

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 37 be amended to read as follows:

- 1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
- 2 "SECTION 1. IC 3-8-5-15 IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE UPON PASSAGE]: Sec. 15. A town clerk-treasurer shall
- 4 preserve in the clerk-treasurer's office:
- 5 (1) all certificates of nomination and declarations of candidacy
- 6 filed with the town clerk-treasurer under this chapter; and
- 7 (2) all petitions of nomination filed under IC 3-8-6-10;
- 8 for the period required under IC 3-10-1-31 or **IC 3-10-1-31.1** after the
- 9 municipal election for which the nominations were made.
- 10 SECTION 2. IC 3-8-7-24, AS AMENDED BY P.L.38-1999,
- 11 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 12 UPON PASSAGE]: Sec. 24. The election division and each circuit court
- 13 clerk shall preserve all certificates and petitions of nomination filed
- 14 under this article for the period required under IC 3-10-1-31 or
- 15 **IC 3-10-1-31.1.**
- 16 SECTION 3. IC 3-10-1-31, AS AMENDED BY P.L.209-2003,
- 17 SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 UPON PASSAGE]: Sec. 31. (a) **This section applies to election**
- 19 **materials for elections held before January 1, 2004.**
- 20 (b) The inspector of each precinct shall deliver the bags required by
- 21 section 30(a) and 30(c) of this chapter in good condition, together with
- 22 poll lists, tally sheets, and other forms, to the circuit court clerk when
- 23 making returns.

1 ~~(b)~~ (c) Except for unused ballots disposed of under IC 3-11-3-31,
2 the circuit court clerk shall carefully preserve the ballots and other
3 material and keep all seals intact for twenty-two (22) months, as
4 required by 42 U.S.C. 1974, after which they may be destroyed unless:

- 5 (1) an order issued under IC 3-12-6-19 or IC 3-12-11-16; or
- 6 (2) 42 U.S.C. 1973;

7 requires the continued preservation of the ballots or other material.

8 ~~(c)~~ (d) This subsection applies before January 1, 2006. Upon
9 delivery of the poll lists, the ~~the~~ county voter registration office may
10 unseal the envelopes containing the poll lists. For the purposes of:

- 11 (1) a cancellation of registration conducted under IC 3-7-43
12 through IC 3-7-46;
- 13 (2) a transfer of registration conducted under IC 3-7-39,
14 IC 3-7-40, or IC 3-7-42;
- 15 (3) adding the registration of a voter under IC 3-7-48-8; or
- 16 (4) recording that a voter subject to IC 3-7-33-4.5 submitted the
17 documentation required under 42 U.S.C. 15843 and IC 3-11-8 or
18 IC 3-11-10;

19 the county voter registration office may inspect the poll lists and update
20 the registration record of the county. The county voter registration
21 office shall use the poll lists to update the registration record to include
22 the voter's voter identification number if the voter's voter identification
23 number is not already included in the registration record. Upon
24 completion of the inspection, the poll list shall be resealed and preserved
25 with the ballots and other materials for the time period prescribed by
26 subsection ~~(b)~~: (c).

27 ~~(d)~~ (e) This subsection applies after December 31, 2005. Upon
28 delivery of the poll lists, the county voter registration office may unseal
29 the envelopes containing the poll lists. For purposes of:

- 30 (1) a cancellation of registration conducted under IC 3-7-43
31 through IC 3-7-46; or
- 32 (2) a transfer of registration conducted under IC 3-7-39,
33 IC 3-7-40, or IC 3-7-42;

34 the county voter registration office may inspect the poll lists and update
35 the registration record of the county. The county voter registration
36 office shall use the poll lists to update the registration record to include
37 the voter's current voter identification number if the voter's voter
38 identification number is not included in the registration record. Upon
39 completion of the inspection, the poll list shall be resealed and preserved
40 with the ballots and other materials for the time period prescribed by
41 subsection ~~(b)~~: (c).

42 ~~(e)~~ (f) After the expiration of the period described in subsection ~~(b)~~:
43 (c), the ballots may be destroyed in the manner provided by
44 IC 3-11-3-31 or transferred to a state educational institution as provided
45 by IC 3-12-2-12.

