

IN THE SUPREME COURT OF OHIO

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| THE STATE OF OHIO ex rel. |) | |
| RHONDA L. COLVIN, et al., |) | |
| |) | CASE No. 08-1813 |
| Relators, |) | |
| |) | Original Action in Mandamus |
| v. |) | |
| |) | Expedited Election Matter |
| JENNIFER BRUNNER, |) | Under Supreme Court Rule X § 9 |
| SECRETARY OF STATE OF OHIO, |) | |
| |) | |
| Respondent. |) | |

REPLY BRIEF OF AMICUS CURIAE REPRESENTATIVE LARRY WOLPERT

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**STATEMENT OF INTEREST
OF
*AMICUS CURIAE***

Representative Larry Wolpert is a duly elected and serving member of the Ohio House of Representatives representing the 23rd House District.

In 2005, Representative Wolpert was the lead sponsor of Substitute House Bill 234 of the 126th General Assembly ("House Bill 234"), that became effective on January 27, 2006. Among other matters, House Bill 234 substantially altered the rules governing the availability of absentee ballots in Ohio. Of particular interest in this case are the provisions of House Bill 234 that amended R.C. § 3509.03, a statute that is at issue in this case.

The *Amicus* is personally, and on a representative basis, interested in the outcome of this case, and in ensuring that the expression and intent of the General Assembly in adopting House Bill 234 is given the proper interpretation and effect by this Court.

Moreover, the *Amicus* desires to specifically address the fundamentally erroneous asserted in the Respondent's Brief as well as the Briefs of the various *Amici*.

ARGUMENT

THE CREATION OF NO-FAULT ABSENTEE BALLOTS IN HOUSE BILL 234 WAS NOT INTENDED TO CREATE AN EARLY VOTING SCHEME IN OHIO.

After extended debate and consideration of this issue, House Bill 234 deleted the long-standing requirement that absentee ballots could only be issued in Ohio upon the statement of a reason that the qualified elector requesting an absentee ballot was going to be absent from Ohio polls on election day.

In addition, House Bill 234 deleted the provisions of R.C. § 3509.04 that previously specified the only legitimate reasons for which an absentee ballot could be requested. Following the effective date of House Bill 234, qualified electors no longer were required to specifically identify an excuse for which an absentee ballot had been requested.

As the principal sponsor of this significant change in Ohio's election law, Representative Wolpert was pleased that the Ohio General Assembly and Governor Taft agreed that deleting the requirement for an excuse for a qualified elector to receive an absentee ballot was a beneficial change in Ohio law. Indeed, Representative Wolpert believes that it was appropriate to extend the privilege of using an absentee ballot to all qualified electors, without demonstrating an excuse.

However, Representative Wolpert speaks through this *Amicus* brief to address the distortion of this legislation by Respondent, Jennifer Brunner, Ohio Secretary of State (hereinafter "Secretary Brunner") in her Directive 2008-63. In Directive 2008-63, Secretary Brunner has fundamentally altered a long-standing principle of Ohio law -- that only a qualified elector may obtain an absentee ballot.

The precise definition of a “qualified elector” is set forth in R. C. § 3503.01. This statute requires, *inter alia*, that a “qualified elector” is an individual who has been registered to vote for thirty days. Even if the General Assembly desired to change this statutory definition, it could not do so, because these statutory provisions mirror the identical requirement of Article V, Section 5 of the Ohio Constitution.

At no time during the deliberations over House Bill 234 did the General Assembly even consider addressing the issue of who is a "qualified elector" under Ohio law. Indeed, as previously noted, even if the General Assembly had considered such a change, it would have been unconstitutional.

Furthermore, it is noteworthy that Secretary Brunner's erroneous interpretation of Ohio law in Directive 2008-63 prescribes serious violations of Ohio's election laws. Fundamentally, the Directive encourages an unregistered person to request an absentee ballot by falsely stating that he or she is a qualified elector under Ohio law. Plainly, an unregistered person would be committing the serious crime of election falsification by misrepresenting the fact he or she does not meet the definition of a qualified elector.

Of course, as demonstrated by the work on House Bill 234, Representative Wolpert empathizes with the general concept of enhancing access to voting for all qualified electors. Nevertheless, this *Amicus* strongly disagrees with Secretary Brunner's position that access to the ballot should be achieved through the commission of the felonious act of election falsification.

