

January 28, 1998

SENATE BILL No. 335

DIGEST OF SB 335 (Updated January 26, 1998 1:14 pm - DI 77)

Citations Affected: IC 3-6; IC 3-8; IC 3-10; IC 3-11; IC 3-11.5; IC 3-12; IC 3-13; IC 3-14; noncode.

Synopsis: Multiple party candidate. Allows county election board members certain lodging allowances. Specifies that an appointed member of the county election board serves a four year term and that terms of current appointed members end July 1, 2001. Specifies that a write-in candidate for city court judge must reside in the city when filing the declaration of intent to be a write-in candidate or when the certificate of nomination is filed. Provides that the existing procedure for challenging the placement of a candidate on the ballot applies to write-in candidates and nonmajor political party candidates nominated by county, city, or town conventions. Specifies that the ineligibility law applies to candidates defeated at nonmajor political party county, city, or town conventions. Provides that a town election board has authority to use the existing candidate challenge procedure as the basis for its determination regarding candidates for town office. Specifies the
(Continued next page)

Effective: Upon passage.

Landske, Skillman

January 8, 1998, read first time and referred to Committee on Elections.
January 27, 1998, amended, reported favorably — Do Pass.

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Digest Continued

procedure for a nonmajor political party candidate to file and withdraw a declaration of candidacy for nomination at a small town convention. Sets a deadline for determining whether a petition of nomination for a school board candidate elected at the same time as a primary is valid. Provides procedures to determine placement on a ballot of an individual who is nominated for an elected office by a political party and subsequently is nominated as a candidate for the same office by another political party. (Current law prohibits a candidate from appearing on a ballot for the same office for more than one political party.) Permits original copies of nominating petitions to be stored outside of the office of the election division or a county election board. Provides that the election division may deliver state and presidential paper ballots to circuit court clerks. Establishes the requirements for printing pasters or new ballots when a candidate dies, or a late candidate vacancy otherwise exists. Requires a person holding an attorney in fact for a voter to attach a copy of the power of attorney to the absentee ballot application for the voter. Establishes deadlines for facsimile (fax) transmitted absentee ballot applications. Amends the rules for counting straight party ballot card votes. Establishes procedures for initialing and witnessing absentee ballots cast by disabled voters. Amends the central count of absentee ballot. Establishes the procedure for issuing a certificate of election for political party offices, for federal offices, and following a recount or contest. Specifies penalty provision regarding delivery of absentee ballots. Specifies that a school board one-year district residency requirement effective May 13, 1997, does not preclude an otherwise qualified candidate from running in the May 1998 primary if the candidate was not a resident of the school board district on May 5, 1997. Repeals and amends certain cross references.

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January 28, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

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SENATE BILL No. 335

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 3-6-4.2-14, AS ADDED BY P.L.3-1997, SECTION
2 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 1997 (RETROACTIVE)]: Sec. 14. (a) Each year the
4 election division shall call a meeting of all the members of the county
5 election boards and the boards of registration to instruct them as to
6 their duties under this title. Each circuit court clerk shall attend the
7 meeting.
8 (b) The co-directors of the election division shall set the time and
9 place of the instructional meeting. In years in which a primary election
10 is held, the election division shall conduct the meeting before primary
11 election day. The instructional meeting may not last for more than two
12 (2) days.
13 (c) Each member of a county election board or board of registration
14 is entitled to receive: ~~at~~
15 (1) a per diem of twenty-four dollars (\$24) for attending the

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1 instructional meeting required by this section;

2 (2) a mileage allowance at the state rate for the distance
3 necessarily traveled in going and returning from the place of the
4 instructional meeting required by this section; ~~and~~

5 (3) reimbursement for the payment of the instructional meeting
6 registration fee from the county general fund without
7 appropriation; ~~and~~

8 **(4) an allowance for lodging for each night preceding**
9 **conference attendance equal to the lodging allowance**
10 **provided to state employees in travel status.**

11 SECTION 2. IC 3-6-5-4, AS AMENDED BY P.L.3-1997,
12 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 UPON PASSAGE]: Sec. 4. The board members appointed by the
14 circuit court clerk serve **for a term of four (4) years and** until their
15 successors are appointed and qualified, **subject to the member's**
16 **removal under section 6 of this chapter.**

17 SECTION 3. IC 3-8-1-1, AS AMENDED BY P.L.3-1997,
18 SECTION 110, IS AMENDED TO READ AS FOLLOWS
19 [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This section does not
20 apply to a candidate for any of the following offices:

21 (1) Judge of a city court. ~~in a city located in a county having a~~
22 ~~population of:~~

23 (A) ~~more than four hundred thousand (400,000) but less than~~
24 ~~seven hundred thousand (700,000); or~~

25 (B) ~~more than two hundred thousand (200,000) but less than~~
26 ~~three hundred thousand (300,000);~~

27 ~~(2) judge of a city court in a third class city; or~~

28 ~~(3) (2) Judge of a town court.~~

29 (b) A person is not qualified to run for:

30 (1) a state office;

31 (2) a legislative office;

32 (3) a local office; or

33 (4) a school board office;

34 unless the person is registered to vote in the election district the person
35 seeks to represent not later than the deadline for filing the declaration
36 or petition of candidacy or certificate of nomination.

37 (c) If a candidate filing error is made by the election division or a
38 circuit court clerk, the error does not invalidate the filing.

39 SECTION 4. IC 3-8-1-1.5, AS AMENDED BY P.L.3-1997,
40 SECTION 111, IS AMENDED TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 1998] : Sec. 1.5. (a) This section applies to a
42 candidate for any of the following offices:

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1 (1) Judge of a city court in a city located in a county having a
2 population of

3 ~~(A) more than four hundred thousand (400,000) but less than~~
4 ~~seven hundred thousand (700,000); or~~

5 ~~(B) more than two hundred thousand (200,000) but less than~~
6 ~~three hundred thousand (300,000).~~

7 ~~(2) Judge of a city court in a third class city.~~

8 ~~(3) (2) Judge of a town court.~~

9 (b) A person is not qualified to run for an office subject to this
10 section unless the person is registered to vote in a county in which the
11 municipality is located **not later than the deadline for filing the**
12 **declaration or petition of candidacy or certificate of nomination.**

13 SECTION 5. IC 3-8-1-2, AS AMENDED BY P.L.3-1997,
14 SECTION 113, IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commission, ~~or~~ a
16 county election board, **or a town election board** shall act in
17 accordance with this section if a candidate ~~in accordance with this~~
18 ~~section~~ (or a person acting on behalf of a candidate in accordance with
19 state law) has filed any of the following:

20 (1) A declaration of candidacy under IC 3-8-2 **or IC 3-8-5.**

21 (2) A request for ballot placement in a presidential primary under
22 IC 3-8-3.

23 (3) A petition of nomination or candidate's consent to nomination
24 under IC 3-8-6.

25 (4) A certificate of nomination under **IC 3-8-5, IC 3-8-7,**
26 **IC 3-10-2-15, or IC 3-10-6-12.**

27 (5) A certificate of candidate selection under IC 3-13-1 or
28 IC 3-13-2.

29 **(6) A declaration of intent to be a write-in candidate under**
30 **IC 3-8-2-2.5.**

31 (b) The commission has jurisdiction to act under this section with
32 regard to any filing described in subsection (a) that was made with the
33 election division. **Except for a filing under the jurisdiction of a town**
34 **election board,** a county election board has jurisdiction to act under
35 this section with regard to any filing described in subsection (a) that
36 was made with the county election board, county voter registration
37 office, or the circuit court clerk. **A town election board has**
38 **jurisdiction to act under this section with regard to any filing that**
39 **was made with the county election board, the county voter**
40 **registration office, or the circuit court clerk for nomination or**
41 **election to a town office.**

42 (c) Before the commission or ~~county~~ election board acts under this

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1 section, a registered voter of the election district that a candidate seeks
 2 to represent must file a sworn statement with the election division or a
 3 county election board:

- 4 (1) questioning the eligibility of a candidate to seek the office;
 5 and
 6 (2) setting forth the facts known to the voter concerning this
 7 question.

8 (d) Upon the filing of a sworn statement under subsection (c), the
 9 commission or ~~county~~ election board shall determine the validity of the
 10 questioned declaration of candidacy, **declaration of intent to be a**
 11 **write-in candidate**, request for ballot placement under IC 3-8-3,
 12 petition of nomination, certificate of nomination, or certificate of
 13 candidate selection issued under IC 3-13-1-15 or IC 3-13-2-8.

14 (e) The commission or ~~county~~ election board shall deny a filing if
 15 the commission or ~~county~~ election board determines that the candidate
 16 has not complied with the applicable requirements for the candidate set
 17 forth in the Constitution of the United States, the Constitution of the
 18 State of Indiana, or this title.

19 SECTION 6. IC 3-8-1-5.5, AS AMENDED BY P.L.3-1997,
 20 SECTION 115, IS AMENDED TO READ AS FOLLOWS
 21 [EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) Except as provided in
 22 IC 3-13-1-19 and IC 3-13-2-10 for filling a vacancy on a ticket, a
 23 person who:

- 24 (1) is defeated in a primary election; or
 25 (2) appears as a candidate for nomination at a state convention
 26 **and is defeated;** or
 27 (3) files a declaration of candidacy for nomination by a **county,**
 28 **city, or** town convention and is defeated;

29 is not eligible to become a candidate for the same office in the next
 30 general or municipal election.

31 (b) For the purposes of subsection (a):

- 32 (1) a candidate for an at-large seat on a fiscal body is considered
 33 a candidate for the same office as a candidate for a district seat on
 34 a fiscal body; and
 35 (2) a candidate for United States representative from a district in
 36 Indiana is considered a candidate for the same office as a
 37 candidate for any other congressional district in Indiana.

38 (c) This section does not apply to a candidate who files a written
 39 request for placement on the presidential primary ballot under IC 3-8-3.

40 SECTION 7. IC 3-8-1-28.5, AS AMENDED BY P.L.12-1997,
 41 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 1998]: Sec. 28.5. (a) This section does not apply to a

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1 candidate for the office of judge of a city court in a city located in a
 2 county having a population of more than two hundred thousand
 3 (200,000) but less than three hundred thousand (300,000).