1 SECTION 4. IC 3-10-1-31.1 IS ADDED TO THE INDIANA CODE
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON
 3 PASSAGE]: **Sec. 31.1. (a) This section applies only to election
 4 materials for elections held after December 31, 2003.**

5 **(b) The inspector of each precinct shall deliver the bags
 6 required by section 30(a) and 30(c) of this chapter in good
 7 condition, together with poll lists, tally sheets, and other forms, to
 8 the circuit court clerk when making returns.**

9 **(c) Except for unused ballots disposed of under IC 3-11-3-31 or
 10 affidavits received by the county election board under IC 3-14-5-2
 11 for delivery to the foreman of a grand jury, the circuit court clerk
 12 shall seal the ballots and other material during the time allowed
 13 to file a verified petition or cross-petition for a recount of votes or
 14 to contest the election. Except as provided in subsection (d), after
 15 the recount or contest filing period, the election material (except
 16 for ballots, which remain confidential) shall be made available for
 17 copying and inspection under IC 5-14-3. The circuit court clerk
 18 shall carefully preserve the sealed ballots and other material for
 19 twenty-two (22) months, as required by 42 U.S.C. 1974, after
 20 which the sealed ballots and other material are subject to
 21 IC 5-15-6 unless an order issued under:**

- 22 **(1) IC 3-12-6-19 or IC 3-12-11-16; or**
 23 **(2) 42 U.S.C. 1973;**

24 **requires the continued preservation of the ballots or other
 25 material.**

26 **(d) If a petition for a recount or contest is filed, the material
 27 for that election remains confidential until completion of the
 28 recount or contest.**

29 **(e) This subsection applies before January 1, 2006. Upon
 30 delivery of the poll lists, the county voter registration office may
 31 unseal the envelopes containing the poll lists. For the purposes of:**

- 32 **(1) a cancellation of registration conducted under IC 3-7-43
 33 through IC 3-7-46;**
 34 **(2) a transfer of registration conducted under IC 3-7-39,
 35 IC 3-7-40, or IC 3-7-42;**
 36 **(3) a change of name made under IC 3-7-41;**
 37 **(4) adding the registration of a voter under IC 3-7-48-8; or**
 38 **(5) recording that a voter subject to IC 3-7-33-4.5 submitted
 39 the documentation required under 42 U.S.C. 15483 and
 40 IC 3-11-8 or IC 3-11-10;**

41 **the county voter registration office may inspect the poll lists and
 42 update the registration record of the county. The county voter
 43 registration office shall use the poll lists to update the registration**

1 record to include the voter's voter identification number if the
 2 voter's voter identification number is not already included in the
 3 registration record. Upon completion of the inspection, the poll list
 4 shall be preserved with the ballots and other materials in the
 5 manner prescribed by subsection (c) for the period prescribed by
 6 subsections (c) and (d).

7 (f) This subsection applies after December 31, 2005. Upon
 8 delivery of the poll lists, the county voter registration office may
 9 unseal the envelopes containing the poll lists. For purposes of:

- 10 (1) a cancellation of registration conducted under IC 3-7-43
 11 through IC 3-7-46;
- 12 (2) a transfer of registration conducted under IC 3-7-39,
 13 IC 3-7-40, or IC 3-7-42;
- 14 (3) a change of name made under IC 3-7-41; or
- 15 (4) adding the registration of a voter under IC 3-7-48-8;

16 the county voter registration office may inspect the poll lists and
 17 update the registration record of the county. The county voter
 18 registration office shall use the poll lists to update the registration
 19 record to include the voter's current voter identification number
 20 if the voter's voter identification number is not included in the
 21 registration record. Upon completion of the inspection, the poll list
 22 shall be preserved with the ballots and other materials in the
 23 manner prescribed by subsection (c) for the period prescribed by
 24 subsections (c) and (d).

25 (g) This subsection does not apply to ballots. Notwithstanding
 26 subsection (c), if a county voter registration office determines that
 27 the inspection and copying of precinct election material would
 28 reveal the political parties, candidates, and public questions for
 29 which an individual cast an absentee ballot, the county voter
 30 registration office shall keep confidential only that part of the
 31 election material necessary to protect the secrecy of the voter's
 32 ballot.

33 (h) After the expiration of the period described in subsection
 34 (c) or (d), the ballots may be destroyed in the manner provided by
 35 IC 3-11-3-31 or transferred to a state educational institution as
 36 provided by IC 3-12-2-12.

37 SECTION 5. IC 3-10-7-33, AS AMENDED BY P.L.209-2003,
 38 SECTION 102, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 UPON PASSAGE]: Sec. 33. (a) A town election board shall canvass the
 40 votes from a municipal election in the manner prescribed by IC 3-12-4.