Thus, *Amicus* Representative Wolpert respectfully requests this Court to issue a Writ of Mandamus to Secretary Brunner to immediately issue a directive to all county boards of elections directing that only qualified electors as defined in the Ohio

Constitution and the Ohio Revised Code are privileged to receive an absentee ballot for the 2008 general election.

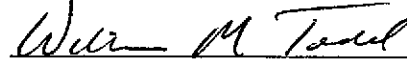
Finally, it is significant that the Revised Code already provides an alternative path for individuals who claim a right to vote in Ohio, but do not appear on the list of eligible voters. That path is the clearly defined and well-worn bath of using provisional ballots.

R.C. § 3505.181 painstakingly describes the use of provisional ballots for individuals who claim to be eligible voters, but who have not established their eligibility. Under circumstances such as those described in Directive 2008-63, provisional ballots should be issued to each and every affected individual, and not regular absentee ballots.

CONCLUSION

For the foregoing reasons *Amicus Curiae* Representative Larry Wolpert respectfully requests that this Court grant the Writ of Mandamus requested in this case. In the alternative, *Amicus Curiae* requests this Court to require that any absentee ballots issues to individuals who are not "qualified electors" be provisional ballots specified and defined in R.C. § 3505.181.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing brief was served via email and facsimile on this 26th day of September, 2008, upon the following:

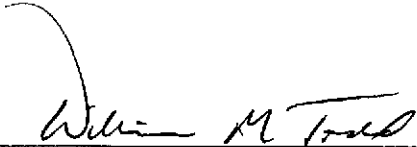
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APPENDIX

- A. SOS Directive 2008-63 [Exhibit A]..... Tab A**
- B. Excerpts of Substituted House Bill 234 [Exhibit B]..... Tab B**



JENNIFER BRUNNER
OHIO SECRETARY OF STATE

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DIRECTIVE 2008-63

August 13, 2008

TO: ALL COUNTY BOARDS OF ELECTIONS

RE: Processing Voter Registration Applications Received the Week Immediately Preceding a Voter Registration Deadline

Two fundamental purposes of the county boards of elections are:

- To facilitate the voter registration of eligible persons; and
- To facilitate the ability of each qualified elector to vote in elections conducted in the elector's precinct.

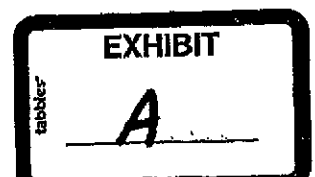
It is anticipated that the November 4, 2008, election will be the first election for which many Ohioans will register to vote, and other Ohioans will have recently changed their addresses in boards of elections records. A significant number of those new and changed registrations will be generated by voter registration drives conducted up to the registration deadline on October 6, 2008.

R.C. 3599.11(B)(2)(a) provides that:

- no one who helps another person to register to vote outside an official voter registration place shall knowingly fail to return any registration form entrusted to that person to a board of elections or the secretary of state's office within 10 days after that registration form is completed, or
- no later than the voter registration deadline for an election, whichever day is earlier,
- unless the registration form is received by the person within 24 hours of the thirtieth day before the election, in which case the person must return the registration form to any board of elections or the secretary of state's office within 10 days of its receipt.

Consequently, boards of elections can expect to receive large numbers of new and changed voter registrations, in the week immediately preceding the voter registration deadline for the 2008 general election, October 6, 2008. (For the purposes of R.C. 3599.11(B)(2)(a), "within 24 hours of the thirtieth day" means within 24 hours of the last day of registration.) Because part of that week coincides with the beginning of the absentee voting period for that election, the boards also should expect to receive large numbers of absentee ballot applications along with the registration applications. **A board of elections must register a person as an elector before issuing an absentee ballot to that person.**

Therefore, to promote the ability of all eligible electors for the general election to vote by absentee ballot if they so choose, boards of elections are directed to expedite the processing of voter registrations received during the week immediately preceding the voter registration deadline for the 2008 general election and during the 10-day period after the deadline if the registrant will be eligible to vote in the November 4, 2008, election, notwithstanding the



provisions of R.C. 3503.19(C)(1)¹. In light of the increasing numbers of absentee voters by mail, this directive is essential to permit new and changed registrations to be processed in time to enable the board to mail an absentee ballot to such a voter and for the voter to timely return the voted ballot.

