

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

## HOUSE ENROLLED ACT No. 1079

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AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 3-5-2-1.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.7. "Active voter" refers to a voter who ~~after November 3, 1998~~, satisfies either of the following:

- (1) The voter has registered or voted in any election during the preceding four (4) years **at the address indicated on the voter's registration record.**
- (2) The voter has not voted in any election during the preceding four (4) years **at the address indicated on the voter's registration record** and has responded **in writing** to a ~~change of residence~~ **an address confirmation** notice sent under IC 3-7 not later than thirty (30) days after the notice was sent.

SECTION 2. IC 3-5-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) **Except as provided in subsection (e), but** notwithstanding any other statute, whenever the commission acts under IC 3-6-4.1-14 to approve a uniform election or registration form for use throughout Indiana or to approve a revision to an existing form, a person must use the most recent version of the form

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approved by the commission to comply with this title after the effective date of the commission's order approving the form.

(b) Except as provided in subsection (d) **or (f)**, before an order approving a form takes effect under this section, the **commission election division** shall transmit a copy of each form or revised form approved by the order to the following:

(1) Each circuit court clerk, **if the commission determines that the form is primarily used by a candidate, a county election board member, a county or town political party, or for absentee ballot purposes.**

(2) Each county voter registration office, if the commission determines that the form is primarily used in voter registration.

(3) The state chairman of each major political party.

(4) The state chairman of any other political party who has filed a written request with the election division during the preceding twelve (12) months to be furnished with copies of forms.

(c) The election division, an election board, a circuit court clerk, a county voter registration office, or any other official responsible for receiving a filing under this title shall reject a filing that does not comply with this section.

(d) The commission shall specify the effective date of the form or revised form and may:

(1) delay the effective date of the approval of a form or revised form; and

(2) permit an earlier approved version of the form or an alternative form to be used before the effective date of the form; if the commission determines that an emergency requires the use of the form before copies can be transmitted to all persons entitled to receive copies of the form under subsection (b).

(e) **This subsection applies to a form permitting an individual to apply for voter registration or to amend the individual's existing voter registration record. The commission may allow an earlier approved version of the form to be used if the:**

(1) **earlier version of the form complies with all other requirements imposed under NVRA or this title; and**

(2) **commission determines that the existing stock of the form should be exhausted to prevent waste and unnecessary expense.**

(f) **This subsection applies to a form that the commission determines is used primarily by the election division. The commission may provide that an order concerning a form described by this subsection is effective immediately upon**

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**adoption, without any requirement to distribute the form to other persons.**

SECTION 3. IC 3-5-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Whenever the signature of an individual does not substantially conform with the signature of the registered voter with the name and address in the records of the county voter registration office, the signature is invalid and may not be certified.

**(b) In determining whether a signature substantially conforms with a voter's signature in the records of the county voter registration office, the office must certify the signature if the office determines that lack of conformity may reasonably be attributed to the age, disability, or impairment of the voter.**

SECTION 4. IC 3-6-1-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. **Notwithstanding any other statute, an individual serving in any of the following political party offices is not considered to be holding an office for purposes of Article 15 of the Constitution of the State of Indiana:**

- (1) Precinct committeeman.**
- (2) Precinct vice committeeman.**
- (3) State convention delegate.**
- (4) Chair or other officer of a central committee.**
- (5) Any other political party office (as defined in IC 3-5-2-17).**

SECTION 5. IC 3-6-4.2-14 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 ~~a~~ **all of the following:**

- (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~~**

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(3) Reimbursement for the payment of the instructional meeting registration fee from the county general fund without appropriation.

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

SECTION 6. IC 3-6-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** A challenger ~~or pollbook holder~~ is entitled to stand at the sides of the chute next to the entrance to the polls.

**(b)** If demanded by a member of the precinct election board, a challenger ~~or pollbook holder~~ shall produce the identification card issued under section 1(d) of this chapter.

SECTION 7. IC 3-6-7-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a)** A pollbook holder appointed under this chapter is entitled to do the following:

**(1)** Enter the polls at least thirty (30) minutes before the opening of the polls and remain there throughout election day until the polls close.

**(2)** Enter, leave, and reenter the polls at any time on election day.

**(b)** A pollbook holder is subject to the orders of the board while in the polls.

**(c)** If demanded by a member of the precinct election board, a pollbook holder shall produce the identification card issued under section 1(d) of this chapter.

SECTION 8. IC 3-7-35-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** The circuit court clerk or board of county voter registration office shall ~~include a notation on the registration record of~~ ensure that the software program used to generate the poll list for the precinct in which the voter ~~to indicate that resides indicates whether~~ the name of the voter should ~~not~~ be included on a poll list.

**(b)** The software program must generate a poll list that does not include the name of a voter unless the voter will be:

**(1)** at least eighteen (18) years of age when the election is conducted; or

**(2)** ~~the voter will be~~ eligible to vote in the election under this article.

SECTION 9. IC 3-7-35-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a)** The circuit court clerk ~~or~~

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board of county voter registration office shall include a notation on the registration record of the voter to indicate that ensure that the software program used to generate a jury list indicates whether the name of the voter should not be used for jury service.

**(b) The software program must generate a jury list that does not include the name of a voter** unless the voter will be at least eighteen (18) years of age when the jury is empaneled.

SECTION 10. IC 3-7-38.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1997 (RETROACTIVE)]:  
Sec. 4. (a) A contract entered into under section 3 of this chapter must require the following:

- (1) The contractor shall determine the following information regarding each voter with duplicate registrations:
  - (A) The voter's name.
  - (B) Each address at which the voter is registered.
  - (C) Other information the commission determines is necessary to implement this chapter.

