



Reprinted
April 9, 1999

ENGROSSED SENATE BILL No. 109

DIGEST OF SB 109 (Updated April 8, 1999 3:51 pm - DI 75)

Citations Affected: IC 3-5; IC 3-6; IC 3-7; IC 3-8; IC 3-9; IC 3-10; IC 3-11; IC 3-11.5; IC 3-12; IC 3-13; IC 3-14; IC 5-4; IC 5-6; IC 20-4; IC 33-2.1; IC 33-5; IC 33-16; IC 36-1; IC 36-5; noncode.

Synopsis: Various elections matters. Makes changes in election law in the following areas: (1) Voter registration procedures. (2) Election forms. (3) The status of political party officers as office holders under the Indiana Constitution. (4) County election boards and combined election boards and boards of registration. (5) Precinct election workers
(Continued next page)

Effective: July 1, 1995 (retroactive); January 1, 1997 (retroactive); July 1, 1997 (retroactive); January 1, 1998 (retroactive); December 1, 1998 (retroactive); January 1, 1999 (retroactive); upon passage; July 1, 1999.

Lawson C

(HOUSE SPONSORS — KROMKOWSKI, WHETSTONE, CROSBY)

January 6, 1999, read first time and referred to Committee on Elections.
February 9, 1999, amended, reported favorably — Do Pass.
February 15, 1999, read second time, ordered engrossed. Engrossed.
February 22, 1999, read third time, call withdrawn. Placed back on second reading for purposes of amendment.
February 23, 1999, reread second time, amended, ordered engrossed.
February 24, 1999, engrossed.
March 1, 1999, reread third time, passed. Yeas 49, nays 0.
HOUSE ACTION
March 3, 1999, read first time and referred to Committee on Elections and Apportionment.
April 5, 1999, amended, reported — Do Pass.
April 8, 1999, read second time, amended, ordered engrossed.

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and procedures at the polls on election day. (6) Nomination of candidates and other procedures relating to becoming a candidate. (7) Election challenge, recount, and contest procedures. (8) Indiana election materials disclaimer law. (9) Ballot card and other voting systems. (10) Local public questions in Lake County. (11) Printing, form, and delivery of ballots. (12) Establishing precincts in counties containing campuses of a state university. (13) Voting by absentee ballot. (14) Certificates of election. (15) Filling of candidate vacancies. (16) The status of appointed deputies of local office holders as holding a lucrative office. (17) School board elections in Tippecanoe county and Hammond. (18) The size and election of legislative bodies in certain towns. Makes technical changes. Repeals obsolete election statutes.

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Reprinted
April 9, 1999

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

ENGROSSED SENATE BILL No. 109

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

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

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

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

13 SECTION 2. IC 3-5-4-8 IS AMENDED TO READ AS FOLLOWS
14 [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) **Except as provided in**
15 **subsection (e), but** notwithstanding any other statute, whenever the

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1 commission acts under IC 3-6-4.1-14 to approve a uniform election or
 2 registration form for use throughout Indiana or to approve a revision to
 3 an existing form, a person must use the most recent version of the form
 4 approved by the commission to comply with this title after the effective
 5 date of the commission's order approving the form.

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

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

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

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

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

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

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

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

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

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

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

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

42 (f) **This subsection applies to a form that the commission**

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1 determines is used primarily by the election division. The
 2 commission may provide that an order concerning a form
 3 described by this subsection is effective immediately upon
 4 adoption, without any requirement to distribute the form to other
 5 persons.

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

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

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

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

28 SECTION 5. IC 3-6-4.2-14 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JANUARY 1, 1997 (RETROACTIVE)]:
 30 Sec. 14. (a) Each year the election division shall call a meeting of all
 31 the members of the county election boards and the boards of
 32 registration to instruct them as to their duties under this title. Each
 33 circuit court clerk shall attend the meeting.

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

39 (c) Each member of a county election board or board of registration
 40 is entitled to receive ~~æ~~ all of the following:

- 41 (1) A per diem of twenty-four dollars (\$24) for attending the
 42 instructional meeting required by this section.



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

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

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

10 SECTION 6. IC 3-6-5.2-2 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this
 12 chapter, "~~combined~~ "board" refers to the ~~combined county election~~
 13 ~~board and~~ board of **elections and** registration established by section 3
 14 of this chapter.