A board that is satisfied as to the truth of the statements made on the voter registration application shall register the applicant not later than the second Friday after the voter registration deadline, i.e., not later than October 17, 2008, and shall immediately send to the applicant an acknowledgement notice. The acknowledgement notice must contain notification of the applicant's registration, the precinct in which the applicant is to vote and the notice required by R.C. 3503.19(C)(1)(c) regarding acceptable proof of voter identity.

If a newly registered elector submitted an absentee ballot application with his or her voter registration application, the board shall issue the appropriate absentee ballot to that elector as soon as practicable, but not more than five business days after mailing the acknowledgement notice to that elector.

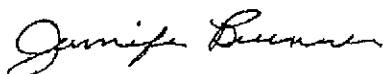
Additionally, there are several days before the 2008 general election during which a person may appear at the board of elections office and simultaneously submit for that election applications to register to vote or to update an existing registration and to request an absentee ballot. As discussed above, a board of elections must first obtain from the person who presents himself or herself to vote during this period a completed voter registration or change of address form.

Boards of elections are required to develop procedures to immediately register the applicant and issue an absentee ballot to the newly registered elector of the county at the time of registration, reserving the right to delay registration and immediate absentee voting if a board is not satisfied as to validity of the application and the applicant's qualifications. Boards of elections utilizing satellite locations for early in-person absentee voting should develop sufficient procedures to enable them to comply with this directive as they would if in-person absentee voting were taking place at the board's office.

It is critical that all Ohio elections officials work to ensure that persons eligible to vote in the general election by absentee ballot be afforded a timely opportunity to do so. Boards of elections may wish to consider hiring temporary employees to assist in this process to meet the deadlines set forth in this directive and in order to timely process the large number of voter registration applications and absentee ballot applications that are expected in connection with the 2008 general election.

If you have any questions about this directive, please contact your assigned elections counsel by email or at telephone number (614) 466-2585.

Sincerely,



Jennifer Brunner

¹ R.C. 3503.19(C)(1) provides in pertinent part:

"A board of elections that receives a voter registration application and is satisfied as to the truth of the statements made in the registration form shall register the applicant not later than twenty business days after receiving the application, unless that application is received during the thirty days immediately preceding the day of an election.

The notification shall be by nonforwardable mail. If the mail is returned to the board, it shall investigate and cause the notification to be delivered to the correct address."



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MEMORANDUM

To: All Counties; BOE Contacts
Cc: Field Staff; Elections
From: Secretary of State, Jennifer Brunner
Date: 08/13/2008
Re: Processing Voter Registration Applications Received the Week Immediately Preceding a Voter Registration Deadline

Directive 2008-63, among other subjects, clarifies issues surrounding the overlap between the end of voter registration and the beginning of absentee voting in Ohio. This is the first election in which issues have been raised regarding the overlap.

In instituting no-fault absentee voting, the General Assembly also created a 5-day overlap between the end of voter registration and the beginning of absentee voting. This overlap has existed since the 2006 primary election.

Sub. H. B. No. 234 was passed by the General Assembly on 10-19-05 and became effective on 01-27-06. According to the Legislative Service Commission, this bill changed Ohio absentee voting laws as follows:

- Permits any qualified elector to vote by absent voter's ballots at an election (R.C. 3509.02(A)).
- Eliminates the qualifications that electors were required to meet under former law in order to vote by absent voter's ballots (R.C. 3509.02(A) and (C), 3509.03, and 3509.04(B)).

According to R.C. 3509.02, "Those ballots shall be designated as "Absent Voter's Ballots" and shall be printed and ready for use on the thirty-fifth day before the day of the election, except that those ballots shall be printed and ready for use on the twenty-fifth day before the day of a presidential primary election." This law became effective on 08-28-2001.

R.C. 3503.19 stipulates the voter registration deadlines for Ohio elections. This law became effective on 08-22-1995 and was amended on 05-02-2006, after the legislature created no-fault absentee voting.

To address these questions, the Secretary of State has provided the following guidance, in keeping with long-standing Ohio law:

- Notes that a board of elections must register a person as an elector before issuing an absentee ballot to that person.
- Requires boards to complete voter registration processing no later than 10-17-08, to assure every qualified elector is able to vote via absentee or on Election Day.
- Requires boards to develop procedures to immediately register an applicant and issue an absentee ballot to the newly registered elector of the county at the time of registration. During the overlap period.
- Allows boards to delay registration and immediate absentee voting if the board is not satisfied as to validity of the application and the applicant's qualifications.