The contractor shall obtain the information required by this subdivision from the information submitted to the election division under IC 3-7-26-4. ~~and from voter registration records of counties that do not keep voter registration records by computer.~~

- (2) The contractor shall compile the information determined under subdivision (1) and provide the following with the information compiled under subdivision (1) in the form required by the commission:

- (A) The election division.
  - (B) Each county in which a voter with a duplicate registration is registered to vote.
- (3) The contractor shall print, prepare for mailing, and mail a postcard addressed to each voter with duplicate registrations at each address found for that voter. Each postcard must contain the following:

- (A) The election division's mailing address as a return address.
- (B) A return postcard that contains all of the following:
  - (i) A mailing address to the election division.
  - (ii) A listing of all the addresses at which the voter is believed to be registered.
  - (iii) Instructions to the voter to indicate ~~on the listing of~~ **whether** addresses ~~all of the voter's listed on the postcard~~ **are** previous addresses **of the voter.**
  - (iv) A place for the voter to state the voter's current address.

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(v) A statement of the voter authorizing cancellation of the voter's registration at other addresses in Indiana.

(vi) A statement informing the voter that the voter must return the postcard to the election division not later than a date specified by the election division.

(vii) A place for the voter's signature or mark.

(C) A statement of the consequences to the voter of the voter's failure to return the return postcard to the election division not later than a date specified by the election division.

(4) Before ~~April 10~~ **of a date specified by the election division** for each year, the contractor shall provide to the election division the following lists:

(A) A list of all voters with duplicate registrations who have returned postcards to the election division before a date specified by the election division. The list must indicate for each voter the following information:

(i) The voter's current address, including the county, as provided by the voter.

(ii) Each former address, including the county of each former address, at which the voter is registered.

(B) A list of all voters with duplicate registrations who have not returned postcards to the election division before a date specified by the election division. The list must indicate each county in which each voter is registered to vote.

(5) Not later than a date specified by the election division, the contractor shall mail to each county the following lists:

(A) A list of all voters with duplicate registrations who have:  
(i) returned postcards to the election division before a date specified by the election division; and  
(ii) indicated a current residence within the county.

(B) A list of all voters with duplicate registrations who:  
(i) have returned postcards to the election division before a date specified by the election division;  
(ii) are registered to vote in the county; and  
(iii) have indicated a current residence in another county.

(C) A list of all voters with duplicate registrations who:  
(i) have not returned postcards to the election division before a date specified by the election division; and  
(ii) are registered to vote in the county.

(6) Not later than a date specified by the election division, the contractor shall do the following:

(A) Send a postcard to each voter described in subdivision

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(5)(B) informing the voter how the voter may register to vote in the county of the voter's current residence.

(B) Send a postcard to each voter described in subdivision

(5)(C) notifying the voter:

(i) that if the voter does not notify the county voter registration office of the voter's current residence before a date specified by the election division, the voter's registration will be placed on inactive status; and

(ii) of the consequences of the voter's registration being placed on inactive status.

Postcards and information supplied on postcards sent under this subdivision must comply with 42 U.S.C. 1973gg-6(d).

(7) Not later than a date specified by the election division, the contractor shall assist the election division in updating the statewide voter registration file using information obtained from the county voter registration offices under section 6 of this chapter.

(b) The contract may require the contractor to perform other services the election division requires.

SECTION 11. IC 3-7-38.1-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. The election division may require the contractor to provide each county voter registration office with original postcards returned to the ~~commission~~ **election division** or photocopies of the postcards instead of the lists required under section 4 of this chapter.

SECTION 12. IC 3-7-38.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1997 (RETROACTIVE)]: Sec. 5. After receiving lists under section 4(a)(5) of this chapter or postcards under section 4.5 of this chapter, each county voter registration office shall do the following:

(1) Change the registration records of all voters described in section 4(a)(5)(A) of this chapter to show the voter's current address.

(2) Cancel the registration of all voters described in section 4(a)(5)(B) of this chapter.

(3) Place on inactive status the name of each voter described in section 4(a)(5)(C) who has not notified the county voter registration office before ~~June 15~~ **of a date specified by the election division for** each year.

SECTION 13. IC 3-7-38.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1997 (RETROACTIVE)]: Sec. 6. Before ~~May 25~~ **of a date specified by the election division for**

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each year, each ~~circuit court clerk or board of county voter~~ registration office shall provide to the contractor a list of information concerning all voters registered in the county:

- (1) in the format prescribed under IC 3-7-26; and**
- (2) current as of ~~May 15~~ of a date specified by the election division for each year.**

SECTION 14. IC 3-7-38.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **(a)** A ~~circuit court clerk or board of county voter~~ registration office shall cancel the registration of a voter who is described by both of the following:

- (1) The voter is described in section 4(a)(5)(C) of this chapter.
- (2) The voter has not voted (or appeared to vote or to correct the registration record stating the voter's address) in an election during the period:
  - (A) beginning on the date of the notice sent under section 4(a)(3) of this chapter; and
  - (B) ending on the day after the date of the second general election that occurs after the date of the notice sent under section 4(a)(3) of this chapter.

