) A statement that the individual delivering the absentee ballot  
 5 is executing the affidavit under the penalties of perjury.  
 6 (7) A statement setting forth the penalties for perjury.  
 7 (e) The county election board shall record the date and time that the  
 8 affidavit under subsection (d) was filed with the board.  
 9 (f) After a voter has mailed or delivered an absentee ballot to the  
 10 office of the circuit court clerk, the voter may not recast a ballot, except  
 11 as provided in  
 12 ~~(1) section 1-5 of this chapter; or~~  
 13 ~~(2) section 33 of this chapter.~~  
 14 **IC 3-11.5-4-2.**  
 15 SECTION 16. IC 3-11-10-26, AS AMENDED BY P.L.66-2010,  
 16 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2011]: Sec. 26. (a) **This subsection applies to all counties,**  
 18 **except for a county to which IC 3-6-5.2 applies.** As an alternative to  
 19 voting by mail, a voter is entitled to cast an absentee ballot before an  
 20 absentee voter board **at any of the following:**  
 21 (1) ~~in~~ **The single location that is considered the primary** office  
 22 **of the circuit court clerk.** ~~(or board of elections and registration in~~  
 23 ~~a county subject to IC 3-6-5.2); or~~  
 24 (2) **at** A satellite office established under section 26.3 of this  
 25 chapter.  
 26 (b) **This subsection applies to a county to which IC 3-6-5.2**  
 27 **applies. As an alternative to voting by mail, a voter is entitled to**  
 28 **cast an absentee ballot before an absentee voter board at any of the**  
 29 **following:**  
 30 (1) **A single location that is considered the primary office of**  
 31 **the board of elections and registration.**  
 32 (2) **A satellite office established under section 26.3 of this**  
 33 **chapter.**  
 34 (c) **Except for a location designated under subsection (a)(1) or**  
 35 **(b)(1), a location of the office of the circuit court clerk or the board**  
 36 **of elections and registration must be established as a satellite office**  
 37 **under section 26.3 of this chapter in order to be used as a location**  
 38 **at which a voter is entitled to cast an absentee ballot before an**  
 39 **absentee voter board under this section.**  
 40 ~~(b)~~ (d) The voter must:  
 41 (1) sign an application on the form prescribed by the commission  
 42 under IC 3-11-4-5.1; and

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

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1 cast and counted, including the issuance of replacement ballots.

2 ~~(j)~~ **(k)** If:

3 (1) the voter is unable or declines to present the proof of  
4 identification; or

5 (2) a member of the board determines that the proof of  
6 identification provided by the voter does not qualify as proof of  
7 identification under IC 3-5-2-40.5;

8 the voter shall be permitted to cast an absentee ballot and the voter's  
9 absentee ballot shall be treated as a provisional ballot.

10 ~~(j)~~ **(l)** A voter casting an absentee ballot under this section is entitled  
11 to cast the voter's ballot in accordance with IC 3-11-9.

12 SECTION 17. IC 3-11-10-30 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 30. Even though the  
14 voter may have applied for and received an absentee ballot, a voter who  
15 returns to the voter's place of residence before the close of the polls on  
16 election day may vote in person under the conditions prescribed by  
17 section 31 ~~or 32~~ of this chapter.

18 SECTION 18. IC 3-11-10-32 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 32. If a voter has  
20 marked and returned an absentee ballot, ~~but appears the voter may not~~  
21 ~~vote~~ in person at ~~the a~~ precinct. ~~before the voter's name has been~~  
22 ~~marked on the poll list under section 16~~ of this chapter, then the voter  
23 may:

24 ~~(1)~~ have the voter's absentee ballot envelope opened in the voter's  
25 presence and the ballot contained in the envelope deposited in the  
26 ballot box; or

27 ~~(2)~~ request a new ballot, which the voter may vote as any other  
28 voter voting in person. However, before the voter may vote, the  
29 inspector shall take the unopened absentee ballot envelope and  
30 write upon the envelope the words "Unopened because voter  
31 appeared and voted in person". The envelope shall be preserved  
32 with other defective ballots.