4 (b) A candidate for the office of judge of a city court must reside in
 5 the city upon filing a declaration of candidacy **or declaration of intent**
 6 **to be a write-in candidate** required under IC 3-8-2, ~~or~~ a petition of
 7 nomination under IC 3-8-6, **or a certificate of nomination under**
 8 **IC 3-10-6-12.**

9 (c) A candidate for the office of judge of a city court must reside in
 10 ~~the~~ **a county in which the city is located** upon the filing of a certificate
 11 of candidate selection under IC 3-13-1-15 or IC 3-13-2-8.

12 SECTION 8. IC 3-8-2-19, AS AMENDED BY P.L.3-1997,
 13 SECTION 130, IS AMENDED TO READ AS FOLLOWS
 14 [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) Upon receipt of the
 15 certified list under section 17 of this chapter, a county election board
 16 shall immediately compile under the proper political party designation
 17 the following:

- 18 (1) The title of each office.
- 19 (2) The name of each individual who has filed a ~~written~~ request
 20 to be placed on the presidential primary ballot.
- 21 (3) The names and addresses of all persons for whom declarations
 22 of candidacy have been filed for nomination to an office on the
 23 primary election ballot.
- 24 (4) The names and addresses of all persons who have filed a
 25 petition of nomination for election to a school board office to be
 26 chosen at the same time as the primary election.
- 27 (5) The text of any public question to be placed on the ballot.
- 28 (6) The date of the primary election.
- 29 (7) The hours during which the polls will be open.

30 (b) The county election board shall do the following:

- 31 (1) Publish the information described in subsection (a) before the
 32 primary election in accordance with IC 5-3-1.
- 33 (2) File a copy of the information described in subsection (a):
 34 (A) with the election division; and
 35 (B) in the minutes of the county election board.

36 (c) The county election board shall file the copies required under
 37 subsection (b)(2) not later than noon, ten (10) days before election day.

38 (d) An election is not invalidated by the failure of the board to
 39 comply with this section.

40 (e) If the county election board receives an amendment from the
 41 election division under section 17 of this chapter after:

- 42 (1) compilation of the information described in subsection (a) has

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1 occurred; or

2 (2) the board determines that it is impractical to recompile
3 completely revised information;

4 the board is only required to ~~provide copies~~ **file a copy** of the
5 amendment to ~~persons listed in subsection (b)(2)~~ **with the minutes of**
6 **the board.**

7 SECTION 9. IC 3-8-5-17, AS ADDED BY P.L.3-1995, SECTION
8 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
9 PASSAGE]: Sec. 17. (a) This section applies to a political party:

10 (1) not qualified to conduct a primary election under IC 3-10; and

11 (2) not required to nominate candidates by a petition of
12 nomination under IC 3-8-6.

13 (b) **An individual who desires to be nominated for a town office**
14 **by the political party must file a declaration of candidacy in the**
15 **same manner as a candidate for nomination by a major political**
16 **party under section 10.5 of this chapter. If a convention would be**
17 **required for the political party under section 10 of this chapter,** the
18 political party shall conduct a convention to nominate candidates for
19 town office not later than the date for conducting a major party town
20 convention under section 10 of this chapter.

21 (c) The chairman and secretary of the town convention shall
22 execute, acknowledge, and file a certificate setting forth the nominees
23 of the convention in accordance with section 13 of this chapter.

24 (d) Each candidate nominated under this section shall execute a
25 consent to the nomination in the same form as a candidate nominated
26 by petition under IC 3-8-6. The consent must be filed with the
27 certificate under subsection (c). **An individual who wishes to**
28 **withdraw as a candidate after nomination by the convention must**
29 **do so in the manner prescribed by section 14.5 of this chapter.**

30 (e) The circuit court clerk shall file a copy of each certificate and
31 each candidate's consent with the town clerk-treasurer in accordance
32 with section 13 of this chapter.

33 SECTION 10. IC 3-8-7-20 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) If a person
35 has been nominated as a candidate for the same office by:

36 (1) **both** convention and petition;

37 (2) **both primary election and petition;**

38 (3) **both primary election and convention;**

39 (4) **more than one (1) petition; or**

40 (5) **more than one (1) convention;**

41 the person's name may be placed on the ballot only once.

42 (b) **This subsection applies only to a person nominated by both**

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1 **convention and petition.** The person's name shall be placed on the list
 2 of candidates nominated by convention, and the place occupied by the
 3 person's name in the petition must be left blank. However, if the
 4 candidate files a written statement:

5 (1) acknowledged before a person authorized to take
 6 acknowledgments;

7 (2) in the office where a petition of nomination for the office must
 8 be filed;

9 (3) no later than noon of the last day for filing a **petition of**
 10 **nomination under IC 3-8-6-10(c);** and

11 (4) requesting that the person's name be printed as nominated by
 12 petition;

13 the person's name must be so printed and omitted from the list
 14 nominated by convention.

15 (c) **This subsection applies only to a person nominated by both**
 16 **primary election and petition. The person's name must be placed**
 17 **on the list of candidates nominated by primary election, and the**
 18 **place occupied by the person's name in the petition must be left**
 19 **blank. However, if the candidate files a written statement:**

20 (1) acknowledged before a person who is authorized to take
 21 acknowledgments;

22 (2) in the office where a petition of nomination for the office
 23 must be filed;

24 (3) not later than noon the last day for filing a petition of
 25 nomination under IC 3-8-6-10(c); and

26 (4) requesting that the person's name be printed as nominated
 27 by petition;

28 the person's name must be so printed and omitted from the list
 29 nominated by primary election.

30 (d) **This subsection applies only to a person nominated by both**
 31 **primary election and convention. The person's name must be**
 32 **placed on the list of candidates nominated by primary election, and**
 33 **the place occupied by the person's name in the certificate of**
 34 **nomination of the convention must be left blank. However, if the**
 35 **candidate files a written statement:**

36 (1) acknowledged before a person who is authorized to take
 37 acknowledgments;

38 (2) in the office where a certificate of nomination for the office
 39 must be filed;

40 (3) not later than noon the last day for filing a certificate of
 41 nomination; and

42 (4) requesting that the person's name be printed as nominated

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1 by convention;
 2 the person's name must be so printed and omitted from the list
 3 nominated by primary election.
 4 (e) This subsection applies only to a person nominated by more
 5 than one (1) petition. The person's name must be placed on the list
 6 of candidates nominated by petition for the first petition of
 7 nomination certified under IC 3-8-6 and filed with the election
 8 division or county election board under IC 3-8-6-10(c), and the
 9 place occupied by the person's name in a subsequent petition must
 10 be left blank. However, if the candidate files a written statement:
 11 (1) acknowledged before a person who is authorized to take
 12 acknowledgments;
 13 (2) in the office where a petition of nomination for the office
 14 must be filed;
 15 (3) not later than noon the last day for filing a petition of
 16 nomination under IC 3-8-6-10(c); and
 17 (4) requesting that the person's name be printed as nominated
 18 by a subsequent petition;
 19 the person's name must be placed on the list of candidates
 20 nominated by the subsequent petition.
 21 (f) This subsection applies to a person nominated by more than
 22 one (1) convention. The person's name must be placed on the list of
 23 candidates nominated by convention for the first certificate of
 24 nomination filed with the public official with whom the certificate
 25 is required to be filed, and the place occupied by the person's name
 26 in a subsequent certificate of nomination of the convention must be
 27 left blank. However, if the candidate files a written statement:
 28 (1) acknowledged before a person who is authorized to take
 29 acknowledgments;
 30 (2) in the office where a certificate of nomination for the office
 31 must be filed;
 32 (3) not later than noon the last day for filing a certificate of
 33 nomination; and
 34 (4) requesting that the person's name be printed as nominated
 35 by a subsequent convention;
 36 the person's name must be printed as nominated by the subsequent
 37 convention.
 38 (f) If an individual is nominated as a candidate under IC 3-13-1
 39 to fill a candidate vacancy, the individual is considered for
 40 purposes of this section to have been nominated in the same
 41 manner as the candidate whom the individual succeeded or in the
 42 same manner as a candidate would have been nominated if no

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1 **nomination is made. If an individual is nominated as a candidate**
 2 **under IC 3-13-2 to fill a candidate vacancy, the individual may not**
 3 **be placed on the ballot as the candidate of any other political party.**

4 SECTION 11. IC 3-8-7-21, AS AMENDED BY P.L.3-1997,
 5 SECTION 161, IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) If a person has been
 7 nominated by two (2) or more political parties, or as an independent
 8 candidate and as the nominee of at least one (1) political party, the
 9 person must elect which of the nominations the person will accept.

10 (b) The election must be in writing, signed, acknowledged before an
 11 officer authorized to take acknowledgments, and filed in the office
 12 where a declaration of candidacy must be filed for the office under
 13 IC 3-8-2 or where a certificate of nomination by a ~~state~~ convention
 14 must be filed under this chapter by noon August 1 before the election.

15 SECTION 12. IC 3-8-7-22, AS AMENDED BY P.L.3-1997,
 16 SECTION 162, IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) **This section applies** if
 18 a person nominated by two (2) or more political parties or as an
 19 independent candidate and as the nominee of at least one (1) political
 20 party does not make and file an election as required by section 21 of
 21 this chapter.

22 (b) **If:** The election division or circuit court clerk shall make the
 23 election for the person.

24 (c) **The election division or clerk shall give preference** ~~shall be~~
 25 ~~given~~ to the nomination made by **primary election and secondly to**
 26 **the nomination given by convention. If the candidate is nominated**
 27 **by more than one (1) convention or more than one (1) petition and**
 28 **the candidate does not make the election, the election division or**
 29 **clerk shall give preference to the first certificate of nomination for**
 30 **a convention given to the candidate under IC 3-8-5-13 or**
 31 **IC 3-8-7-8 or first petition of nomination given to the candidate**
 32 **under IC 3-8-6-10.**

33 SECTION 13. IC 3-8-7-24, AS AMENDED BY P.L.3-1997,
 34 SECTION 164, IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE UPON PASSAGE]: Sec. 24. The election division and
 36 each circuit court clerk shall preserve ~~in their offices~~ all certificates and
 37 petitions of nomination filed under this article for the period required
 38 under IC 3-10-1-31.