15 SECTION 7. IC 3-6-5.2-3 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The ~~combined~~
 17 ~~county election board and~~ board of **elections and** registration is
 18 established and shall be known as the _____ (name of county)
 19 ~~combined county election board and~~ board of **elections and**
 20 registration.

21 SECTION 8. IC 3-6-5.2-5 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. Each member of
 23 the ~~combined~~ board shall be paid an annual salary of not less than ten
 24 thousand dollars (\$10,000). The salaries of the board members shall be
 25 fixed in the manner prescribed by IC 36-2-5 or IC 36-3-6 and paid out
 26 of the county general fund in accordance with IC 3-5-3-1 as other
 27 election expenses are paid.

28 SECTION 9. IC 3-6-5.2-6 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The
 30 ~~combined~~ board has all of the powers and duties given in this title to
 31 the following:

- 32 (1) The county election board.
 33 (2) The board of registration.
 34 (3) The circuit court clerk.
 35 (4) The county executive.

36 (b) The ~~chief deputy director~~ appointed under section 7 of this
 37 chapter shall perform all the duties of the circuit court clerk under this
 38 title. The ~~combined~~ board shall perform all the duties of the county
 39 executive under this title.

40 SECTION 10. IC 3-6-5.2-7 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The
 42 ~~combined~~ board may vest day to day operations in a ~~chief deputy~~

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1 **director** of the ~~combined~~ board and in an assistant ~~chief deputy~~
2 **director** of the ~~combined~~ board.

3 (b) The ~~chief deputy director~~ of the ~~combined~~ board is appointed
4 by the county chairman of the political party whose nominee received
5 the highest number of votes in the county for secretary of state in the
6 last election.

7 (c) The assistant ~~chief deputy director~~ of the ~~combined~~ board is
8 appointed by the county chairman of the political party whose nominee
9 received the second highest number of votes in the county for secretary
10 of state in the last election.

11 (d) ~~The chief deputy of the combined board shall receive an annual~~
12 ~~salary of not less than the salary of other chief deputies in the county.~~
13 The assistant ~~chief deputy director~~ shall receive an annual salary of
14 not less than two thousand dollars (\$2,000) less than the salary of the
15 ~~chief deputy director~~.

16 (e) **The board shall establish the number and compensation of**
17 **the employees of the board. The county chairman of each of the**
18 **major political parties in the county shall appoint one-half (1/2) of**
19 **the board employees. The director, the assistant director, and the**
20 **board employees serve at the pleasure of their respective**
21 **appointing authorities.**

22 (f) **The board may, by a vote of a majority of the members of the**
23 **board, hire attorneys to provide legal services for the board, as**
24 **determined by the board.**

25 SECTION 11. IC 3-6-6-1 IS AMENDED TO READ AS FOLLOWS
26 [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as otherwise
27 provided by law, each county election board shall appoint a precinct
28 election board for each precinct in the county.

29 (b) A precinct election board consists of **the following:**

30 (1) One (1) inspector. ~~and~~

31 (2) Two (2) judges. ~~of opposite political parties;~~

32 (c) **Each county chairman of a major political party of the**
33 **county is entitled to nominate one (1) judge under section 9 of this**
34 **chapter.**

35 (d) Each **inspector and judge** ~~of whom~~ must be a voter of the
36 county.

37 (e) The inspector ~~shall serve~~ **serves** as the chairman of the precinct
38 election board.

39 SECTION 12. IC 3-6-6-2 IS AMENDED TO READ AS FOLLOWS
40 [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Each county election
41 board shall appoint two (2) poll clerks for each precinct in the county.

42 (b) **Each county chairman of a major political party of the**

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1 **county is entitled to nominate one (1) poll clerk under section 9 of**
2 **this chapter.**

3 (c) The poll clerks must be of opposite political parties and must be
4 voters of the county.

5 SECTION 13. IC 3-6-6-3 IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Each county election
7 board may appoint two (2) assistant poll clerks in each precinct.

8 **(b) Each county chairman of a major political party of the**
9 **county is entitled to nominate one (1) assistant poll clerk under**
10 **section 9 of this chapter.**

11 ~~(b)~~ (c) Except as provided in subsection ~~(c)~~; (d), the assistant poll
12 clerks must be of opposite political parties and must be voters of the
13 county.