**(b) At the expiration of the period ending thirty (30) days after the second general election described in subsection (a)(2)(B), the county voter registration office shall cancel the registration of a voter described by this section.**

SECTION 15. IC 3-7-38.2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. **(a)** As provided in 42 U.S.C. 1973gg-6(c)(1)(B)(i), if the county voter registration office determines from information provided under this chapter that a voter has moved to an address different from the address where voter is currently registered, the voter registration office shall:

- (1) change the registration record to show the new address; and
- (2) send the voter a notice of the change;

**if the information provided under this chapter includes a forwarding address.**

**(b) If the information provided under this chapter:**

- (1) indicates that a voter has moved to an address different from the address where the voter is currently registered; and**
- (2) does not include a forwarding address;**

**the county voter registration office shall indicate on the registration record that the voter is an inactive voter at that address and shall remove the voter's name from the registration rolls under the procedures of this chapter if the voter has not voted, appeared to vote, or has failed to correct the voter**



**registration record within the period described in section 14(2)(B) of this chapter.**

SECTION 16. IC 3-7-38.2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. After the county voter registration office has determined under this chapter that a voter's residence may have changed, the ~~voter registration office~~ **election division** shall send a notice to the voter that sets forth substantially the following statements as provided in 42 U.S.C. 1973gg-6(d)(2):

(1) If the voter did not change the voter's residence or changed the residence but remained in the same county where the voter was listed on the voter registration record, the voter must return the card enclosed with the notice in person to the county voter registration office not later than twenty-nine (29) days before the election or by regular United States mail:

(A) with a postmark not later than twenty-nine (29) days before the election; or

(B) if a postmark is missing or illegible, to the county voter registration office not later than ~~twenty-four (24)~~ **twenty-one (21)** days before the election.

(2) If the card is not returned under subdivision (1), the voter may be required to affirm or confirm the voter's address before the voter is permitted to vote in an election during the period:

(A) beginning on the date of the notice; and

(B) ending on the day after the date of the second general election scheduled to occur after the date of the notice.

(3) If the voter does not vote in an election described in subdivision (2), the voter's name will be removed from the voter registration list.

(4) If the voter changed residence to a place outside the county in which the voter is included on the voter registration list, information concerning how the voter can continue to be eligible to vote in the county where the voter currently resides.

SECTION 17. IC 3-7-38.2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. At the expiration of the period ending thirty (30) days after **the second general election following** the date on which notices are mailed to a voter described in section 14(2) of this chapter, the county voter registration office shall cancel the registration of a voter who has not responded to the notice sent under section 13 of this chapter.

SECTION 18. IC 3-7-38.2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. The mailing

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sent under section 16 of this chapter must inquire whether the voter still resides at the residence address indicated on the person's voter registration. If the postcard is returned as undeliverable and the voter does not vote in either of the two (2) general elections following the mailing of the postcard, the county voter registration office shall remove the voter's name from the list of registered voters **at the expiration of the period ending thirty (30) days after the second general election following the date on which notices are mailed to a voter under section 16 of this chapter.**

SECTION 19. IC 3-7-45-6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 6. (a) The election division or a contractor acting on behalf of the election division under IC 3-7-38.1 may obtain a list of Indiana residents identified as deceased by the federal Social Security Administration.**

**(b) The election division or a contractor acting on behalf of the election division under IC 3-7-38.1 shall provide each county voter registration office with a report identifying the deceased individuals who are shown as residing in the county according to the statewide voter file prepared under IC 3-7-38.1.**

**(c) Except as provided in section 7 of this chapter, the county voter registration office shall cancel the registration of each deceased person listed in the report provided under subsection (b).**

SECTION 20. IC 3-7-45-7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) If a county voter registration office determines that:**

- (1) a voter has been identified as deceased in a list or report described by this chapter; and**
- (2) the identification is in error;**

**the voter registration office may decline to cancel the registration and shall note the apparent error on the voter registration record.**

**(b) If a county voter registration office determines that a registration has been previously canceled in error due to a report that the voter is deceased, the voter registration office shall reinstate the registration by:**

- (1) correcting the registration record before a certified list of voters is prepared under IC 3-7-29-1; or**
- (2) issuing a certificate of error under IC 3-7-48.**

SECTION 21. IC 3-8-1-2 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**

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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 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

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forth in the Constitution of the United States, the Constitution of the State of Indiana, or this title.

SECTION 22. IC 3-8-1-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) Except as provided in 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 23. IC 3-8-1-28.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 24. IC 3-8-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 9. (a) A petition required by section 8 of this chapter must request that the name of the candidate be placed on the ballot at the primary election. ~~In order for the secretary of state to consider a petition valid, the circuit court clerk or board of~~

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(b) **The county voter registration office** in the county where a petitioner is registered must certify ~~that whether~~ each petitioner is a voter of the county. The certification must accompany and be part of the petition.

(c) If a county is part of more than one (1) congressional district, the certificate must indicate the number of petitioners from that county who reside in each congressional district.

SECTION 25. IC 3-8-2-19 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 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**

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**the board.**

SECTION 26. IC 3-8-5-17 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 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.

SECTION 27. IC 3-8-7-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) If a person has been nominated as a candidate for the same office by:

- (1) both convention and petition;
- (2) **both primary election and petition;**
- (3) **both primary election and convention;**
- (4) **more than one (1) petition; or**
- (5) **more than one (1) convention;**

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

(b) **This subsection applies only to a person nominated by both convention and petition.** The person's name shall be placed on the list of candidates nominated by convention, and the place occupied by the person's name in the petition must be left blank. However, if the candidate files a written statement:

- (1) acknowledged before a person authorized to take

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acknowledgments;

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

(3) no later than noon of 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 petition;

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

**(c) This subsection applies only to a person nominated by both primary election and petition. The person's name must be placed on the list of candidates nominated by primary election, and the place occupied by the person's name in the 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 petition;**

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

**(d) This subsection applies only to a person nominated by both primary election and convention. The person's name must be placed on the list of candidates nominated by primary election, and the place occupied by the person's name in the 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 convention;**

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

**(e) This subsection applies only to a person nominated by more than one (1) petition. The person's name must be placed on the list**

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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 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.