41 (b) After completion of the canvass, the town election board shall
 42 immediately file the poll lists, ballots, tally sheets, and other election
 43 forms with the circuit court clerk of the county containing the greatest

1 percentage of population of the town for preservation and voter list
2 maintenance in accordance with IC 3-10-1-31 **or IC 3-10-1-31.1.**

3 SECTION 6. IC 3-11-8-30 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. Each inspector
5 shall return the poll lists, together with the oaths of the precinct election
6 board members, in a sealed envelope separate from all other precinct
7 election returns to the circuit court clerk. The clerk shall preserve the
8 poll lists for the period required by IC 3-10-1-31 **or IC 3-10-1-31.1.**

9 SECTION 7. IC 3-11-11-18 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. A voter who by
11 accident or mistake spoils, defaces, or mutilates the voter's ballot may,
12 by returning the ballot to the poll clerks or assistant poll clerks and
13 satisfying them that the spoiling, defacing, or mutilation was not
14 intentional, receive another ballot. The poll clerks or assistant poll clerks
15 shall make a record of the fact on the poll list, and the ballot shall then
16 be marked "VOID" by the precinct election board in the presence of the
17 voter and returned with the other election materials as required by
18 IC 3-10-1-31 **or IC 3-10-1-31.1.**

19 SECTION 8. IC 3-11.5-5-23 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. The circuit
21 court clerk shall preserve the receptacle containing the envelope or bag
22 in the clerk's office for the period required under IC 3-10-1-31 **or**
23 **IC 3-10-1-31.1.**

24 SECTION 9. IC 3-11.5-5-25 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. When permitted
26 under IC 3-10-1-31 **or IC 3-10-1-31.1**, the clerk and a county election
27 board member of the opposite political party shall remove the envelope
28 or bag from the receptacle and destroy the envelope or bag.

29 SECTION 10. IC 3-11.5-5-26 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. A county
31 election board may contract with a state educational institution (as
32 defined in IC 20-12-0.5-1) to dispose of the ballots. The contract must
33 provide that:

- 34 (1) the ballots will be used by the state educational institution to
35 conduct election research; and
36 (2) the state educational institution may not receive any ballots
37 under this subsection until the period for retention under
38 IC 3-10-1-31 **or IC 3-10-1-31.1** has expired.

39 SECTION 11. IC 3-11.5-6-26 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. The circuit
41 court clerk shall preserve the receptacle containing the envelope or bag
42 in the clerk's office for the period required under IC 3-10-1-31 **or**
43 **IC 3-10-1-31.1.**

44 SECTION 12. IC 3-11.5-6-28 IS AMENDED TO READ AS
45 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. When permitted

1 under IC 3-10-1-31 **or IC 3-10-1-31.1**, the clerk and a county election
 2 board member of the opposite political party shall remove the envelope
 3 or bag from the receptacle and destroy the envelope or bag.

4 SECTION 13. IC 3-11.5-6-29 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. A county
 6 election board may contract with a state educational institution (as
 7 defined in IC 20-12-0.5-1) to dispose of the ballots. The contract must
 8 provide that:

9 (1) the ballots will be used by the state educational institution to
 10 conduct election research; and

11 (2) the state educational institution may not receive any ballots
 12 under this subsection until the period for retention under
 13 IC 3-10-1-31 **or IC 3-10-1-31.1** has expired.

14 SECTION 14. IC 3-11.7-5-24, AS ADDED BY P.L.126-2002,
 15 SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 UPON PASSAGE]: Sec. 24. The circuit court clerk shall preserve the
 17 receptacle containing the envelope or bag in the clerk's office for the
 18 period required under IC 3-10-1-31 **or IC 3-10-1-31.1**.

19 SECTION 15. IC 3-11.7-5-26, AS ADDED BY P.L.126-2002,
 20 SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 UPON PASSAGE]: Sec. 26. When permitted under IC 3-10-1-31 **or**
 22 **IC 3-10-1-31.1**, the clerk and a county election board member of the
 23 opposite political party shall remove the envelope or bag from the
 24 receptacle and destroy the envelope or bag.

25 SECTION 16. IC 3-11.7-5-27, AS ADDED BY P.L.126-2002,
 26 SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 UPON PASSAGE]: Sec. 27. A county election board may contract with
 28 a state educational institution (as defined in IC 20-12-0.5-1) to dispose
 29 of the ballots. The contract must provide that:

30 (1) the ballots will be used by the state educational institution to
 31 conduct election research; and

32 (2) the state educational institution may not receive any ballots
 33 under this section until the period for retention under IC 3-10-1-31
 34 **or IC 3-10-1-31.1** has expired.