39 SECTION 14. IC 3-10-1-33, AS AMENDED BY P.L.3-1997,
 40 SECTION 217, IS AMENDED TO READ AS FOLLOWS
 41 [EFFECTIVE UPON PASSAGE]: Sec. 33. (a) The county election
 42 board shall also make an additional duplicate showing the votes cast



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1 for each candidate required to file a declaration of candidacy with the
 2 election division under IC 3-8-2. ~~or for whom a certificate of~~
 3 ~~nomination must be filed with the election division under IC 3-8-7.~~

4 (b) The circuit court clerk shall, not later than **noon on** the Monday
 5 following the primary election, send to the election division by certified
 6 mail or hand deliver to the election division one (1) complete copy of
 7 all returns for these candidates.

8 SECTION 15. IC 3-11-3-6, AS AMENDED BY P.L.3-1997,
 9 SECTION 268, IS AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE UPON PASSAGE]: Sec. 6. ~~(a) Each circuit court clerk~~
 11 ~~shall pick up~~ **The election division shall deliver** the state and
 12 presidential paper ballots at a site designated by the election division.

13 ~~(b) Each clerk is entitled to a mileage allowance for the distance~~
 14 ~~necessarily traveled in going to and returning from the site designated~~
 15 ~~by the election division. The mileage rate equals the mileage rate paid~~
 16 ~~to state officers and employees. by certified mail, or by another~~
 17 **means of delivery that includes a return receipt, to:**

18 (1) **each circuit court clerk; or**

19 (2) **in a county subject to IC 3-6-5.2, the chief deputy of the**
 20 **combined board.**

21 SECTION 16. IC 3-11-3-29.5, AS AMENDED BY P.L.3-1997,
 22 SECTION 272, IS AMENDED TO READ AS FOLLOWS
 23 [EFFECTIVE UPON PASSAGE]: Sec. 29.5. (a) The election division
 24 or an election board shall act under subsection (c) **to print new ballots**
 25 or have pasters made to cover the name of a candidate who has died or
 26 is no longer a candidate under IC 3-13-2-1 if:

27 (1) the candidate's party does not fill the vacancy under IC 3-13-1
 28 or IC 3-13-2 not later than noon, five (5) days before the election;
 29 and

30 (2) **when a candidate has died**, the election division or election
 31 board:

32 (A) receives a certificate of death issued under IC 16-37-3 not
 33 later than **noon** the seventh day before the election; or

34 (B) by unanimous vote of the entire membership ~~if the election~~
 35 ~~division or election board finds~~ that there is good cause to
 36 believe that the candidate has died.

37 (b) The election division or election board shall provide the number
 38 of opaque pasters the election division or election board determines to
 39 be necessary for all ballots to reflect a vacancy to the following:

40 (1) The absentee voter board.

41 (2) The inspector of each precinct in which the candidate is on the
 42 ballot.



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1 (3) The circuit court clerk.

2 (c) If the election division or election board determines that the use
3 of pasters under this section would be impractical or uneconomical, the
4 election division or board may order the printing of new ballots that
5 omit the name of a candidate described in subsection (a). A ballot
6 printed under this subsection must contain the statement "NO
7 CANDIDATE" or "CANDIDATE DECEASED" or words to that effect
8 at the appropriate position on the ballot.

9 (d) If a candidate vacancy under IC 3-13-1 or IC 3-13-2 is filled
10 after noon five (5) days before the election, the election division or
11 election board is not required to reprint ballots or have pasters with the
12 name of the successor candidate placed over the name of an individual
13 who is no longer a candidate but may do so upon the vote of the
14 commission or election board.

15 SECTION 17. IC 3-11-4-2 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter who
17 is eligible to vote by absentee ballot must apply to the county election
18 board for an official absentee ballot.

19 **(b) If an individual applies for an absentee ballot as the properly**
20 **authorized attorney in fact for a voter, the attorney in fact must**
21 **attach a copy of the power of attorney to the application.**

22 SECTION 18. IC 3-11-4-3, AS AMENDED BY P.L.3-1997,
23 SECTION 273, IS AMENDED TO READ AS FOLLOWS
24 [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in
25 ~~subsections (b) and (c)~~ **subsection (b)** and sections 6 and 8 of this
26 chapter, an application for an absentee ballot must be received by the
27 circuit court clerk **(or, in a county having a population of more than**
28 **four hundred thousand (400,000) but less than seven hundred**
29 **thousand (700,000), the chief deputy of the combined board, as**
30 **defined in IC 3-6-5.2-2)** not earlier than ninety (90) days before
31 election day nor later than **the following:**

32 (1) Noon on the day before election day if the voter completes the
33 application in the office of the circuit court clerk.

34 (2) Noon on the day before election day if:

35 (A) the application is a mailed or hand delivered application
36 from a confined voter or ~~person~~ **voter** caring for a confined
37 person; and

38 (B) the applicant requests that the absentee ballots be
39 delivered to the applicant by an absentee voter board. ~~or~~

40 (3) Midnight on the eighth day before election day if the
41 application:

42 (A) is a mailed application; or



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1 (B) was transmitted by a facsimile (FAX) machine;
2 from other voters.

3 (b) This subsection applies to an absentee ballot application from a
4 confined voter or ~~person voter~~ caring for a confined ~~voter person~~ that
5 is **sent by facsimile (fax) transmission**, mailed, or hand delivered to
6 the circuit court clerk of a county having a consolidated city. An
7 application subject to this subsection that is **sent by facsimile (fax)**
8 **transmission or** hand delivered must be received by the circuit court
9 clerk not earlier than ninety (90) days before election day nor later than
10 10 p.m. on the fifth day before election day. An application subject to
11 this subsection that is mailed must be received by the circuit court clerk
12 not earlier than ninety (90) days before election day and not later than
13 10 p.m. on the eighth day before election day.

14 ~~(c) This subsection applies to an absentee ballot application from a~~
15 ~~confined voter or a person caring for a confined voter that is mailed or~~
16 ~~hand delivered to the circuit court clerk of a county having a population~~
17 ~~of more than four hundred thousand (400,000) but less than seven~~
18 ~~hundred thousand (700,000). An application subject to this section~~
19 ~~must be received by the chief deputy of the combined board not earlier~~
20 ~~than ninety (90) days before election day nor later than 10 p.m. on the~~
21 ~~fourth day before election day.~~

22 SECTION 19. IC 3-11-4-21, AS AMENDED BY P.L.3-1997,
23 SECTION 281, IS AMENDED TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 1998]: Sec. 21. (a) On the other side of the
25 envelope required by section 20 of this chapter shall be printed an
26 affidavit providing that the voter affirms under penalty of perjury that
27 the following information is true:

- 28 (1) The name of the precinct and township (or ward and city or
29 town).
30 (2) That the voter is:
31 (A) a resident of; or
32 (B) entitled under IC 3-10-11 or IC 3-10-12 to vote in;
33 the precinct.
34 (3) The voter's complete residence address, including the name of
35 the city or town and county.
36 (4) That the voter is entitled to vote in the precinct, the type of
37 election to be held, and the date of the election.
38 (5) That:
39 (A) the voter has personally marked the enclosed ballot or
40 ballots in secret and has enclosed them in this envelope and
41 sealed them without exhibiting them to any other person;
42 (B) **the voter personally marked the enclosed ballot or**



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ballots, enclosed them in this envelope, and sealed them with the assistance of an individual whose name is set forth on the envelope and who affirms under penalty of perjury that the voter was not coerced or improperly influenced by the individual assisting the voter or any other person, in a manner prohibited by state or federal law, to cast the ballot for or against any candidate, political party, or public question; or

(C) as the properly authorized attorney in fact for the undersigned under IC 30-5-5-14, the attorney in fact affirms the voter personally marked the enclosed ballot or ballots in secret and enclosed them in this envelope and sealed them without exhibiting them to the attorney in fact or to any other person).

(6) The date and the voter's signature.

(b) If the affidavit is signed by an attorney in fact, the name of the attorney in fact must be indicated. ~~and a copy of the power of attorney attached to the affidavit.~~

(c) A guardian or conservator of an individual may not sign an affidavit for the individual under this section unless the guardian or conservator also holds a power of attorney authorizing the guardian or conservator to sign the affidavit.

SECTION 20. IC 3-11-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 9. If a voter votes a straight party ticket for more than one (1) political party, a ballot card voting system must consider the whole ballot void **except for the voter's vote for a school board candidate or on a public question** in accordance with IC 3-12-1-7(d).

SECTION 21. IC 3-11-8-6, AS AMENDED BY P.L.3-1997, SECTION 298, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) If possible, the county executive shall locate the polls for each precinct in a facility that meets **the standards for accessibility guidelines established by the commission for voters with disabilities and elderly voters and in accordance with established under 42 U.S.C. 1973ee through 1973ee-6.** If the county executive determines that no accessible facility is available in a precinct and that no facility can be made temporarily accessible, the county executive shall designate at least one (1) special voting poll in the county at least twenty-nine (29) days before election day. A special voting poll must:

(1) be accessible to voters with disabilities and elderly voters under federal law; and

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- 1 (2) operate under all other requirements for precincts and polls
- 2 under this title.
- 3 (b) The county executive shall:
- 4 (1) provide public notice; and
- 5 (2) file a report;
- 6 listing each inaccessible precinct and each special voting poll in the
- 7 county with the election division at least twenty-nine (29) days before
- 8 election day. The list shall be available to any person upon request.
- 9 (c) A precinct poll may also be used as a special voting poll for the
- 10 county if the precinct poll meets the standards for accessibility by
- 11 voters with disabilities and elderly voters established under federal law.
- 12 (d) The county election board shall assign a special voting poll to a
- 13 voter with disabilities or elderly voter:
- 14 (1) whose regular precinct poll is inaccessible to voters with
- 15 disabilities or elderly voters; and
- 16 (2) who submits an application on a form prescribed by the
- 17 commission at least ten (10) days before election day.
- 18 (e) Applications may be submitted under subsection (d)(2):
- 19 (1) in person at the principal office of the county election board;
- 20 or
- 21 (2) by mail.
- 22 (f) The precinct election board at a special voting poll shall do the
- 23 following:
- 24 (1) Provide each voter with disabilities or elderly voter assigned
- 25 under subsection (d) a ballot that includes all offices and public
- 26 questions to be voted for in the voter's precinct of residence.
- 27 (2) Prepare a separate poll list for the voters with disabilities and
- 28 elderly voters assigned to the special voting poll.
- 29 (g) Votes cast at a special voting poll shall be counted and reported
- 30 in the same manner as votes cast at a precinct under this title.
- 31 SECTION 22. IC 3-11-10-17, AS AMENDED BY P.L.3-1997,
- 32 SECTION 304, IS AMENDED TO READ AS FOLLOWS
- 33 [EFFECTIVE JULY 1, 1998]: Sec. 17. (a) If the inspector finds under
- 34 section 15 of this chapter that:
- 35 (1) the affidavit is insufficient or the ballot has not been endorsed
- 36 with the initials of:
- 37 (A) the two (2) members of the absentee voter board in the
- 38 office of the circuit court clerk under IC 3-11-4-19 or
- 39 ~~IC 3-11-10-26~~; or **section 26 of this chapter;**
- 40 (B) **the two (2) members of the absentee voter board**
- 41 **visiting the voter under section 25(b) of the chapter; or**
- 42 (C) the two (2) appointed members of the county election