(g) If an individual is nominated as a candidate under IC 3-13-1 to fill a candidate vacancy, the individual is considered for purposes of this section to have been nominated in the same manner as the candidate whom the individual succeeded or in the same manner as a candidate would have been nominated if no nomination is made. If an individual is nominated as a candidate under IC 3-13-2 to fill a candidate vacancy, the individual may not be placed on the ballot as the candidate of any other political party.

SECTION 28. IC 3-8-7-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) If a person

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has been nominated by two (2) or more political parties, or as an independent candidate and as the nominee of at least one (1) political party, the person must elect which of the nominations the person will accept.

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

SECTION 29. IC 3-8-7-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) **This section applies** if a person nominated by two (2) or more political parties or as an independent candidate and as the nominee of at least one (1) political party does not make and file an election as required by section 21 of this chapter.

(b) The election division or circuit court clerk shall make the election for the person.

(c) **The election division or clerk shall give preference ~~shall be given~~ to the nomination made by primary election and secondly to the nomination given by convention. 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 the first petition of nomination given to the candidate under IC 3-8-6-10.**

SECTION 30. IC 3-8-7-24 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 31. IC 3-9-3-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) This section does not apply to any of the following:

- (1) A communication relating to an election to a federal office.
- (2) A communication relating to the outcome of a public question.
- (3) A communication in a medium regulated by federal law.
- (4) Bumper stickers, pins, buttons, pens, and similar small items upon which the disclaimer required by this section cannot be conveniently printed.**
- (5) Skywriting, water towers, wearing apparel, or other means of displaying an advertisement on which the inclusion**

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of a disclaimer would be impracticable.

(6) Checks, receipts, and similar items of minimal value that do not contain a political message and are used for purely administrative purposes.

(7) A communication by a political action committee organized and controlled by a corporation soliciting contributions to the political action committee by the stockholders, executives, or employees of the corporation and the families of those individuals.

(8) A communication by a political action committee organized and controlled by a labor organization soliciting contributions to the political action committee by the members or executive personnel of the labor organization and the families of those individuals.

(9) A direct mailing of one hundred (100) or less substantially similar pieces of mail.

(b) This section applies whenever a person:

(1) makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate; or

(2) solicits a contribution;

through a newspaper, a magazine, an outdoor advertising facility, a poster, a yard sign, a direct mailing, or any other type of general public political advertising.

(c) For purposes of this section, a candidate is clearly identified if any of the following apply:

(1) The name of the candidate involved appears.

(2) A photograph or drawing of the candidate appears.

(3) The identity of the candidate is apparent by unambiguous reference.

(d) A communication described in subsection (b) must contain a disclaimer that appears and is presented in a clear and conspicuous manner to give the reader or observer adequate notice of the identity of persons who paid for and, when required, who authorized the communication. A disclaimer does not comply with this section if the disclaimer is difficult to read or if the placement of the disclaimer is easily overlooked.

(e) A communication that would require a disclaimer if distributed separately must contain the required disclaimer if included in a package of materials.

(f) This subsection does not apply to a communication, such as a billboard, that contains only a front face. The disclaimer need not

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**appear on the front or cover page of the communication if the disclaimer appears within the communication.**

**(g) Except as provided in subsection (h), a communication described in subsection (b) must satisfy one (1) of the following:**

(1) If the communication is paid for and authorized by:

- (A) a candidate;
- (B) an authorized political committee of a candidate; or
- (C) the committee's agents;

the communication must clearly state that the communication has been paid for by the authorized political committee.

(2) If the communication is paid for by other persons but authorized by:

- (A) a candidate;
- (B) an authorized political committee of a candidate; or
- (C) the committee's agents;

the communication must clearly state that the communication is paid for by the other persons and authorized by the authorized political committee.

(3) If the communication is not authorized by:

- (A) a candidate;
- (B) an authorized political committee of a candidate; or
- (C) the committee's agents;

the communication must clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

**(4) If the communication is a solicitation directed to the general public on behalf of a political committee that is not a candidate's committee, the solicitation must clearly state the full name of the person who paid for the communication.**

**(h) A communication by a regular party committee consisting of:**

**(1) a printed slate card, a sample ballot, or other printed listing of three (3) or more candidates for public office at an election;**

**(2) campaign materials such as handbills, brochures, posters, party tabloids or newsletters, and yard signs distributed by volunteers and used by the regular party committee in connection with volunteer activities on behalf of any nominee of the party; or**

**(3) materials distributed by volunteers as part of the regular party's voter registration or get-out-the-vote efforts;**

**must clearly state the name of the person who paid for the**

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**communication but is not required to state that the communication is authorized by any candidate or committee.**

SECTION 32. IC 3-10-1-28.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:  
Sec. 28.5. (a) **This section does not apply to an optical scan ballot card voting system.**

(b) If a ballot card voting system is used in a precinct, after a voter has marked a ballot card the voter shall place it inside the envelope provided for this purpose and return it to the judge, who shall remove the stub.

~~(b)~~ (c) The judge shall then offer to return the envelope with the ballot card inside to the voter. The voter shall:

- (1) accept the envelope and deposit it with the ballot card inside into the ballot box; or
- (2) decline the envelope and require the judge to deposit it in the ballot box.