AN ACT

To amend sections 3501.17, 3501.22, 3501.27, 3503.16, 3509.02, 3509.03, 3509.031, 3509.04, 3509.05, 3509.06, 3509.07, 3509.08, 3511.02, 3511.04, 3511.09, 3599.12, 3599.21, and 4109.06 and to enact sections 3509.022, 3509.09, and 3511.13 of the Revised Code to permit a board of elections, in conjunction with a board of education, the governing authority of a community school, or the chief administrator of a nonpublic school, to establish a program permitting certain high school seniors to serve as precinct officers on the day of an election, and to revise the law governing absent voter's ballots and armed service absent voter's ballots.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3501.17, 3501.22, 3501.27, 3503.16, 3509.02, 3509.03, 3509.031, 3509.04, 3509.05, 3509.06, 3509.07, 3509.08, 3511.02, 3511.04, 3511.09, 3599.12, 3599.21, and 4109.06 be amended and sections 3509.022, 3509.09, and 3511.13 of the Revised Code be enacted to read as follows:

Sec. 3501.17. (A) The expenses of the board of elections shall be paid from the county treasury, in pursuance of appropriations by the board of county commissioners, in the same manner as other county expenses are paid. If the board of county commissioners fails to appropriate an amount sufficient to provide for the necessary and proper expenses of the board of elections pertaining to the conduct of elections, ~~other than expenses for employee compensation and benefits incurred in the conduct of elections,~~ the board of elections may apply to the court of common pleas within the county, which shall fix the amount necessary to be appropriated and the amount shall be appropriated. Payments shall be made upon vouchers of the board of elections certified to by its chairperson or acting chairperson and the director or deputy director, upon warrants of the county auditor.

EXHIBIT

B

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apply for an absent voter's ballot as provided in this chapter.

Sec. 3509.03. Except as provided in ~~division (B) or (C) of section 3503.16; section 3509.031; or division (B) of section 3509.08~~ of the Revised Code, any person qualified elector desiring to vote absent voter's ballots at an election shall make written application for ~~such~~ those ballots to the director of elections of the county in which ~~such person's~~ the elector's voting residence is located. The application need not be in any particular form but shall contain ~~words which, liberally construed, indicate the request for ballots, the election for which such ballots are requested, and, if the request is for primary election ballots, the person's party affiliation.~~ The application for such ballots shall state that the person requesting the ballots is a qualified elector, and the reason for the person's absence from the polls on election day. The application shall include sufficient information to enable the director to determine the precinct in which the applicant's voting residence is located and shall be signed by the applicant. If the applicant desires ballots to be mailed to the applicant, the application shall state the mailing address all of the following:

(A) The elector's name;

(B) The elector's signature;

(C) The address at which the elector is registered to vote;

(D) The elector's date of birth;

(E) One of the following:

(1) The elector's driver's license number;

(2) The last four digits of the elector's social security number;

(3) A copy of the elector's current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the elector.

(F) A statement identifying the election for which absent voter's ballots are requested;

(G) A statement that the person requesting the ballots is a qualified elector;

(H) If the request is for primary election ballots, the elector's party affiliation;

(I) If the elector desires ballots to be mailed to the elector, the address to which those ballots shall be mailed.

A voter who will be outside the United States on the day of any election during a calendar year may use a single federal post card application to apply for absent voter's ballots. ~~Such~~ Those ballots shall be sent to the voter for use at the primary and general elections in that year and any special

election to be held on the day in that year specified by division (E) of section 3501.01 of the Revised Code for the holding of a primary election, designated by the general assembly for the purpose of submitting constitutional amendments proposed by the general assembly to the voters of the state unless the voter reports a change in the voter's voting status to the board of elections or the voter's intent to vote in any such election in the precinct in this state where ~~he~~ the voter is registered to vote. ~~Such an~~ A single federal postcard application shall be processed by the board of elections pursuant to section 3509.04 of the Revised Code the same as if the voter had applied separately for absent voter's ballots for each election. When mailing absent voter's ballots to a voter who applied for them by single federal post card application, the board shall enclose notification to the voter that the voter must report to the board subsequent changes in the voter's voting status or the voter's subsequent intent to vote in any such election in the precinct in this state where the voter is registered to vote. Such notification shall be in a form prescribed by the secretary of state. As used in this section, "voting status" means the voter's name at the time the voter applied for absent voter's ballots by single federal post card application and the voter's address outside the United States to which the voter requested that ~~such~~ those ballots be sent.