33 SECTION 19. IC 3-11.5-4-9 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. (a) Upon delivery of  
35 the certificates under section 8 of this chapter to a precinct election  
36 board, the inspector shall do the following in the presence of the poll  
37 clerks:

38 (1) Mark the poll list.

39 (2) Attach the certificates of voters who have registered and voted  
40 under IC 3-7-36-14 to the poll list.

41 The poll clerks shall sign the statement printed on the certificate  
42 indicating that the inspector marked the poll list and attached the

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1 certificates under this section in the presence of both poll clerks to  
2 indicate that the absentee ballot of the voter has been received by the  
3 county election board.

4 (b) If a person listed in the certificate has voted in person at the  
5 polls before the delivery of the certificate, the inspector shall initial the  
6 voter's name on the certificate in the presence of both poll clerks. The  
7 poll clerks shall sign the statement printed on the certificate supplied  
8 under section 1 of this chapter indicating that the inspector initialed the  
9 names of voters under this subsection in the presence of both poll  
10 clerks.

- 11 (c) (b) The inspector shall then deposit:
  - 12 (1) the certificate prepared under section 1 of this chapter;
  - 13 (2) the certificate prepared under section 8 of this chapter; and
  - 14 (3) any challenge affidavit executed by a qualified person under
  - 15 section 16 of this chapter;

16 in an envelope in the presence of both poll clerks.

17 (d) (c) The inspector shall seal the envelope. The inspector and each  
18 poll clerk shall then sign a statement printed on the envelope indicating  
19 that the inspector or poll clerk has complied with the requirements of  
20 this chapter governing the marking of the poll list and certificates.

21 (e) (d) The couriers shall immediately return the envelope described  
22 in subsection (c) (b) to the county election board. Upon delivering the  
23 envelope to the county election board, each courier shall sign a  
24 statement printed on the envelope indicating that the courier has not  
25 opened or tampered with the envelope since the envelope was delivered  
26 to the courier.

27 SECTION 20. IC 3-11.5-4-12, AS AMENDED BY P.L.221-2005,  
28 SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
29 JULY 1, 2011]: Sec. 12. (a) If the absentee ballot counters find under  
30 section 11 of this chapter that:

- 31 (1) the affidavit is properly executed;
- 32 (2) the signatures correspond;
- 33 (3) the absentee voter is a qualified voter of the precinct;
- 34 (4) the absentee voter is registered and is not required to file
- 35 additional information with the county voter registration office
- 36 under IC 3-7-33-4.5;
- 37 (5) the absentee voter has not voted in person at the election; and
- 38 (6) (5) in case of a primary election, if the absentee voter has not
- 39 previously voted, the absentee voter has executed the proper
- 40 declaration relative to age and qualifications and the political
- 41 party with which the absentee voter intends to affiliate;

42 the absentee ballot counters shall open the envelope containing the

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1 absentee ballots so as not to deface or destroy the affidavit and take out  
2 each ballot enclosed without unfolding or permitting a ballot to be  
3 unfolded or examined.

4 (b) If the absentee ballot counters find under subsection (a) that the  
5 voter has not filed the additional information required to be filed with  
6 the county voter registration office under IC 3-7-33-4.5, but that all of  
7 the other findings listed under subsection (a) apply, the absentee ballot  
8 shall be processed as a provisional ballot under IC 3-11.7.

9 (c) The absentee ballot counters shall then deposit the ballots in a  
10 secure envelope with the name of the precinct set forth on the outside  
11 of the envelope. After the absentee ballot counters or the county  
12 election board has made the findings described in subsection (a) or  
13 section 13 of this chapter for all absentee ballots of the precinct, the  
14 absentee ballot counters shall remove all the ballots deposited in the  
15 envelope under this section for counting under IC 3-11.5-5 or  
16 IC 3-11.5-6.

17 SECTION 21. IC 3-12-2-1, AS AMENDED BY P.L.230-2005,  
18 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
19 JULY 1, 2011]: Sec. 1. (a) This chapter:

20 (1) is enacted to comply with 42 U.S.C. 15481 by establishing  
21 uniform and nondiscriminatory standards to define what will be  
22 counted as a vote on a paper ballot; and

23 (2) applies to each precinct where voting is by paper ballot.