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- 1 board or their designated representatives under IC 3-11-4-19;
- 2 (2) a copy of the voter's signature has been furnished to the
- 3 precinct election board and that the signatures do not correspond
- 4 or there is no signature;
- 5 (3) the absentee voter is not a qualified voter in the precinct;
- 6 (4) the absentee voter has voted in person at the election;
- 7 (5) the absentee voter has not registered;
- 8 (6) the ballot is open, or has been opened and resealed;
- 9 (7) the ballot envelope contains more than one (1) ballot of any
- 10 kind **for the same office or public question;**
- 11 (8) in case of a primary election, if the absentee voter has not
- 12 previously voted, the voter failed to execute the proper
- 13 declaration relative to age and qualifications and the political
- 14 party with which the voter intends to affiliate; or
- 15 (9) the ballot has been challenged and not supported;
- 16 then the ballots may not be accepted or counted.

17 **(b) This subsection applies whenever a voter with a disability is**
 18 **unable to make a signature:**

- 19 **(1) on an absentee ballot application that corresponds to the**
- 20 **voter's signature in the records of the county voter**
- 21 **registration office; or**
- 22 **(2) on an absentee ballot secrecy envelope that corresponds**
- 23 **with the voter's signature:**
- 24 **(A) in the records of the county voter registration office; or**
- 25 **(B) on the absentee ballot application.**

26 **(c) The voter may request that the voter's signature or mark be**
 27 **attested to by:**

- 28 **(1) the absentee voter board under section 25(b) of this**
- 29 **chapter;**
- 30 **(2) a member of the voter's household; or**
- 31 **(3) an individual serving as attorney in fact for the voter.**

32 **(d) An attestation under subsection (c) provides an adequate**
 33 **basis for an inspector to determine that a signature or mark**
 34 **complies with subsection (a)(2).**

35 SECTION 23. IC 3-11-10-24, AS AMENDED BY P.L.3-1997,
 36 SECTION 305, IS AMENDED TO READ AS FOLLOWS
 37 [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) Except as provided in
 38 subsection (b), each voter entitled to vote by absentee ballot is entitled
 39 to vote by mail.

40 (b) A voter with disabilities who:

- 41 **(1) is unable to make a voting mark on the ballot or sign the**
- 42 **absentee ballot secrecy envelope; and**



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1 **(2) requests that the absentee ballot be delivered to an address**
 2 **within Indiana;**

3 must vote before an absentee voter board under section 25(b) of this
 4 chapter.

5 (c) After a voter has mailed an absentee ballot to the office of the
 6 circuit court clerk, the voter may not recast a ballot, except as provided
 7 in:

8 (1) section 1.5 of this chapter; or

9 (2) section 33 of this chapter.

10 SECTION 24. IC 3-11.5-4-13 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) If the
 12 absentee ballot counters find under section 11 of this chapter that:

13 (1) the affidavit is insufficient **or that the ballot has not been**
 14 **endorsed with the initials of:**

15 **(A) the two (2) members of the absentee voter board in the**
 16 **office of the circuit court clerk under IC 3-11-4-19 or**
 17 **IC 3-11-10-26;**

18 **(B) the two (2) members of the absentee voter board**
 19 **visiting the voter under IC 3-11-10-25; or**

20 **(C) the two (2) appointed members of the county election**
 21 **board or their designated representatives under**
 22 **IC 3-11-4-19;**

23 (2) the signatures do not correspond or there is no signature;

24 (3) the absentee voter is not a qualified voter in the precinct;

25 (4) the absentee voter has voted in person at the election;

26 (5) the absentee voter has not registered;

27 (6) the ballot is open, or has been opened and resealed;

28 (7) the ballot envelope contains more than one (1) ballot of any
 29 kind;

30 (8) in case of a primary election, if the absentee voter has not
 31 previously voted, the voter failed to execute the proper
 32 declaration relative to age and qualifications and the political
 33 party with which the voter intends to affiliate; or

34 (9) the ballot has been challenged and not supported;

35 the ballots shall be rejected.

36 (b) If the absentee ballot counters are unable to agree on a finding
 37 described under this section or section 12 of this chapter, the county
 38 election board shall make the finding.

39 (c) The absentee ballot counters or county election board shall issue
 40 a certificate to a voter whose ballot has been rejected under this section
 41 if the voter appears in person before the board not later than 5 p.m. on
 42 election day. The certificate must state that the voter's absentee ballot



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1 has been rejected and that the voter may vote in person under section
2 21 of this chapter if otherwise qualified to vote.

3 SECTION 25. IC 3-11.5-4-22 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) Each county
5 election board shall appoint:

- 6 (1) absentee voter boards;
7 (2) teams of absentee ballot counters; and
8 (3) teams of couriers;

9 consisting of two (2) voters of the county, one (1) from each of the two
10 (2) political parties that have appointed members on the county
11 election board.

12 (b) ~~★ An otherwise qualified~~ person is ~~not~~ eligible to serve on an
13 absentee voter board or as an absentee ballot counter or a courier if
14 **unless** the person:

- 15 (1) is unable to read, write, and speak the English language;
16 (2) has any property bet or wagered on the result of the election;
17 (3) is a candidate to be voted for at the election, except as an
18 unopposed candidate for precinct committeeman or state
19 convention delegate; or
20 (4) is the spouse, parent, father-in-law, mother-in-law, child,
21 son-in-law, daughter-in-law, grandparent, grandchild, brother,
22 sister, brother-in-law, sister-in-law, uncle, aunt, nephew, **or** niece,
23 **or first cousin** of a candidate or declared write-in candidate to be
24 voted for at the election except as an unopposed candidate. This
25 subdivision disqualifies a person whose relationship to the
26 candidate is the result of birth, marriage, or adoption. ~~This~~
27 ~~subdivision does not disqualify a person who is a spouse of a first~~
28 ~~cousin of the candidate.~~

29 SECTION 26. IC 3-11.5-4-23, AS AMENDED BY P.L.3-1995,
30 SECTION 118, IS AMENDED TO READ AS FOLLOWS
31 [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) **Not later than noon ten**
32 **(10) days before absentee voting begins under IC 3-11-10-26**, each
33 county election board shall notify the county chairmen of the two (2)
34 political parties that have appointed members on the county election
35 board of the number of:

- 36 (1) absentee voter boards;
37 (2) teams of absentee ballot counters; and
38 (3) teams of couriers;

39 to be appointed under section 22 of this chapter.

40 (b) The county chairmen shall make written recommendations for
41 the appointments ~~within ten (10) days after notification under~~
42 ~~subsection (a); and to the county election board not later than noon~~



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1 **three (3) days before absentee voting begins under IC 3-11-10-26.**

2 The county election board shall make the appointments as
3 recommended.

4 (c) If a county chairman fails to make any recommendations, then
5 the county election board may appoint any voters of the county.

6 SECTION 27. IC 3-11.5-7-2 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. The voters appointed
8 as couriers or absentee ballot counters under this article shall be
9 compensated in the following manner:

10 (1) Couriers assigned to deliver absentee ballots certifications to
11 the precincts on election day under IC 3-11.5-4-8, are entitled to
12 a per diem ~~not to exceed fifty dollars (\$50)~~ **established by the**
13 **county executive** and a sum for ~~milage equal in rate to that rate~~
14 ~~paid to state officers and employees.~~ **mileage established by the**
15 **county fiscal body.**

16 (2) The absentee ballot counters who are assigned to perform
17 duties regarding absentee ballots on election day are entitled to a
18 per diem ~~not to exceed fifty dollars (\$50).~~ **established by the**
19 **county executive.**

20 SECTION 28. IC 3-12-1-16 IS ADDED TO THE INDIANA CODE
21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
22 UPON PASSAGE]: **Sec. 16. (a) This section applies when:**

23 **(1) a ballot:**

24 **(A) contains pasters applied under IC 3-11-3-29.5(a) to**
25 **cover the name of an individual who is no longer a**
26 **candidate; or**

27 **(B) has been reprinted under IC 3-11-3-29.5(c) to omit the**
28 **name of an individual who is no longer a candidate; and**

29 **(2) the candidate vacancy has been filled following the**
30 **application of the pasters or the reprinting of the ballots.**

31 **(b) A vote cast on the ballot where the statement "NO**
32 **CANDIDATE" or "CANDIDATE DECEASED" appears is**
33 **considered a vote cast for the successor candidate.**

34 SECTION 29. IC 3-12-5-2 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) Whenever a
36 candidate is elected:

37 **(1) to a local or school board office other than:**

38 **(+) (A) one for which a town clerk-treasurer issues a certificate**
39 **of election under IC 3-10-7-34; or**

40 **(-) (B) one commissioned by the governor under IC 4-3-1-5;**

41 **or**

42 **(2) a precinct committeeman or state convention delegate;**



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1 the circuit court clerk shall, ~~after the expiration of the period required~~
 2 **when permitted** under section 16 of this chapter, prepare and deliver
 3 to the candidate on demand a certificate of the candidate's election.