Each application for absent voter's ballots shall be delivered to the director not earlier than the first day of January of the year of the elections for which the absent voter's ballots are requested or not earlier than ninety days before the day of the election at which the ballots are to be voted, whichever is earlier, and not later than twelve noon of the third day before the day of the election at which ~~such~~ the ballots are to be voted, or not later than the close of regular business hours on the day before the day of the election at which the ~~absent voter's~~ ballots are to be voted if the application is delivered in person to the office of the board.

Sec. 3509.031. (A) Any qualified elector who is a member of the organized militia called to active duty within the state of ~~Ohio~~ and who will be unable to vote on election day on account of ~~such~~ that active duty may make written application for absent voter's ballots to the director of elections for the county in which ~~his~~ the elector's voting residence is located. The elector may personally deliver ~~such~~ the application to the director or may mail ~~it~~, send it by facsimile machine, or otherwise send it to the director. ~~Such~~ The application need not be in any particular form but shall contain ~~the applicant's signature. The application need only contain words which, liberally construed, indicate the request for ballots, the election for which such ballots are requested and, if the request is for primary election ballots,~~

~~the party affiliation of the applicant. The applicant should indicate that the applicant is a qualified elector, and that the applicant is a member of the organized militia serving on active duty within the state of Ohio. Sufficient information should be included to enable the director to determine the precinct in which his voting residence is located. If the applicant desires that such ballots be mailed to him, the application shall state the address to which they shall be mailed. If the applicant desires that the absent voter's ballots be sent to the applicant by facsimile machine, the application shall state all of the following:~~

(1) The elector's name;

(2) The elector's signature;

(3) The address at which the elector is registered to vote;

(4) The elector's date of birth;

(5) One of the following:

(a) The elector's driver's license number;

(b) The last four digits of the elector's social security number;

(c) A copy of the elector's current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the elector.

(6) A statement identifying the election for which absent voter's ballots are requested;

(7) A statement that the person requesting the ballots is a qualified elector;

(8) A statement that the elector is a member of the organized militia serving on active duty within the state;

(9) If the request is for primary election ballots, the elector's party affiliation;

(10) If the elector desires ballots to be mailed to the elector, the address to which those ballots shall be mailed;

(11) If the elector desires ballots to be sent to the elector by facsimile machine, the telephone number to which they shall be so sent.

(B) Application to have ~~such~~ absent voter's ballots mailed or sent by facsimile machine to ~~such person~~ a qualified elector who is a member of the organized militia called to active duty within the state and who will be unable to vote on election day on account of that active duty may be made by the spouse of the militia member, or the father, mother, father-in-law, mother-in-law, grandfather, grandmother, brother or sister of the whole blood or half blood, son, daughter, adopting parent, adopted child, stepparent, stepchild, uncle, aunt, nephew, or niece of ~~such person~~ the

militia member. The application shall be in writing upon a blank form furnished only by the director. The form of the application shall be prescribed by the secretary of state. The director shall furnish ~~such~~ that blank form to any of the relatives specified in this ~~section~~, division desiring to make ~~such~~ the application, only upon the request of such a relative in person at the office of the board or upon the written request of such a relative mailed to the office of the board. ~~Such~~ The application, subscribed and sworn to by ~~such~~ the applicant, shall contain all of the following:

~~(A) Full~~ (1) The full name of ~~person~~ the elector for whom ballots are requested;

~~(B) Statement~~ (2) A statement that such person is a qualified elector ~~and that such person has a residence in the county and information as to the location of such voting residence;~~

~~(C) Statement that such person~~ (3) The address at which the elector is registered to vote;

(4) The elector's date of birth;

(5) One of the following:

(a) The elector's driver's license number;

(b) The last four digits of the elector's social security number;

(c) A copy of the elector's current and valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the elector.