24 (b) After the polls have closed, each precinct election board shall  
25 count the paper ballot votes for each candidate for each office and on  
26 each public question. The ballots shall be counted by laying each ballot  
27 upon a table in the order in which it is taken from the ballot box.

28 ~~(c) Notwithstanding subsection (b), the precinct election board may~~  
29 ~~count absentee ballots before the polls have closed. If the precinct~~  
30 ~~election board counts absentee ballots under this subsection, a member~~  
31 ~~of the precinct election board may not, before the polls have closed,~~  
32 ~~provide any person other than a member of the precinct election board~~  
33 ~~with information concerning the number of votes:~~

34 ~~(1) a candidate received for an office; or~~

35 ~~(2) cast to approve or reject a public question;~~

36 ~~on absentee ballots counted under this subsection.~~

37 ~~(d)~~ (c) If a precinct election board administers more than one (1)  
38 precinct, the board shall keep the ballots cast in each precinct separate  
39 from ballots cast in any other precinct, so that the votes cast for each  
40 candidate and on each public question in each of the precincts  
41 administered by the board may be determined.

42 SECTION 22. IC 3-12-3-1.2 IS AMENDED TO READ AS

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1       FOLLOWS: Sec. 1.2. This section applies to a precinct where votes  
2       have been cast on a ballot card system that is designed to allow the  
3       counting and tabulation of votes by the precinct election board. ~~Except~~  
4       ~~as provided in section 14 of this chapter;~~ If the polls for more than one  
5       (1) precinct are located in the same room, the inspector of a precinct  
6       using the room may not begin the vote counting procedure until all the  
7       polls in the room are officially closed and no more persons are waiting  
8       in line to vote.

9       SECTION 23. IC 3-12-3.5-1.5 IS AMENDED TO READ AS  
10       FOLLOWS: Sec. 1.5. ~~Except as provided in section 7 of this chapter;~~  
11       If the polls for more than one (1) precinct are located in the same room,  
12       the inspector of a precinct using the room may not begin the vote  
13       counting procedure until all the polls in the room are officially closed  
14       and no more persons are waiting in line to vote.

15       SECTION 24. IC 3-14-4-10, AS AMENDED BY P.L.221-2005,  
16       SECTION 140, IS AMENDED TO READ AS FOLLOWS  
17       [EFFECTIVE JULY 1, 2011]: Sec. 10. A person who knowingly  
18       violates:

- 19             (1) IC 3-11.5-5; **or**
- 20             (2) IC 3-11.5-6;
- 21             ~~(3) IC 3-12-2-1;~~
- 22             ~~(4) IC 3-12-3-14; or~~
- 23             ~~(5) IC 3-12-3.5-7;~~

24       by providing any other person with information concerning the number  
25       of votes a candidate received for an office or cast to approve or reject  
26       a public question on absentee ballots counted under IC 3-11.5-5 **or**  
27       IC 3-11.5-6 ~~or IC 3-12~~ before the closing of the polls commits a Class  
28       D felony.

29       SECTION 25. THE FOLLOWING ARE REPEALED [EFFECTIVE  
30       JULY 1, 2011]: IC 3-11-4-6.1; IC 3-11-4-22; IC 3-11-10-1.5;  
31       IC 3-11-10-7; IC 3-11-10-12; IC 3-11-10-12.5; IC 3-11-10-13;  
32       IC 3-11-10-15; IC 3-11-10-16; IC 3-11-10-16.5; IC 3-11-10-17;  
33       IC 3-11-10-18; IC 3-11-10-19; IC 3-11-10-20; IC 3-11-10-21;  
34       IC 3-11-10-22; IC 3-11-10-23; IC 3-11-10-33; IC 3-11-10-35;  
35       IC 3-11.5-1; IC 3-11.5-4-19; IC 3-11.5-5-1; IC 3-11.5-6-1;  
36       IC 3-12-3-14; IC 3-12-3.5-7.

37       SECTION 26. **An emergency is declared for this act.**

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