4 (b) This subsection applies to a local or school board office
 5 described in subsection (a) with an election district located in more
 6 than one (1) county ~~or and~~ a local public question placed on the ballot
 7 in more than one (1) county. The circuit court clerk of the county that
 8 contains the greatest percentage of the population of the election
 9 district shall, upon demand of the candidate or a person entitled to
 10 request a recount of the votes cast on a public question under
 11 IC 3-12-12:

12 (1) obtain the certified statement of the votes cast for that office
 13 or on that question that was prepared under IC 3-12-4-9 from the
 14 circuit court clerk in each other county in which the election
 15 district is located;

16 (2) tabulate the total votes cast for that office or on that question
 17 as shown on the certified statement of each county in the election
 18 district; and

19 (3) issue a certificate of election to the candidate ~~upon the~~
 20 **expiration of the period required when permitted** under section
 21 16 of this chapter or a certificate declaring the local public
 22 question approved or rejected.

23 SECTION 30. IC 3-12-5-16 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. A certificate of
 25 election may not be issued until the ~~ten (10) day~~ period allowed **under**
 26 **section 14 of this chapter** for the discovery and correction of errors
 27 has expired.

28 SECTION 31. IC 3-12-6-22 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) When a
 30 recount is completed by a commission appointed under this chapter, the
 31 commission shall:

32 (1) make and sign a certificate showing the total number of votes
 33 received in the precincts by each candidate for nomination or
 34 election to the office;

35 (2) state in its certificate the candidate who received the highest
 36 number of votes in the precincts for nomination or election to the
 37 office and by what plurality; and

38 (3) file its certificate with the circuit court clerk.

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

40 (1) enter the certificate in the order book of the court;

41 (2) **file a copy of the certificate in the minutes of the county**
 42 **election board; and**

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1 **(3) if the recount concerned an office for which a declaration**
 2 **of candidacy must be filed with the election division under**
 3 **IC 3-8-2, file a copy of the certificate with the election division**
 4 **not later than seven (7) days after the date the recount**
 5 **commission filed the certificate with the circuit court clerk.**

6 SECTION 32. IC 3-12-6-28, AS AMENDED BY P.L.3-1997,
 7 SECTION 362, IS AMENDED TO READ AS FOLLOWS
 8 [EFFECTIVE UPON PASSAGE]: Sec. 28. A circuit court clerk shall
 9 immediately transmit a certificate prepared under section 27 of this
 10 chapter showing the votes cast for nomination or election to an office
 11 to the election division **if the recount concerned an office for which**
 12 **a declaration of candidacy must be filed with the election division**
 13 **under IC 3-8-2.**

14 SECTION 33. IC 3-12-8-18 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. A circuit court
 16 clerk shall certify the determination made **concerning the election**
 17 **contest** under section 17 of this chapter to the: ~~appropriate public~~
 18 ~~official.~~

- 19 **(1) county election board;**
- 20 **(2) election division, if the contest concerned an office for**
- 21 **which a declaration of candidacy must be filed with the**
- 22 **election division under IC 3-8-2; and**
- 23 **(3) governor, if the contest concerned an office commissioned**
- 24 **by the governor under IC 4-3-1-5.**

25 SECTION 34. IC 3-13-9-5.6 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5.6. (a) If fewer town
 27 council members have been elected at large than there were members
 28 to be elected, the town council shall determine, ~~at the council's first~~
 29 ~~organizational meeting~~ **not later than December 31** following the
 30 election, the incumbent council member or members who hold office
 31 under Article 15, Section 3 of the Constitution of the State of Indiana
 32 until a successor is elected and qualified. If a tie vote occurs during the
 33 vote to determine the members that continue to hold office, the town
 34 clerk-treasurer casts the deciding vote under IC 36-5-2-8.

- 35 (b) The town clerk-treasurer shall give notice of the meeting.
- 36 (c) The notice must:
 - 37 (1) be in writing;
 - 38 (2) state the purpose of the meeting;
 - 39 (3) state the date, time, and place of the meeting; and
 - 40 (4) be sent by first class mail to each member of the town council
 - 41 at least ten (10) days before the meeting.

42 SECTION 35. IC 3-13-11-18 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. A person who
 2 assumes the duties of a vacant office under this chapter has all of **its**
 3 **the office's** rights and duties. **Except as otherwise provided in**
 4 **IC 3-13-6, the person serves for the remainder of the unexpired**
 5 **term.**

6 SECTION 36. IC 3-14-2-16, AS AMENDED BY P.L.4-1996,
 7 SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 UPON PASSAGE]: Sec. 16. A person who knowingly does any of the
 9 following commits a Class D felony:

- 10 (1) Applies for or receives a ballot in a precinct other than that
 11 **precinct** in which the person is entitled to vote.
- 12 (2) **Except when receiving assistance under IC 3-11-9**, shows
 13 a ballot after it is marked to another person in such a way as to
 14 reveal the contents of it or the name of a candidate for whom the
 15 person has voted.
- 16 (3) **Except when offering assistance requested by a voter in**
 17 **accordance with IC 3-11-9**, examines a ballot that a voter has
 18 prepared for voting or solicits the voter to show the ballot.
- 19 (4) Receives from a voter a ballot prepared by the voter for
 20 voting, except:
 - 21 (A) the inspector;
 - 22 (B) a member of the precinct election board temporarily acting
 23 for the inspector;
 - 24 (C) a member of a county election board or an absentee voter
 25 board acting under IC 3-11-10; or
 - 26 (D) a member of the voter's household or an individual
 27 designated as attorney in fact for the voter, when delivering an
 28 envelope containing an absentee ballot under IC 3-11-10-1.
- 29 (5) Receives a ballot from a person other than one of the poll
 30 clerks or authorized assistant poll clerks.
- 31 (6) Delivers a ballot to a voter to be voted, unless the person is:
 - 32 (A) a poll clerk or authorized assistant poll clerk; **or**
 - 33 (B) **a member of a county election board or an absentee**
 34 **voter board acting under IC 3-11-10.**
- 35 (7) Delivers a ballot (other than an absentee ballot) to an inspector
 36 that is not the ballot the voter receives from the poll clerk or
 37 assistant poll clerk.
- 38 (8) Delivers an absentee ballot to a team of absentee ballot
 39 counters appointed under IC 3-11.5-4-22, a county election board,
 40 a circuit court clerk, or an absentee voting board under IC 3-11-10
 41 that is not the ballot cast by the absentee voter.

42 SECTION 37. THE FOLLOWING ARE REPEALED [EFFECTIVE

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1 UPON PASSAGE]: IC 3-8-7-9; IC 3-11-3-7; IC 3-11-3-9.
2 SECTION 38. [EFFECTIVE JULY 1, 1997 (RETROACTIVE)] (a)
3 **This SECTION applies to a candidate for a school board office**
4 **described by IC 3-8-1-34(b).**
5 (b) **An individual seeking election to a school board office on**
6 **May 5, 1998:**
7 (1) **is not required to comply with the residence requirement**
8 **set forth in IC 3-8-1-34(b); and**
9 (2) **must comply with all other candidate requirements for the**
10 **school board office set forth in IC 3-8-1 or IC 20.**
11 (c) **This SECTION expires June 1, 1998.**
12 SECTION 39. [EFFECTIVE UPON PASSAGE] (a)
13 **Notwithstanding IC 3-6-5-4, as amended by this act, the term of an**
14 **individual serving as a member of a county election board**
15 **appointed by a circuit court clerk on the effective date of this**
16 **SECTION expires July 1, 2001. An individual appointed to fill the**
17 **unexpired term of an individual described by this SECTION serves**
18 **until July 1, 2001.**
19 (b) **This SECTION expires July 2, 2001.**
20 SECTION 40. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Elections, to which was referred Senate Bill 335, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 3-6-4.2-14, AS ADDED BY P.L.3-1997, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1997 (RETROACTIVE)]: Sec. 14. (a) Each year the election division shall call a meeting of all the members of the county election boards and the boards of registration to instruct them as to their duties under this title. Each circuit court clerk shall attend the meeting.

(b) The co-directors of the election division shall set the time and place of the instructional meeting. In years in which a primary election is held, the election division shall conduct the meeting before primary election day. The instructional meeting may not last for more than two (2) days.

(c) Each member of a county election board or board of registration is entitled to receive: ~~and~~

- (1) ~~a~~ per diem of twenty-four dollars (\$24) for attending the instructional meeting required by this section;
- (2) ~~a~~ mileage allowance at the state rate for the distance necessarily traveled in going and returning from the place of the instructional meeting required by this section; ~~and~~
- (3) reimbursement for the payment of the instructional meeting registration fee from the county general fund without appropriation; ~~and~~
- (4) an allowance for lodging for each night preceding conference attendance equal to the lodging allowance provided to state employees in travel status.**

SECTION 2. IC 3-6-5-4, AS AMENDED BY P.L.3-1997, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The board members appointed by the circuit court clerk serve **for a term of four (4) years and** until their successors are appointed and qualified, **subject to the member's removal under section 6 of this chapter.**

SECTION 3. IC 3-8-1-1, AS AMENDED BY P.L.3-1997, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This section does not apply to a candidate for any of the following offices:

- (1) Judge of a city court. ~~in a city located in a county having a~~



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population of:

(A) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(B) more than two hundred thousand (200,000) but less than three hundred thousand (300,000);

~~(2) judge of a city court in a third class city; or~~

~~(3) (2) Judge of a town court.~~

(b) A person is not qualified to run for:

(1) a state office;

(2) a legislative office;

(3) a local office; or

(4) a school board office;

unless the person is registered to vote in the election district the person seeks to represent not later than the deadline for filing the declaration or petition of candidacy or certificate of nomination.

(c) If a candidate filing error is made by the election division or a circuit court clerk, the error does not invalidate the filing.

SECTION 4. IC 3-8-1-1.5, AS AMENDED BY P.L.3-1997, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998] : Sec. 1.5. (a) This section applies to a candidate for any of the following offices:

(1) Judge of a city court in a city located in a county having a population of

(A) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

~~(B) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).~~

~~(2) Judge of a city court in a third class city.~~

~~(3) (2) Judge of a town court.~~

(b) A person is not qualified to run for an office subject to this section unless the person is registered to vote in a county in which the municipality is located **not later than the deadline for filing the declaration or petition of candidacy or certificate of nomination.**

SECTION 5. IC 3-8-1-2, AS AMENDED BY P.L.3-1997, SECTION 113, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commission, ~~or~~ a county election board, **or a town election board** shall act in accordance with this section if a candidate ~~in accordance with this section~~ (or a person acting on behalf of a candidate in accordance with state law) has filed any of the following:

(1) A declaration of candidacy under IC 3-8-2 **or IC 3-8-5.**

(2) A request for ballot placement in a presidential primary under

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IC 3-8-3.