(6) A statement identifying the election for which absent voter's ballots are requested;

(7) A statement that the elector is a member of the organized militia serving on active duty within the state of Ohio;

~~(D) Statement~~ (8) If the request is for primary election ballots, the elector's party affiliation;

(9) A statement that the applicant bears a relationship to ~~such person~~ the elector as specified in division (B) of this section;

~~(E) Election for which ballots are requested, and, if for a primary election, party affiliation of persons for whom ballots are requested;~~

~~(F) Address~~ (10) The address to which ballots shall be mailed or telephone number to which ballots shall be sent by facsimile machine;

~~(G) Signature~~ (11) The signature and address of the person making the application.

(C) Applications to have absent voter's ballots mailed or sent by facsimile machine shall not be valid if dated, postmarked, or received by the director prior to the ninetieth day before the day of the election for which

ballots are requested or if delivered to ~~such~~ the director later than twelve noon of the third day preceding the day of such election. If, after the ninetieth day and before four p.m. of the day before the day of an election, a valid application for absent voter's ballots is delivered to the director of elections at the office of the board by a militia member making ~~such~~ application in ~~his~~ the militia member's own behalf, the director shall forthwith deliver to ~~such~~ the militia member all absent voter's ballots then ready for use, together with an identification envelope. ~~Such~~ The militia member shall then vote ~~such~~ the absent voter's ballots in the manner provided in section 3509.05 of the Revised Code.

Sec. 3509.04. (A) If a director of a board of elections receives an application for absent voter's ballots that does not contain all of the required information, the director promptly shall notify the applicant of the additional information required to be provided by the applicant to complete that application.

(B) Upon receipt by the director of elections of an application for absent voter's ballots that contain all of the required information, as provided by sections 3509.03 and 3509.031, and division (G) of section 3503.16, of the Revised Code, the director, if the director finds that the applicant is a qualified elector and is entitled to vote absent voter's ballots as applied for in the application, shall deliver to the applicant in person or mail directly to the applicant by special delivery mail, air mail, or regular mail, postage prepaid, proper absent voter's ballots. The director shall give proper absent voter's ballots to any qualified elector who presents self to vote at the office of the board of elections or at another location designated by the board as provided in division (B) or (C) of section 3503.16 of the Revised Code. The director shall give, deliver, or mail with the ballots an unsealed identification envelope upon the face of which shall be printed a form substantially as follows:

"Identification Envelope Statement of Voter

I, ~~the undersigned voter~~(Name of voter), declare under penalty of election falsification that the within ballot or ballots contained no voting marks of any kind when I received them, and I caused the ballot or ballots to be marked, enclosed in the identification envelope, and sealed in that envelope.

My voting residence in Ohio is

.....
(Street and Number, if any, or Rural Route and Number)
of (City, Village, or Township) Ohio, which is in Ward
..... Precinct in that city, village, or township.

~~.....I am a qualified elector of the state of Ohio. (Applicant must check the true statement concerning the applicant's reason for voting by absent voter's ballots)~~

~~.....I shall be absent from the county on the day of the election.~~

~~.....I shall be outside the United States on the day of the election. (Applicants who check this statement must also check the appropriate box on the enclosed return envelope to indicate that they will be outside the United States.)~~

~~.....I shall be absent from my polling place on the day of the election due to my entry or the entry of a member of my family into a hospital for medical or surgical treatment.~~

~~.....I shall be absent from my polling place on the day of the election due to physical illness, disability, or infirmity.~~

~~.....My employment as a full-time fire fighter, peace officer, or provider of emergency medical services may prevent me from voting at my polling place on the day of the election.~~

~~.....I shall be absent from my polling place on the day of the election because I am on active duty with the organized militia in the state of Ohio.~~

~~.....I shall be unable to vote on election day because of observance of my religious belief.~~

~~.....I am the secretary of state.~~

~~.....I am an employee of the secretary of state.~~

~~.....I am a member of the board of elections.~~

~~.....I am an employee of or person temporarily hired by the board of elections.~~

~~.....I am a polling place official.~~

~~.....I shall be absent from my polling place on the day of the election due to my confinement in a jail or workhouse under sentence for a misdemeanor or awaiting trial on a felony or misdemeanor.~~

~~.....I am sixty-two years of age or older.~~

~~.....I moved from one precinct to another in the same county or from one county to another on or prior to the day of an election and did not file a notice of change of residence.~~

~~.....I changed my name on or prior to the day of an election and did not file a notice of change of name.~~

The primary election ballots, if any, within this envelope are primary election ballots of the Party.