35 SECTION 17. IC 3-12-2-12 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The circuit
 37 court clerk shall preserve the receptacle containing the envelope or bag
 38 in the clerk's office for the period required under IC 3-10-1-31 **or**
 39 **IC 3-10-1-31.1**. However, if the election is contested, then the clerk
 40 shall preserve the receptacle containing the envelope or bag as long as
 41 the contest is undetermined. During those periods the clerk shall keep
 42 the receptacle securely locked, subject only to an order of the court
 43 trying a contest.

44 (b) When permitted under IC 3-10-1-31 **or IC 3-10-1-31.1**, the
 45 clerk and county election board member of the opposite political party

1 shall remove the envelope or bag from the receptacle and destroy the
2 envelope or bag.

3 (c) A county election board may contract with a state educational
4 institution (as defined in IC 20-12-0.5-1) to dispose of ballots. The
5 contract must provide that:

6 (1) the ballots will be used by the state educational institution to
7 conduct election research; and

8 (2) the state educational institution may not receive any ballots
9 under this subsection until the period for retention under
10 IC 3-10-1-31 or IC 3-10-1-31.1 has expired.

11 SECTION 18. IC 3-12-3-10 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) After the
13 voting totals have been taken and certified by a precinct election board
14 under section 2(c) of this chapter, the inspector shall:

15 (1) seal each automatic tabulating machine used in the precinct;

16 (2) place all ballot cards that have been counted in the container
17 provided for that purpose; and

18 (3) seal the container into which the ballot cards have been placed;
19 in the presence of the precinct election board. The automatic tabulating
20 machine may not be moved from the polls after the polls are closed until
21 collected.

22 (b) The inspector and judge of the opposite political party shall
23 deliver:

24 (1) the certification of the vote totals and one (1) copy of the
25 certificate prepared under section 2(c) of this chapter for the
26 circuit court clerk;

27 (2) the certificate of the vote totals prepared under section 2(c) of
28 this chapter for the news media;

29 (3) the container in which ballot cards have been placed under
30 subsection (a); and

31 (4) the unused, uncounted, and defective ballot cards and returns;
32 to the circuit court clerk.

33 (c) The inspector and judge of the opposite political party shall
34 deliver the certificates and the list of voters to the county election board
35 by midnight on election day. However, if:

36 (1) a ballot card voting system failed;

37 (2) the failure of the system was reported as required by this title;

38 (3) paper ballots were used in place of the system; and

39 (4) the use of the paper ballots caused a substantial delay in the
40 vote counting process;

41 then the certificates, the list of voters, and the tally papers shall be
42 delivered as soon as possible.

43 (d) Upon delivery of the container to the circuit court clerk under
44 subsection (c), the inspector shall take and subscribe an oath before the
45 clerk stating that the inspector:

46 (1) closed and sealed the container in the presence of the judges

- 1 and poll clerks;
- 2 (2) securely kept the ballot cards in the container;
- 3 (3) did not permit any person to open the container or to
- 4 otherwise touch or tamper with the ballot cards; and
- 5 (4) has no knowledge of any other person opening the container.

6 (e) Each oath taken under subsection (d) shall be filed in the circuit
7 court clerk's office with other election papers.

8 (f) Upon completion of the counting of the votes by a precinct
9 election board under section 2(c) of this chapter or at a central location,
10 all ballot cards shall be arranged by precincts and kept by the circuit
11 court clerk for the period required by IC 3-10-1-31 **or IC 3-10-1-31.1**.
12 The clerk shall determine the final disposition of all voted ballot cards.

13 SECTION 19. IC 3-12-4-13, AS AMENDED BY P.L.199-2001,
14 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 UPON PASSAGE]: Sec. 13. After the county election board has
16 tabulated the vote:

- 17 (1) the canvass sheets used by the board; and
- 18 (2) the certificates, poll lists, and tally papers returned by each
- 19 inspector in the county;

20 shall be delivered to the circuit court clerk. The clerk shall file and
21 preserve all the material in the clerk's office as provided in IC 3-10-1-31
22 **or IC 3-10-1-31.1**".

23 Delete page 2.

24 Page 3, delete lines 1 through 18.

25 Renumber all SECTIONS consecutively.

(Reference is to ESB 37 as printed February 20, 2004.)

Representative Mahern