(3) A petition of nomination or candidate's consent to nomination under IC 3-8-6.

(4) A certificate of nomination under **IC 3-8-5, IC 3-8-7, IC 3-10-2-15, or IC 3-10-6-12.**

(5) A certificate of candidate selection under IC 3-13-1 or IC 3-13-2.

(6) A declaration of intent to be a write-in candidate under IC 3-8-2-2.5.

(b) The commission has jurisdiction to act under this section with regard to any filing described in subsection (a) that was made with the election division. **Except for a filing under the jurisdiction of a town election board,** a county election board has jurisdiction to act under this section with regard to any filing described in subsection (a) that was made with the county election board, county voter registration office, or the circuit court clerk. **A town election board has jurisdiction to act under this section with regard to any filing that was made with the county election board, the county voter registration office, or the circuit court clerk for nomination or election to a town office.**

(c) Before the commission or ~~county~~ election board acts under this section, a registered voter of the election district that a candidate seeks to represent must file a sworn statement with the election division or a county election board:

- (1) questioning the eligibility of a candidate to seek the office; and
- (2) setting forth the facts known to the voter concerning this question.

(d) Upon the filing of a sworn statement under subsection (c), the commission or ~~county~~ election board shall determine the validity of the questioned declaration of candidacy, **declaration of intent to be a write-in candidate,** request for ballot placement under IC 3-8-3, petition of nomination, certificate of nomination, or certificate of candidate selection issued under IC 3-13-1-15 or IC 3-13-2-8.

(e) The commission or ~~county~~ election board shall deny a filing if the commission or ~~county~~ election board determines that the candidate has not complied with the applicable requirements for the candidate set forth in the Constitution of the United States, the Constitution of the State of Indiana, or this title.

SECTION 6. IC 3-8-1-5.5, AS AMENDED BY P.L.3-1997, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) Except as provided in



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IC 3-13-1-19 and IC 3-13-2-10 for filling a vacancy on a ticket, a person who:

- (1) is defeated in a primary election; or
- (2) appears as a candidate for nomination at a state convention **and is defeated**; or
- (3) files a declaration of candidacy for nomination by a **county, city, or** town convention and is defeated;

is not eligible to become a candidate for the same office in the next general or municipal election.

(b) For the purposes of subsection (a):

- (1) a candidate for an at-large seat on a fiscal body is considered a candidate for the same office as a candidate for a district seat on a fiscal body; and
- (2) a candidate for United States representative from a district in Indiana is considered a candidate for the same office as a candidate for any other congressional district in Indiana.

(c) This section does not apply to a candidate who files a written request for placement on the presidential primary ballot under IC 3-8-3.

SECTION 7. IC 3-8-1-28.5, AS AMENDED BY P.L.12-1997, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 28.5. (a) This section does not apply to a candidate for the office of judge of a city court in a city located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(b) A candidate for the office of judge of a city court must reside in the city upon filing a declaration of candidacy **or declaration of intent to be a write-in candidate** required under IC 3-8-2, ~~or~~ a petition of nomination under IC 3-8-6, **or a certificate of nomination under IC 3-10-6-12.**

(c) A candidate for the office of judge of a city court must reside in ~~the~~ **a county in which the city is located** upon the filing of a certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8.

SECTION 8. IC 3-8-2-19, AS AMENDED BY P.L.3-1997, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) Upon receipt of the certified list under section 17 of this chapter, a county election board shall immediately compile under the proper political party designation the following:

- (1) The title of each office.
- (2) The name of each individual who has filed a ~~written~~ request to be placed on the presidential primary ballot.
- (3) The names and addresses of all persons for whom declarations



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of candidacy have been filed for nomination to an office on the primary election ballot.

(4) The names and addresses of all persons who have filed a petition of nomination for election to a school board office to be chosen at the same time as the primary election.

(5) The text of any public question to be placed on the ballot.

(6) The date of the primary election.

(7) The hours during which the polls will be open.

(b) The county election board shall do the following:

(1) Publish the information described in subsection (a) before the primary election in accordance with IC 5-3-1.

(2) File a copy of the information described in subsection (a):

(A) with the election division; and

(B) in the minutes of the county election board.

(c) The county election board shall file the copies required under subsection (b)(2) not later than noon, ten (10) days before election day.

(d) An election is not invalidated by the failure of the board to comply with this section.

(e) If the county election board receives an amendment from the election division under section 17 of this chapter after:

(1) compilation of the information described in subsection (a) has occurred; or

(2) the board determines that it is impractical to recompile completely revised information;

the board is only required to ~~provide copies~~ **file a copy** of the amendment to ~~persons listed in subsection (b)(2)~~ **with the minutes of the board.**

SECTION 9. IC 3-8-5-17, AS ADDED BY P.L.3-1995, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) This section applies to a political party:

(1) not qualified to conduct a primary election under IC 3-10; and

(2) not required to nominate candidates by a petition of nomination under IC 3-8-6.

(b) **An individual who desires to be nominated for a town office by the political party must file a declaration of candidacy in the same manner as a candidate for nomination by a major political party under section 10.5 of this chapter. If a convention would be required for the political party under section 10 of this chapter, the political party shall conduct a convention to nominate candidates for town office not later than the date for conducting a major party town convention under section 10 of this chapter.**

(c) The chairman and secretary of the town convention shall

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execute, acknowledge, and file a certificate setting forth the nominees of the convention in accordance with section 13 of this chapter.

(d) Each candidate nominated under this section shall execute a consent to the nomination in the same form as a candidate nominated by petition under IC 3-8-6. The consent must be filed with the certificate under subsection (c). **An individual who wishes to withdraw as a candidate after nomination by the convention must do so in the manner prescribed by section 14.5 of this chapter.**

(e) The circuit court clerk shall file a copy of each certificate and each candidate's consent with the town clerk-treasurer in accordance with section 13 of this chapter."

Page 2, delete lines 1 through 3.

Page 2, line 5, delete "Except as provided in".

Page 2, line 6, delete "subsection (e), if" and insert "If".

Page 2, line 7, delete "both".

Page 2, line 8, after "(1)" insert "**both**".

Page 2, line 9, after "(2)" insert "**both**".

Page 2, line 9, delete "or".

Page 2, line 10, after "(3)" insert "**both**".

Page 2, between lines 10 and 11, begin a new line block indented and insert:

"(4) more than one (1) petition; or

(5) more than one (1) convention;"

Page 3, line 16, delete "to an individual described by" and insert **"only to a person nominated by more than one (1) petition. The person's name must be placed on the list of candidates nominated by petition for the first petition of nomination certified under IC 3-8-6 and filed with the election division or county election board under IC 3-8-6-10(c), and the place occupied by the person's name in a subsequent petition must be left blank. However, if the candidate files a written statement:**

(1) acknowledged before a person who is authorized to take acknowledgments;

(2) in the office where a petition of nomination for the office must be filed;

(3) not later than noon the last day for filing a petition of nomination under IC 3-8-6-10(c); and

(4) requesting that the person's name be printed as nominated by a subsequent petition;

the person's name must be placed on the list of candidates nominated by the subsequent petition.

(f) This subsection applies to a person nominated by more than

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one (1) convention. The person's name must be placed on the list of candidates nominated by convention for the first certificate of nomination filed with the public official with whom the certificate is required to be filed, and the place occupied by the person's name in a subsequent certificate of nomination of the convention must be left blank. However, if the candidate files a written statement:

- (1) acknowledged before a person who is authorized to take acknowledgments;
- (2) in the office where a certificate of nomination for the office must be filed;
- (3) not later than noon the last day for filing a certificate of nomination; and
- (4) requesting that the person's name be printed as nominated by a subsequent convention;

the person's name must be printed as nominated by the subsequent convention."

Page 3, delete lines 17 through 42.

Page 4, delete lines 1 through 12.

Page 4, line 13, delete "(i)" and insert "(f)".

Page 4, line 26, after "accept" insert ".".

Page 4, delete lines 27 through 29.

Page 5, delete lines 1 through 3.

Page 5, line 4, delete "in the manner prescribed by section 20 of this chapter, the" and insert "The".

Page 5, line 8, after "convention." insert "**If the candidate is nominated by more than one (1) convention or more than one (1) petition and the candidate does not make the election, the election division or clerk shall give preference to the first certificate of nomination for a convention given to the candidate under IC 3-8-5-13 or IC 3-8-7-8 or first petition of nomination given to the candidate under IC 3-8-6-10.**"

Page 5, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 13. IC 3-8-7-24, AS AMENDED BY P.L.3-1997, SECTION 164, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. The election division and each circuit court clerk shall preserve in their offices all certificates and petitions of nomination filed under this article for the period required under IC 3-10-1-31.

SECTION 14. IC 3-10-1-33, AS AMENDED BY P.L.3-1997, SECTION 217, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. (a) The county election board shall also make an additional duplicate showing the votes cast



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for each candidate required to file a declaration of candidacy with the election division under IC 3-8-2. ~~or for whom a certificate of nomination must be filed with the election division under IC 3-8-7.~~

(b) The circuit court clerk shall, not later than **noon on** the Monday following the primary election, send to the election division by certified mail or hand deliver to the election division one (1) complete copy of all returns for these candidates.

SECTION 15. IC 3-11-3-6, AS AMENDED BY P.L.3-1997, SECTION 268, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. ~~(a) Each circuit court clerk shall pick up~~ **The election division shall deliver** the state and presidential paper ballots at a site designated by the election division.