Ballots contained herein within this envelope are to be voted at the (general, special, or primary) election to be held on the

..... day of, ..

My date of birth is (Month and Day), (Year).

(Voter must provide one of the following:)

My driver's license number is (Driver's license number).

The last four digits of my Social Security Number are (Last four digits of Social Security Number).

..... In lieu of providing a driver's license number or the last four digits of my Social Security Number, I am enclosing a copy of one of the following in the return envelope in which this identification envelope will be mailed: a current and valid photo identification or a current utility bill, bank statement, government check, paycheck, or other government document that shows my name and address.

I hereby declare, under penalty of election falsification, that the statements above are true, as I verily believe.

.....

(Signature of Voter)

WHOEVER COMMITS ELECTION FALSIFICATION IS GUILTY OF A FELONY OF THE FIFTH DEGREE."

The director shall mail with the ballots and the unsealed identification envelope ~~that the director mails~~ an unsealed return envelope upon the face of which shall be printed the official title and post-office address of ~~such~~ the director. In the upper left corner on the face of ~~such~~ the return envelope, several blank lines shall be printed upon which the voter may write the voter's name and return address, and beneath these lines there shall be printed a box beside the words "check if out-of-country." The voter shall check this box if the voter will be outside the United States on the day of the election. The return envelope shall be of such size that the identification envelope can be conveniently placed within it for returning ~~such~~ the identification envelope to the director.

Sec. 3509.05. (A) When an elector receives an absent voter's ballot, pursuant to ~~his~~ the elector's application or request ~~therefor, is received by the elector, he~~ the elector shall, before placing any marks ~~thereon~~ on the ballot, note whether there are any voting marks on ~~the ballot~~ it. ~~In the event~~ If there are any voting marks, the ballot shall be returned immediately to the board of elections; otherwise ~~he, the elector~~ the elector shall cause the ballot to be marked, folded in ~~such~~ a manner that the stub ~~thereon~~ on it and the indorsements and facsimile signatures of the members of the board of elections on the back ~~thereof~~ of it are visible, and placed and sealed within the identification envelope received from the director of elections for that purpose. Then, the elector shall cause the statement of voter on the outside

of the identification envelope to be completed and signed, under penalty of election falsification.

If the elector does not provide the elector's driver's license number or the last four digits of the elector's social security number on the statement of voter on the identification envelope, the elector also shall include in the return envelope with the identification envelope a copy of the elector's current valid photo identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the elector.

The elector shall ~~then~~ mail the identification envelope to the director from whom it was received in the return envelope, postage prepaid, or ~~he~~ the elector may personally deliver it to the director, or the spouse of the elector, the father, mother, father-in-law, mother-in-law, grandfather, grandmother, brother, or sister of the whole or half blood, or the son, daughter, adopting parent, adopted child, stepparent, stepchild, uncle, aunt, nephew, or niece of the elector may deliver it to the director, ~~but the~~. The return envelope shall be transmitted to the director in no other manner, except as provided in section 3509.08 of the Revised Code.

Each elector who will be outside the United States on the day of the election shall check the box on the return envelope indicating this fact.

When absent voter's ballots are delivered to an elector at the office of the board, the elector may retire to a voting compartment provided by the board and there mark the ballots. Thereupon ~~he~~, the elector shall fold them, place them in the identification envelope provided, seal the ~~identification~~ envelope, fill in and sign the statement ~~thereon~~ on the envelope under penalty of election falsification, and deliver the envelope to the director of the board.

Except as otherwise provided in divisions (B) and (C) of this section, all other envelopes containing marked absent voter's ballots, shall be delivered to the director not later than the close of the polls on the day of an election. Absent voter's ballots delivered to the director later than the times specified shall not be counted, but shall be kept by the board in the sealed identification envelopes in which they are delivered to the director, until the time provided by section 3505.31 of the Revised Code for the destruction of all other ballots used at the election for which ballots were provided, at which time they shall be destroyed.