~~(c)~~ (d) The voter then shall leave the polls.

SECTION 33. IC 3-10-6-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:  
Sec. 4.5. (a) **Notwithstanding section 2 of this chapter, this section applies to a town with a legislative body that adopts an ordinance under IC 36-5-2-4.5.**

(b) **Unless a primary election is not required under section 4 of this chapter, a primary election shall be held in a town under this section at both of the following times:**

- (1) **During a year that municipal elections are held under section 5 of this chapter.**
- (2) **At the time of the primary election held in the year stated in an ordinance adopted under IC 36-5-2-4.5(c)(2).**

(c) **At a primary election held under subsection (b), a political party with a nominee who receives at least ten percent (10%) of the votes cast in the state for secretary of state at the most recent election for secretary of state shall nominate candidates for the following town offices:**

- (1) **At the time of the primary held in the town under subsection (b)(1), the following candidates:**
  - (A) **Four (4) candidates for the town legislative body, three (3) of whom are elected from districts and one (1) who is elected at large. If the town legislative body adopts an ordinance under IC 36-5-2-4.5(e), all candidates are elected from districts.**
  - (B) **Candidates for all other town offices other than the**

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town legislative body.

(2) At the time of the primary election held under subsection (b)(2), three (3) candidates for the town legislative body, two (2) of whom are elected from districts and one (1) who is elected at large. If the town legislative body adopts an ordinance under IC 36-5-2-4.5(e), all candidates are elected from districts.

The primary election is conducted under this chapter.

(d) Notwithstanding section 5 of this chapter, an election to fill town offices under this section is held as follows:

(1) During a year municipal elections are held under section 5 of this chapter, the following town offices are elected:

(A) Four (4) members of the town legislative body, three (3) of whom are elected from districts and one (1) who is elected at large. If the town legislative body adopts an ordinance under IC 36-5-2-4.5(e), all members are elected from districts.

(B) All other town offices other than the town legislative body.

(2) During a year in which candidates for the town legislative body are nominated under subsection (c)(2), three (3) members of the town legislative body, two (2) of whom are elected from districts and one (1) who is elected at large. If the town legislative body adopts an ordinance under IC 36-5-2-4.5(e), all members are elected from districts.

The election shall be conducted under this chapter.

SECTION 34. IC 3-11-1.5-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.5. (a) This section does not apply to a precinct located in a county having a consolidated city.

(b) This section applies to a precinct:

(1) that is located wholly or partially within the campus of:

- (A) Ball State University;
- (B) Indiana State University;
- (C) Indiana University;
- (D) Purdue University;
- (E) The University of Evansville;
- (F) The University of Southern Indiana; or
- (G) Vincennes University;

with more full-time students enrolled at that campus than are enrolled at any other campus of that university; or

(2) that contains a structure owned by a university described in

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subdivision (1) that houses more than one hundred (100) students of the university.

(c) A county executive may establish a precinct subject to this section without regard to the number of registered voters permitted under section 3 of this chapter if less than forty percent (40%) of the active voters entitled to vote in the precinct voted in the last ~~general~~ **primary** election.

SECTION 35. IC 3-11-3-6 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 county election board and board of registration.**

SECTION 36. IC 3-11-3-29.5 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 37. 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 38. IC 3-11-4-3 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 subject to IC 3-6-5.2, the chief deputy of the combined county election board and board of registration)** 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
  - (B) was transmitted by a facsimile (FAX) machine; from other voters.

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(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 39. IC 3-11-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The absentee ballots for:

- (1) President and Vice President of the United States;
- (2) United States Senator;
- (3) all state offices; and
- (4) the ratification or rejection of a public question to be voted for by the electorate of the entire state or for the retention of a judge of the Indiana court of appeals;

shall be prepared and printed under the direction of the election division.

(b) The election division shall have the ballots printed upon certification of the political party tickets and independent candidates.

(c) Ballots prepared under this section must provide space for the voter to cast a write-in ballot.

(d) The election division shall prepare a special absentee ballot for the use by:

- (1) absent uniformed services voters; and
- (2) overseas voters;

who will be outside of the United States on general election day.

(e) The ballot described by subsection (d):

- (1) must indicate each state office to be elected by the voters at the general election;

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- (2) must set forth each public question to be voted for at the general election by the electorate of the entire state;
- (3) may not state the name of any political party or candidate for election; **and**
- (4) must permit the voter to write in the name of a political party or a candidate for election to each office; **and**
- (f) ~~The special absentee ballot described in subsection (d)~~
  - (5) must include
    - (1) ~~a form permitting registration under IC 3-7-36; and~~
    - (2) ~~a notice stating that regular absentee ballots will be mailed to the voter by the county election board as soon as the ballots are available.~~

SECTION 40. IC 3-11-4-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 ballots, enclosed them in this envelope, and sealed them with the assistance of an individual whose name is listed 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

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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 41. IC 3-11-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 42. IC 3-11-8-6 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
  - (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.

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(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 43. IC 3-11-8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) Persons other than:

- (1) members of a precinct election board;
- (2) poll clerks and assistant poll clerks;
- (3) election sheriffs;
- (4) deputy election commissioners;
- (5) **pollbook holders;**
- (6) watchers; and
- ~~(6)~~ (7) minor children accompanying voters as provided under IC 3-11-11-8 and IC 3-11-12-29;

are not permitted in the polls during an election except for the purpose of voting.