~~(b) Each clerk is entitled to a mileage allowance for the distance necessarily traveled in going to and returning from the site designated by the election division. The mileage rate equals the mileage rate paid to state officers and employees.~~ **by certified mail, or by another means of delivery that includes a return receipt, to:**

- (1) **each circuit court clerk; or**
- (2) **in a county subject to IC 3-6-5.2, the chief deputy of the combined board.**

SECTION 16. IC 3-11-3-29.5, AS AMENDED BY P.L.3-1997, SECTION 272, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29.5. (a) The election division or an election board shall act under subsection (c) **to print new ballots** or have pasters made to cover the name of a candidate who has died or is no longer a candidate under IC 3-13-2-1 if:

- (1) the candidate's party does not fill the vacancy under IC 3-13-1 or IC 3-13-2 not later than noon, five (5) days before the election; and
- (2) **when a candidate has died**, the election division or election board:

- (A) receives a certificate of death issued under IC 16-37-3 not later than **noon** the seventh day before the election; or
- (B) by unanimous vote of the entire membership ~~if the election division or election board finds~~ that there is good cause to believe that the candidate has died.

(b) The election division or election board shall provide the number of opaque pasters the election division or election board determines to be necessary for all ballots to reflect a vacancy to the following:

- (1) The absentee voter board.
- (2) The inspector of each precinct in which the candidate is on the ballot.



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(3) The circuit court clerk.

(c) If the election division or election board determines that the use of pasters under this section would be impractical or uneconomical, the election division or board may order the printing of new ballots that omit the name of a candidate described in subsection (a). A ballot printed under this subsection must contain the statement "NO CANDIDATE" or "CANDIDATE DECEASED" or words to that effect at the appropriate position on the ballot.

(d) If a candidate vacancy under IC 3-13-1 or IC 3-13-2 is filled after noon five (5) days before the election, the election division or election board is not required to reprint ballots or have pasters with the name of the successor candidate placed over the name of an individual who is no longer a candidate but may do so upon the vote of the commission or election board.

SECTION 17. IC 3-11-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter who is eligible to vote by absentee ballot must apply to the county election board for an official absentee ballot.

(b) If an individual applies for an absentee ballot as the properly authorized attorney in fact for a voter, the attorney in fact must attach a copy of the power of attorney to the application.

SECTION 18. IC 3-11-4-3, AS AMENDED BY P.L.3-1997, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in subsections (b) and (c) **subsection (b)** and sections 6 and 8 of this chapter, an application for an absentee ballot must be received by the circuit court clerk **(or, in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the chief deputy of the combined board, as defined in IC 3-6-5.2-2)** not earlier than ninety (90) days before election day nor later than **the following**:

- (1) Noon on the day before election day if the voter completes the application in the office of the circuit court clerk.
- (2) Noon on the day before election day if:
 - (A) the application is a mailed or hand delivered application from a confined voter or ~~person~~ **voter** caring for a confined person; and
 - (B) the applicant requests that the absentee ballots be delivered to the applicant by an absentee voter board. ~~or~~
- (3) Midnight on the eighth day before election day if the application:
 - (A) is a mailed application; or



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(B) was transmitted by a facsimile (FAX) machine;
from other voters.

(b) This subsection applies to an absentee ballot application from a confined voter or ~~person voter~~ caring for a confined ~~voter person~~ that is **sent by facsimile (fax) transmission**, mailed, or hand delivered to the circuit court clerk of a county having a consolidated city. An application subject to this subsection that is **sent by facsimile (fax) transmission or** hand delivered must be received by the circuit court clerk not earlier than ninety (90) days before election day nor later than 10 p.m. on the fifth day before election day. An application subject to this subsection that is mailed must be received by the circuit court clerk not earlier than ninety (90) days before election day and not later than 10 p.m. on the eighth day before election day.

~~(c) This subsection applies to an absentee ballot application from a confined voter or a person caring for a confined voter that is mailed or hand delivered to the circuit court clerk of a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). An application subject to this section must be received by the chief deputy of the combined board not earlier than ninety (90) days before election day nor later than 10 p.m. on the fourth day before election day.~~

SECTION 19. IC 3-11-4-21, AS AMENDED BY P.L.3-1997, SECTION 281, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 21. (a) On the other side of the envelope required by section 20 of this chapter shall be printed an affidavit providing that the voter affirms under penalty of perjury that the following information is true:

- (1) The name of the precinct and township (or ward and city or town).
- (2) That the voter is:
 - (A) a resident of; or
 - (B) entitled under IC 3-10-11 or IC 3-10-12 to vote in; the precinct.
- (3) The voter's complete residence address, including the name of the city or town and county.
- (4) That the voter is entitled to vote in the precinct, the type of election to be held, and the date of the election.
- (5) That:
 - (A) the voter has personally marked the enclosed ballot or ballots in secret and has enclosed them in this envelope and sealed them without exhibiting them to any other person;
 - (B) **the voter personally marked the enclosed ballot or**



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ballots, enclosed them in this envelope, and sealed them with the assistance of an individual whose name is set forth on the envelope and who affirms under penalty of perjury that the voter was not coerced or improperly influenced by the individual assisting the voter or any other person, in a manner prohibited by state or federal law, to cast the ballot for or against any candidate, political party, or public question; or

(C) as the properly authorized attorney in fact for the undersigned under IC 30-5-5-14, the attorney in fact affirms the voter personally marked the enclosed ballot or ballots in secret and enclosed them in this envelope and sealed them without exhibiting them to the attorney in fact or to any other person).

(6) The date and the voter's signature.

(b) If the affidavit is signed by an attorney in fact, the name of the attorney in fact must be indicated. ~~and a copy of the power of attorney attached to the affidavit.~~

(c) A guardian or conservator of an individual may not sign an affidavit for the individual under this section unless the guardian or conservator also holds a power of attorney authorizing the guardian or conservator to sign the affidavit.

SECTION 20. IC 3-11-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 9. If a voter votes a straight party ticket for more than one (1) political party, a ballot card voting system must consider the whole ballot void **except for the voter's vote for a school board candidate or on a public question** in accordance with IC 3-12-1-7(d).

SECTION 21. IC 3-11-8-6, AS AMENDED BY P.L.3-1997, SECTION 298, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) If possible, the county executive shall locate the polls for each precinct in a facility that meets **the standards for** accessibility ~~guidelines established by the commission for~~ voters with disabilities and elderly voters and ~~in accordance with established under~~ 42 U.S.C. 1973ee through 1973ee-6. If the county executive determines that no accessible facility is available in a precinct and that no facility can be made temporarily accessible, the county executive shall designate at least one (1) special voting poll in the county at least twenty-nine (29) days before election day. A special voting poll must:

(1) be accessible to voters with disabilities and elderly voters under federal law; and



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(2) operate under all other requirements for precincts and polls under this title.

- (b) The county executive shall:
- (1) provide public notice; and
 - (2) file a report;

listing each inaccessible precinct and each special voting poll in the county with the election division at least twenty-nine (29) days before election day. The list shall be available to any person upon request.

(c) A precinct poll may also be used as a special voting poll for the county if the precinct poll meets the standards for accessibility by voters with disabilities and elderly voters established under federal law.

(d) The county election board shall assign a special voting poll to a voter with disabilities or elderly voter:

- (1) whose regular precinct poll is inaccessible to voters with disabilities or elderly voters; and
- (2) who submits an application on a form prescribed by the commission at least ten (10) days before election day.

(e) Applications may be submitted under subsection (d)(2):

- (1) in person at the principal office of the county election board; or
- (2) by mail.

(f) The precinct election board at a special voting poll shall do the following:

- (1) Provide each voter with disabilities or elderly voter assigned under subsection (d) a ballot that includes all offices and public questions to be voted for in the voter's precinct of residence.
- (2) Prepare a separate poll list for the voters with disabilities and elderly voters assigned to the special voting poll.

(g) Votes cast at a special voting poll shall be counted and reported in the same manner as votes cast at a precinct under this title.

SECTION 22. IC 3-11-10-17, AS AMENDED BY P.L.3-1997, SECTION 304, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 17. (a) If the inspector finds under section 15 of this chapter that:

- (1) the affidavit is insufficient or the ballot has not been endorsed with the initials of:
 - (A) the two (2) members of the absentee voter board in the office of the circuit court clerk under IC 3-11-4-19 or ~~IC 3-11-10-26~~; or **section 26 of this chapter**;
 - (B) **the two (2) members of the absentee voter board visiting the voter under section 25(b) of the chapter**; or
 - (C) the two (2) appointed members of the county election

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- board or their designated representatives under IC 3-11-4-19;
- (2) a copy of the voter's signature has been furnished to the precinct election board and that the signatures do not correspond or there is no signature;
 - (3) the absentee voter is not a qualified voter in the precinct;
 - (4) the absentee voter has voted in person at the election;
 - (5) the absentee voter has not registered;
 - (6) the ballot is open, or has been opened and resealed;
 - (7) the ballot envelope contains more than one (1) ballot of any kind **for the same office or public question**;
 - (8) in case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate; or
 - (9) the ballot has been challenged and not supported;

then the ballots may not be accepted or counted.

(b) This subsection applies whenever a voter with a disability is unable to make a signature:

- (1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or**
- (2) on an absentee ballot secrecy envelope that corresponds with the voter's signature:**
 - (A) in the records of the county voter registration office; or**
 - (B) on the absentee ballot application.**

(c) The voter may request that the voter's signature or mark be attested to by:

- (1) the absentee voter board under section 25(b) of this chapter;**
- (2) a member of the voter's household; or**
- (3) an individual serving as attorney in fact for the voter.**

(d) An attestation under subsection (c) provides an adequate basis for an inspector to determine that a signature or mark complies with subsection (a)(2).

SECTION 23. IC 3-11-10-24, AS AMENDED BY P.L.3-1997, SECTION 305, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) Except as provided in subsection (b), each voter entitled to vote by absentee ballot is entitled to vote by mail.

(b) A voter with disabilities who:

- (1) is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope; and**



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(2) requests that the absentee ballot be delivered to an address within Indiana;

must vote before an absentee voter board under section 25(b) of this chapter.

(c) After a voter has mailed an absentee ballot to the office of the circuit court clerk, the voter may not recast a ballot, except as provided in:

- (1) section 1.5 of this chapter; or
- (2) section 33 of this chapter.

SECTION 24. IC 3-11.5-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) If the absentee ballot counters find under section 11 of this chapter that:

(1) the affidavit is insufficient **or that the ballot has not been endorsed with the initials of:**

(A) the two (2) members of the absentee voter board in the office of the circuit court clerk under IC 3-11-4-19 or IC 3-11-10-26;

(B) the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or

(C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19;

- (2) the signatures do not correspond or there is no signature;
- (3) the absentee voter is not a qualified voter in the precinct;
- (4) the absentee voter has voted in person at the election;
- (5) the absentee voter has not registered;
- (6) the ballot is open, or has been opened and resealed;
- (7) the ballot envelope contains more than one (1) ballot of any kind;
- (8) in case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate; or
- (9) the ballot has been challenged and not supported;

the ballots shall be rejected.