(B) Except as otherwise provided in division (C) of this section, any return envelope that indicates that the voter will be outside the United States on the day of the election shall be delivered to the director prior to the eleventh day after the election. Ballots delivered in such envelopes that are

received after the close of the polls on election day through the tenth day thereafter shall be counted on the eleventh day at the board of elections in the manner provided in divisions (C) and (D) of section 3509.06 of the Revised Code. Any such ballots that are signed or postmarked after the close of the polls on the day of the election or that are received by the director later than the tenth day following the election shall not be counted, but shall be kept by the board in the sealed identification envelopes as provided in division (A) of this section.

(C) In any year in which a presidential primary election is held, any return envelope that indicates that the voter will be outside the United States on the day of the presidential primary election shall be delivered to the director prior to the twenty-first day after that election. Ballots delivered in such envelopes that are received after the close of the polls on election day through the twentieth day thereafter shall be counted on the twenty-first day at the board of elections in the manner provided in divisions (C) and (D) of section 3509.06 of the Revised Code. Any such ballots that are signed or postmarked after the close of the polls on the day of that election or that are received by the director later than the twentieth day following that election shall not be counted, but shall be kept by the board in the sealed identification envelopes as provided in division (A) of this section.

Sec. 3509.06. (A) The board of elections shall determine whether absent voter's ballots shall be counted in each precinct, at the office of the board, or at some other location designated by the board, and shall proceed accordingly under division (B) or (C) of this section.

(B) When the board of elections determines that absent voter's ballots shall be counted in each precinct, the director shall deliver to the presiding judge of each precinct on election day identification envelopes purporting to contain absent voter's ballots of electors whose voting residence appears from the statement of voter on the outside of each of ~~such~~ those envelopes, to be located in such presiding judge's precinct, and which were received by the director not later than the close of the polls on election day. The director shall deliver to such presiding judge a list containing the name and voting residence of each person whose voting residence is in such precinct to whom absent voter's ballots were mailed.

(C) When the board of elections determines that absent voter's ballots shall be counted at the office of the board of elections or at another location designated by the board, special election judges shall be appointed by the board for that purpose having the same authority as is exercised by precinct judges. The votes so cast shall be added to the vote totals by the board, and the ~~absentee~~ absent voter's ballots shall be preserved separately by the

board, in the same manner and for the same length of time as provided by section 3505.31 of the Revised Code.

(D) Each of the identification envelopes purporting to contain absent voter's ballots delivered to the presiding judge of the precinct or the special judge appointed by the board of elections shall be handled as follows: ~~The judge shall announce the name of the elector who appears to have signed the statement of voter on the outside of such envelope. In counties in which absent voter's ballots are counted in each precinct,~~ election officials shall compare the signature of the elector on the outside of ~~such~~ the identification envelope ~~shall be compared with the signature of such that elector on his the~~ elector's registration form and verify that the absent voter's ballot is eligible to be counted under section 3509.07 of the Revised Code. Any ~~appointed challenger or any~~ of the precinct officials may challenge the right of the elector named on ~~such~~ the identification envelope to vote ~~such the~~ absent voter's ballots upon the ground that the signature on ~~such the~~ envelope is not the same as the signature on ~~such the~~ registration form, or upon any other of the grounds upon which the right of persons to vote may be lawfully challenged. If no such challenge is made, or if such a challenge is made and not sustained, the presiding judge shall open the envelope without defacing the statement of voter and without mutilating the ballots ~~therein in it~~, and shall remove the ballots contained ~~therein in it~~ and proceed to count them.

The name of each person voting who is entitled to vote only an absent voter's presidential ballot shall be entered in a pollbook or poll list or signature pollbook followed by the words "Absentee Presidential Ballot." The name of each person voting an absent voter's ballot, other than such persons entitled to vote only a presidential ballot, shall be entered in the pollbook or poll list or signature pollbook and ~~his the~~ person's registration card marked to indicate that ~~he the~~ person has voted.

The date of such election shall also be entered on the elector's registration form. If any such challenge is made and sustained, the identification envelope of such elector shall not be opened ~~and~~, shall be endorsed "Not Counted" with the reasons ~~therefor~~ the ballots were not counted, and shall be delivered to the board.

(E) Special election judges or employees or members of the board of elections shall not disclose the count or any portion of the count of absent voter's ballots prior to the time of the closing of the polling places. No person shall recklessly disclose the count or any portion of the count of absent voter's ballots in such a manner as to jeopardize the secrecy of any individual ballot.

Sec. 3509.07. If election officials find that the statement accompanying