(b) This subsection applies to a simulated election for minors conducted with the authorization of the county election board. An individual participating in the simulated election may be in the polls for the purpose of voting. A person supervising the simulated election may be in the polls to perform the supervision.

(c) The inspector of a precinct has authority over all simulated election activities conducted under subsection (b) and shall ensure that the simulated election activities do not interfere with the election conducted in that polling place.

SECTION 44. IC 3-11-8-16 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. Challengers and pollbook holders appointed under IC 3-6-7 are entitled to stand at the sides of the chute next to the entrance to the polls, as provided in IC 3-6-7-2. No other person may remain within fifty (50) feet of the entrance to the polls except for the purpose of offering to vote.

SECTION 45. IC 3-11-10-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 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) Subsection (c) 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**

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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 46. IC 3-11-10-24 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
- (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 47. IC 3-11-13-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: Sec. 18. (a) **This section does not apply to an optical scan ballot card voting system.**

(b) Each ballot card provided under section 17 of this chapter must have two (2) attached perforated stubs on which is printed the same serial number. The top stub shall be bound or stapled in the package of ballot cards retained by the precinct election officers. The following information must be printed on the second stub:

- (1) The name of the political subdivision holding the election.
- (2) The designation of the election.
- (3) The date of the election.
- (4) The instructions to the voters.
- (5) In a primary election, the name of the political party.

(b) (c) The county election board in a county using a ballot card voting system shall provide ballot cards to the precinct election board that permit voters to cast write-in votes for each officer to be voted for at that election.

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~~(c)~~ (d) The ballot cards provided under subsection (b) must be:

- (1) designed to be folded; or
- (2) accompanied by a secrecy envelope;

to ensure the secrecy of each of the votes cast by a voter.

~~(d)~~ (e) A write-in vote shall be cast by printing the name of the candidate and the title of the office in the space provided for write-in votes on a ballot card or secrecy envelope.

SECTION 48. IC 3-11-13-28.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:  
Sec. 28.5. (a) **This section does not apply to an optical scan ballot card voting system.**

(b) Unless challenged, a voter may proceed to vote. After a voter has signed the poll list, the poll clerk holding the ballot card shall remove the top stub, as described in section 18 of this chapter, and deliver to the voter one (1) of each ballot card that the voter is entitled to vote at the election. The top stub (and any second stub declined by the voter under section 33 of this chapter) shall be retained by the precinct election board and returned to the election board following the close of the polls.

~~(b)~~ (c) As each successive voter calls for a ballot, the poll clerks shall deliver to the voter the first initialed ballot of each type. The inspector shall then deliver to the poll clerks another ballot of each type, which the clerks shall initial as before.

SECTION 49. IC 3-11-13-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:  
Sec. 33. (a) **This section does not apply to an optical scan ballot card voting system.**

(b) After a voter has marked a ballot card, the voter shall place it inside the envelope provided for this purpose and return the ballot card to the judge, who shall remove the second stub, as described in section 18 of this chapter, from the envelope. The judge shall then offer to return the envelope with the ballot card inside and the second stub to the voter, who shall:

- (1) accept the envelope and deposit it in the ballot box; or
- (2) decline the envelope and require the judge to deposit it in the ballot box.

~~(b)~~ (c) If a voter offers to vote a ballot card that is not inside the envelope provided for this purpose, the precinct election board shall direct the voter to return to the booth and place the ballot card in the envelope provided for this purpose.

~~(c)~~ (d) After a voter's ballot cards have been deposited in the ballot box, the poll clerks shall make a voting mark after the voter's name on

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the poll list.

(d) (e) After voting, a voter shall leave the polls. However, a voter to whom ballot cards and a marking device have been delivered may not leave the polls without voting the ballot cards or returning them to the poll clerk from whom the voter received them.

SECTION 50. IC 3-11-13-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:  
Sec. 34. (a) **This section does not apply to an optical scan ballot card voting system.**

(b) The judge in charge of the ballot box may not accept a ballot card from which the second stub, as described in section 18 of this chapter, has been detached. Such a card and stub shall be marked "VOID" and placed with the void ballots.

SECTION 51. IC 3-11-13-34.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:  
Sec. 34.5. (a) **This section does not apply to an optical scan ballot card voting system.**

(b) Notwithstanding section 34 of this chapter, if:

- (1) a ballot card has been cast as an absentee ballot;
- (2) the stub has been detached from the ballot card; and
- (3) both the stub and the ballot card have been sealed within the absentee ballot secrecy envelope;

the ballot card shall be counted if the ballot card is otherwise valid under this title.

SECTION 52. IC 3-11-13-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:  
Sec. 35. (a) **This section does not apply to an optical scan ballot card voting system.**

(b) If a voter spoils or defaces a ballot card or marks it erroneously, the voter shall return the card with the stub folded so as not to disclose any choices that the voter has made. The voter then may receive another ballot card. Upon receipt of a defective ballot card, the precinct election board shall:

- (1) immediately cancel the defective card by writing on the back of the card and stub the word "VOID" in ink or in indelible pencil; and
- (2) without detaching the stub, place the card in the container for voided ballots in a manner that does not expose the choices of the voter.

SECTION 53. 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:

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

SECTION 54. 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 of the county election board.