(b) If the absentee ballot counters are unable to agree on a finding described under this section or section 12 of this chapter, the county election board shall make the finding.

(c) The absentee ballot counters or county election board shall issue a certificate to a voter whose ballot has been rejected under this section if the voter appears in person before the board not later than 5 p.m. on election day. The certificate must state that the voter's absentee ballot

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has been rejected and that the voter may vote in person under section 21 of this chapter if otherwise qualified to vote.

SECTION 25. IC 3-11.5-4-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) Each county election board shall appoint:

- (1) absentee voter boards;
- (2) teams of absentee ballot counters; and
- (3) teams of couriers;

consisting of two (2) voters of the county, one (1) from each of the two (2) political parties that have appointed members on the county election board.

(b) ~~★~~ **An otherwise qualified** person is ~~not~~ eligible to serve on an absentee voter board or as an absentee ballot counter or a courier if **unless** the person:

- (1) is unable to read, write, and speak the English language;
- (2) has any property bet or wagered on the result of the election;
- (3) is a candidate to be voted for at the election, except as an unopposed candidate for precinct committeeman or state convention delegate; or
- (4) is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, **or** niece, **or first cousin** of a candidate or declared write-in candidate to be voted for at the election except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption. ~~This subdivision does not disqualify a person who is a spouse of a first cousin of the candidate.~~

SECTION 26. IC 3-11.5-4-23, AS AMENDED BY P.L.3-1995, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) **Not later than noon ten (10) days before absentee voting begins under IC 3-11-10-26**, each county election board shall notify the county chairmen of the two (2) political parties that have appointed members on the county election board of the number of:

- (1) absentee voter boards;
- (2) teams of absentee ballot counters; and
- (3) teams of couriers;

to be appointed under section 22 of this chapter.

(b) The county chairmen shall make written recommendations for the appointments ~~within ten (10) days after notification under subsection (a); and to the county election board not later than noon~~



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three (3) days before absentee voting begins under IC 3-11-10-26. The county election board shall make the appointments as recommended.

(c) If a county chairman fails to make any recommendations, then the county election board may appoint any voters of the county.

SECTION 27. IC 3-11.5-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. The voters appointed as couriers or absentee ballot counters under this article shall be compensated in the following manner:

(1) Couriers assigned to deliver absentee ballots certifications to the precincts on election day under IC 3-11.5-4-8, are entitled to a per diem ~~not to exceed fifty dollars (\$50)~~ **established by the county executive** and a sum for ~~milage equal in rate to that rate paid to state officers and employees.~~ **mileage established by the county fiscal body.**

(2) The absentee ballot counters who are assigned to perform duties regarding absentee ballots on election day are entitled to a per diem ~~not to exceed fifty dollars (\$50).~~ **established by the county executive.**

SECTION 28. IC 3-12-1-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16. (a) This section applies when:**

(1) a ballot:

(A) contains pasters applied under IC 3-11-3-29.5(a) to cover the name of an individual who is no longer a candidate; or

(B) has been reprinted under IC 3-11-3-29.5(c) to omit the name of an individual who is no longer a candidate; and

(2) the candidate vacancy has been filled following the application of the pasters or the reprinting of the ballots.

(b) A vote cast on the ballot where the statement "NO CANDIDATE" or "CANDIDATE DECEASED" appears is considered a vote cast for the successor candidate.

SECTION 29. IC 3-12-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) Whenever a candidate is elected:

(1) to a local or school board office other than:

~~(1)~~ **(A) one for which a town clerk-treasurer issues a certificate of election under IC 3-10-7-34; or**

~~(2)~~ **(B) one commissioned by the governor under IC 4-3-1-5;**

or

(2) a precinct committeeman or state convention delegate;



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the circuit court clerk shall, ~~after the expiration of the period required~~ **when permitted** under section 16 of this chapter, prepare and deliver to the candidate on demand a certificate of the candidate's election.

(b) This subsection applies to a local or school board office described in subsection (a) with an election district located in more than one (1) county ~~or and~~ a local public question placed on the ballot in more than one (1) county. The circuit court clerk of the county that contains the greatest percentage of the population of the election district shall, upon demand of the candidate or a person entitled to request a recount of the votes cast on a public question under IC 3-12-12:

- (1) obtain the certified statement of the votes cast for that office or on that question that was prepared under IC 3-12-4-9 from the circuit court clerk in each other county in which the election district is located;
- (2) tabulate the total votes cast for that office or on that question as shown on the certified statement of each county in the election district; and
- (3) issue a certificate of election to the candidate ~~upon the expiration of the period required when permitted~~ under section 16 of this chapter or a certificate declaring the local public question approved or rejected.

SECTION 30. IC 3-12-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. A certificate of election may not be issued until the ~~ten (10) day~~ period allowed **under section 14 of this chapter** for the discovery and correction of errors has expired.

SECTION 31. IC 3-12-6-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) When a recount is completed by a commission appointed under this chapter, the commission shall:

- (1) make and sign a certificate showing the total number of votes received in the precincts by each candidate for nomination or election to the office;
- (2) state in its certificate the candidate who received the highest number of votes in the precincts for nomination or election to the office and by what plurality; and
- (3) file its certificate with the circuit court clerk.

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

- (1) enter the certificate in the order book of the court;
- (2) **file a copy of the certificate in the minutes of the county election board; and**



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(3) if the recount concerned an office for which a declaration of candidacy must be filed with the election division under IC 3-8-2, file a copy of the certificate with the election division not later than seven (7) days after the date the recount commission filed the certificate with the circuit court clerk.

SECTION 32. IC 3-12-6-28, AS AMENDED BY P.L.3-1997, SECTION 362, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. A circuit court clerk shall immediately transmit a certificate prepared under section 27 of this chapter showing the votes cast for nomination or election to an office to the election division **if the recount concerned an office for which a declaration of candidacy must be filed with the election division under IC 3-8-2.**

SECTION 33. IC 3-12-8-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. A circuit court clerk shall certify the determination made **concerning the election contest** under section 17 of this chapter to the: ~~appropriate public official.~~

- (1) county election board;**
- (2) election division, if the contest concerned an office for which a declaration of candidacy must be filed with the election division under IC 3-8-2; and**
- (3) governor, if the contest concerned an office commissioned by the governor under IC 4-3-1-5.**

SECTION 34. IC 3-13-9-5.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5.6. (a) If fewer town council members have been elected at large than there were members to be elected, the town council shall determine, ~~at the council's first organizational meeting~~ **not later than December 31** following the election, the incumbent council member or members who hold office under Article 15, Section 3 of the Constitution of the State of Indiana until a successor is elected and qualified. If a tie vote occurs during the vote to determine the members that continue to hold office, the town clerk-treasurer casts the deciding vote under IC 36-5-2-8.

(b) The town clerk-treasurer shall give notice of the meeting.

(c) The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each member of the town council at least ten (10) days before the meeting.

SECTION 35. IC 3-13-11-18 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. A person who assumes the duties of a vacant office under this chapter has all of **its** the office's rights and duties. **Except as otherwise provided in IC 3-13-6, the person serves for the remainder of the unexpired term.**

SECTION 36. IC 3-14-2-16, AS AMENDED BY P.L.4-1996, SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. A person who knowingly does any of the following commits a Class D felony:

- (1) Applies for or receives a ballot in a precinct other than that **precinct** in which the person is entitled to vote.
- (2) **Except when receiving assistance under IC 3-11-9**, shows a ballot after it is marked to another person in such a way as to reveal the contents of it or the name of a candidate for whom the person has voted.
- (3) **Except when offering assistance requested by a voter in accordance with IC 3-11-9**, examines a ballot that a voter has prepared for voting or solicits the voter to show the ballot.
- (4) Receives from a voter a ballot prepared by the voter for voting, except:
 - (A) the inspector;
 - (B) a member of the precinct election board temporarily acting for the inspector;
 - (C) a member of a county election board or an absentee voter board acting under IC 3-11-10; or
 - (D) a member of the voter's household or an individual designated as attorney in fact for the voter, when delivering an envelope containing an absentee ballot under IC 3-11-10-1.
- (5) Receives a ballot from a person other than one of the poll clerks or authorized assistant poll clerks.
- (6) Delivers a ballot to a voter to be voted, unless the person is:
 - (A) a poll clerk or authorized assistant poll clerk; **or**
 - (B) **a member of a county election board or an absentee voter board acting under IC 3-11-10.**
- (7) Delivers a ballot (other than an absentee ballot) to an inspector that is not the ballot the voter receives from the poll clerk or assistant poll clerk.
- (8) Delivers an absentee ballot to a team of absentee ballot counters appointed under IC 3-11.5-4-22, a county election board, a circuit court clerk, or an absentee voting board under IC 3-11-10 that is not the ballot cast by the absentee voter.

SECTION 37. THE FOLLOWING ARE REPEALED [EFFECTIVE



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UPON PASSAGE]: IC 3-8-7-9; IC 3-11-3-7; IC 3-11-3-9.

SECTION 38. [EFFECTIVE JULY 1, 1997 (RETROACTIVE)] (a) **This SECTION applies to a candidate for a school board office described by IC 3-8-1-34(b).**

(b) **An individual seeking election to a school board office on May 5, 1998:**

(1) **is not required to comply with the residence requirement set forth in IC 3-8-1-34(b); and**

(2) **must comply with all other candidate requirements for the school board office set forth in IC 3-8-1 or IC 20.**

(c) **This SECTION expires June 1, 1998.**

SECTION 39. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding IC 3-6-5-4, as amended by this act, the term of an individual serving as a member of a county election board appointed by a circuit court clerk on the effective date of this SECTION expires July 1, 2001. An individual appointed to fill the unexpired term of an individual described by this SECTION serves until July 1, 2001.**

(b) **This SECTION expires July 2, 2001."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to Senate Bill 335 as introduced.)

LANDSKE, Chairperson

Committee Vote: Yeas 10, Nays 0.

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