(b) ~~A~~ **An otherwise qualified** person is ~~not~~ eligible to serve on an

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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 55. IC 3-11.5-4-23 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 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 56. IC 3-11.5-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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~~

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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 57. 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) is 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 is 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 58. IC 3-12-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Whenever a candidate is elected:

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

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

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

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

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

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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 59. 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 60. 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**

(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 clerk of the circuit court.**

SECTION 61. IC 3-12-6-28 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.**

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SECTION 62. 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 63. IC 3-13-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) To be eligible to participate in a ~~meeting~~ **caucus** called under section 7 of this chapter, ~~a~~ **an elected** precinct committeeman or vice committeeman must

- (1) ~~be entitled to vote for the office for which a candidate is to be selected. and~~
- (2) **If An elected precinct committeeman is eligible to participate in a caucus called under this chapter, regardless of when the ballot vacancy occurred. The vice committeeman of an elected precinct committeeman is eligible to participate in a caucus called under this chapter.**

(b) An appointed precinct committeeman ~~or and the vice committeeman have been of an appointed precinct committeeman are eligible to participate in a caucus called under section 7 of this chapter if the precinct committeeman was a committeeman or vice committeeman continuously for a period beginning thirty (30) days before the vacancy occurred.~~

(b) Subsection (a)(2) does not prohibit an appointed vice committeeman from participating in a meeting if:

- (1) the meeting to fill a vacancy is held within thirty-five (35) days after a primary election at which precinct committeemen are elected; and
- (2) the precinct committeeman representing the precinct of the appointed vice committeeman was elected precinct committeeman at the preceding primary election.

SECTION 64. IC 3-13-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. Each precinct committeeman (a) **To be eligible to participate in a caucus called under this chapter, an elected precinct committeeman must be entitled to vote for the legislative office for which a successor is to**

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be selected. An elected precinct committeeman is eligible to participate in a caucus called under this chapter, regardless of when the vacancy in the legislative office occurred. The vice committeeman of an elected precinct committeeman is eligible to participate in a caucus called under this chapter.

(b) An appointed precinct committeeman and the vice committeeman of an appointed precinct committeeman are eligible to participate in a caucus called under this chapter if the precinct committeeman was a committeeman thirty (30) days before the vacancy occurred.

(c) An individual eligible to participate in a caucus meeting held under this chapter has one (1) vote. ~~A committeeman may not vote if the committeeman was not a committeeman at least thirty (30) days before the vacancy occurred.~~

SECTION 65. IC 3-13-9-5.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 66. IC 3-13-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) To be eligible to be a member of a caucus under this chapter, a ~~person~~ **precinct committeeman or vice committeeman** must **satisfy the following:**

- (1) Be a member of the same political party that elected or selected the person who vacated the office to be filled.
- (2) Be the precinct committeeman **or vice committeeman** of a precinct in which voters were eligible to vote for the person who vacated the office to be filled at the last election conducted or permitted for the office. ~~and~~

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**(3) If Satisfy the other requirements of this section.**

**An elected precinct committeeman is eligible to participate in a caucus called under this chapter, regardless of when the vacancy in the office occurred. The vice committeeman of an elected precinct committeeman is eligible to participate in a caucus called under this chapter.**

**(b) An appointed precinct committeeman ~~have been~~ and the vice committeeman of an appointed precinct committeeman are eligible to participate in a caucus called under this chapter if the precinct committeeman was a precinct committeeman continuously for a period beginning thirty (30) days before the date the vacancy occurred.**

~~(b) However;~~ **(c) If fewer than two (2) persons are eligible to be members of a caucus under this section, the county chairman entitled to give notice of a caucus under section 3 of this chapter shall fill the vacancy, no later than thirty (30) days after the vacancy occurs. A chairman acting under this subsection is not required to conduct a caucus.**

~~(c)~~ **(d) If the vacancy to be filled under this chapter resulted from the death of a person holding a local office who also served as a precinct committeeman, the vice committeeman for that precinct is eligible to participate in the caucus.**

**SECTION 67. IC 3-13-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) This section does not apply to a vacancy filled by a county chairman under section ~~5(b)~~ **5(c)** of this chapter.**

**(b) A person who wishes to be a candidate for pro tempore appointment to fill a vacancy under this chapter must file:**

- (1) a declaration of candidacy with the chairman of the caucus; and**
- (2) a statement of economic interests with the commission on judicial qualifications if the vacancy is in the office of prosecuting attorney;**

**at least seventy-two (72) hours before the time fixed for the caucus.**

**SECTION 68. IC 3-13-11-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. No later than noon five (5) days after:**

- (1) the selection required by section 10 of this chapter; or**
- (2) a selection under section ~~5(b)~~ **5(c)** of this chapter;**

**the chairman shall certify the pro tempore appointment results to the circuit court clerk of the county in which the greatest percentage of the population of the election district is located. The clerk shall file the certificate in the clerk's office in the same manner as certificates of**

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election are filed. Within twenty-four (24) hours after the certificate is filed, the clerk shall issue a copy of the certificate to the individual named in the certificate.

SECTION 69. IC 3-13-11-18 IS AMENDED TO READ AS 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 provided in IC 3-13-6, the person serves for the remainder of the unexpired term.**

SECTION 70. IC 3-14-2-16 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

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that is not the ballot cast by the absentee voter.

SECTION 71. IC 20-4-1-42 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 42. (a) This section applies only to a school corporation with territory in a county having a population of more than one hundred twenty-nine thousand (129,000) but less than one hundred thirty thousand six hundred (130,600).**

**(b) This section applies if there is a:**

**(1) tie vote in an election for a member of the governing body of a school corporation; or**

**(2) vacancy on the governing body of a school corporation.**

**(c) Notwithstanding any other law, if a tie vote occurs among any of the candidates for the governing body or a vacancy occurs on the governing body, the remaining members of the governing body, even if the remaining members do not constitute a majority of the governing body, shall by a majority vote of the remaining members:**

**(1) select one (1) of the candidates who shall be declared and certified elected; or**

**(2) fill the vacancy by appointing an individual to fill the vacancy.**

**(d) An individual appointed to fill a vacancy under subsection (c)(2):**

**(1) must satisfy all the qualifications required of a member of the governing body; and**

**(2) shall fill the remainder of the unexpired term of the vacating member.**

**(e) If a tie vote occurs among the remaining members of the governing body or the governing body fails to act within thirty (30) days after the election or the vacancy occurs, the fiscal body (as defined in IC 3-5-2-25) of the township in which the greatest percentage of population of the school district resides shall break the tie or make the appointment. A member of the fiscal body who was a candidate and is involved in a tie vote may not cast a vote under this subsection.**

**(f) If the fiscal body of a township is required to act under this section and a vote in the fiscal body results in a tie, the deciding vote to break the tie vote shall be cast by the executive.**

SECTION 72. IC 36-5-2-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.5. (a) This section applies to a town if both of the following apply:**

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(1) The town has a population of more than ten thousand (10,000).

(2) The town legislative body adopts an ordinance adopting the provisions of this section. A town may not adopt an ordinance under this section during a year in which municipal elections are held under IC 3-10-6-5.

(b) A town legislative body has the following members:

(1) Five (5) members, each elected by the voters of a district. The districts are established by ordinance by the town legislative body as provided in this chapter.

(2) Two (2) members elected at large by all the voters of the town.

(c) An ordinance adopted under this section must provide for the following:

(1) Four (4) members of the legislative body are elected during a year that municipal elections are held under IC 3-10-6-5.

(2) Three (3) members of the legislative body are elected either:

(A) during the year before the year described in subdivision (1); or

(B) during the year after the year described in subdivision (1).

The year for elections under this subdivision must be chosen so that during the elections held for the town legislative body under subdivision (4), a member of the town legislative body does not serve a term of more than four (4) years.

(3) The members of the legislative body elected at large may not be elected at the same time.

(4) At the first two (2) elections after the ordinance is adopted, members are elected to serve the following terms:

(A) Two (2) members elected under subdivision (1) are elected to a four (4) year term and two (2) members elected under subdivision (1) are elected to a three (3) year term.

(B) Two (2) members elected under subdivision (2) are elected to a four (4) year term and one (1) member elected under subdivision (2) is elected to a three (3) year term.

The ordinance must provide a random procedure to determine which members serve four (4) year terms and which members serve three (3) year terms.

(5) A member of the town board elected after the elections described in subdivision (4) serves a term of four (4) years.

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**(6) The term of office of a member begins on noon January 1 after the member's election.**

**(d) An ordinance adopted under this section may provide that before the first election after adoption of the ordinance, members of the town legislative body added to the legislative body by the ordinance may be appointed to the legislative body by a vote of the current members of the legislative body.**

**(e) After the first two (2) elections held as described in subsection (c)(4), the town legislative body may adopt an ordinance to do the following:**

- (1) Divide the town into seven (7) districts.**
- (2) Provide that the members elected at large are each elected from a district.**

**An ordinance adopted under this subsection must comply with this chapter in establishing the districts and provide details to provide a transition from electing two (2) members at large to electing all members from districts.**

**(f) Subject to this section, members of the town legislative body are elected as provided in IC 3-10-6-4.5.**

**SECTION 73. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 3-7-35-4; IC 3-8-7-9; IC 3-11-3-7; IC 3-11-3-9.**

**SECTION 74. [EFFECTIVE JULY 1, 1995 (RETROACTIVE)]: (a) The definitions in IC 3-5-2, as amended by this act, apply to this SECTION.**

**(b) This SECTION applies to a voting system that:**

- (1) was approved for marketing and use in Indiana by the Indiana election commission (or its predecessor, the state election board) before January 1, 1999; and**
- (2) has been tested by an independent testing authority or other entity designated by the commission to determine whether the voting system complies with the standards applicable to that voting system under IC 3-11-7, IC 3-11-7.5, or IC 3-11-15.**

**(c) If an application is submitted for the recertification of a voting system described in subsection (b) and the election commission finds that:**

- (1) none of the counties using the voting system has objected to the recertification following notification of the public hearing conducted under IC 3-11-7-19 or IC 3-11-7.5-28;**
- (2) mandating retrofitting of the voting system to comply with the standards established by IC 3-11, as amended by this act, that have no direct bearing on the ability of the voting system**

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to tabulate votes accurately or to withstand normal usage in the election process would result in significant expense:

(A) to the vendor that could reduce the commercial viability of marketing the voting system and impair competition among voting systems as a result; and

(B) to a county using the system; and

(3) the voting system substantially complies with IC 3-11, as amended by this act, except as specified in subdivision (2); the commission may approve the application for recertification under IC 3-11-7-19 or IC 3-11-7.5-28.

SECTION 75. [EFFECTIVE JULY 1, 1997 (RETROACTIVE)] (a) This SECTION applies to a voter registration application form approved by the Indiana election commission (or its predecessor, the state election board), after November 1, 1994, and before January 1, 1999.

(b) Notwithstanding IC 3-5-4-8, as amended by this act:

(1) an applicant to register to vote may submit; and

(2) a county voter registration office may approve;

a properly completed voter registration application form described in subsection (a) from an otherwise qualified applicant to register even though the application form is not the most recent version of the registration application form approved by the commission.

(c) This SECTION expires January 1, 2000.

SECTION 76. An emergency is declared for this act.

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