14 ~~(c)~~ (d) The county election board may permit a person who is not a
15 voter to be an assistant poll clerk if the person is:

- 16 (1) at least sixteen (16) years of age, but not more than seventeen
- 17 (17) years of age; and
- 18 (2) a resident of the county.

19 SECTION 14. IC 3-6-6-5 IS AMENDED TO READ AS FOLLOWS
20 [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in
21 subsection ~~(b)~~; (d), each county election board shall appoint two (2)
22 election sheriffs for each precinct in the county.

23 **(b) Each county chairman of a major political party of the**
24 **county is entitled to nominate one (1) election sheriff under section**
25 **9 of this chapter.**

26 (c) The sheriffs must be of opposite political parties and must be
27 voters of the county.

28 ~~(b)~~ (d) A county executive may issue an order providing that the
29 judges of each precinct named in the order shall perform the duties and
30 have the rights of the election sheriffs of the precinct named in the
31 order. An order issued under this subsection remains in effect until the
32 county executive ~~retracts~~ **rescinds** the order.

33 SECTION 15. IC 3-6-6-10 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A county
35 chairman may make nominations for precinct election offices by filing
36 the nominations in writing with the circuit court clerk no later than
37 noon fourteen (14) days before the election.

38 **(b) This subsection does not apply to the office of precinct**
39 **inspector. A county chairman may specify in the nomination of an**
40 **individual for a precinct election office that the individual is**
41 **nominated to serve until noon on election day and that another**
42 **individual is nominated to serve in the same precinct election office**

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1 **beginning at noon on election day until the expiration of the term**
 2 **of the office under section 37(b) of this chapter.**

3 SECTION 16. IC 3-6-6-11 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) A county
 5 election board shall appoint the voters who are nominated for precinct
 6 election offices by the county chairmen.

7 **(b) This subsection does not apply to the office of precinct**
 8 **inspector. This subsection applies to an appointment to a precinct**
 9 **election office made following a nomination by a county chairman**
 10 **under this chapter. The county election board shall provide that an**
 11 **appointment of an individual to a precinct election office:**

12 (1) expires at noon on election day; or

13 (2) begins at noon on election day and expires under section
 14 37(b) of this chapter;

15 **if the nomination made by the county chairman specifies that the**
 16 **nomination is made for a term that begins or expires at those times.**

17 (c) **This subsection does not apply to the office of precinct**
 18 **inspector. This subsection applies to an appointment to a precinct**
 19 **election office made by a county election board under section 13(b)**
 20 **of this chapter. The county election board may appoint an**
 21 **individual to a precinct election office for a term that:**

22 (1) expires at noon on election day; or

23 (2) begins at noon on election day and expires under section
 24 37(b) of this chapter.

25 SECTION 17. IC 3-6-6-14 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) This section
 27 does not apply to a vacancy in the office of election sheriff in a precinct
 28 that is subject to a resolution adopted under section 5 of this chapter.

29 (b) If a precinct election officer fails to appear at the hour set for the
 30 opening of the polls, or if a precinct election office becomes vacant
 31 during election day, the remaining members of the precinct election
 32 board shall fill the vacancy upon the nomination of the highest ranking
 33 precinct election officer ~~whose~~ **nominated by the county chairman**
 34 **of the same** political party is the same as that required for ~~whose~~
 35 **county chairman was entitled to nominate** the holder of the office to
 36 be filled.

37 (c) **If a county chairman fails to nominate the individual**
 38 **appointed to make a nomination to fill a vacant precinct election**
 39 **office under subsection (b), the individual appointed by the county**
 40 **election board to this precinct election office under section 13(b) of**
 41 **this chapter is entitled to make the nomination to fill the vacant**
 42 **precinct office under this section.**



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1 (e) **(d)** For the purpose of these nominations, the rank of precinct
2 election officers is as follows:

- 3 (1) Inspector.
4 (2) Judge.
5 (3) Poll clerk.
6 (4) Assistant poll clerk.
7 (5) Election sheriff.

8 SECTION 18. IC 3-6-6-32 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. **(a)** If a precinct
10 has both poll clerks and assistant poll clerks and the voting is entirely
11 done by paper ballot, the assistant poll clerks shall perform the same
12 duties required of the poll clerks regarding the initialing and giving out
13 of the ballots and pencils **or pens** when required to do so. ~~However,~~

14 **(b)** It is necessary for only the two (2) poll clerks or assistant poll
15 clerks giving out a ballot to place their initials on the back of the ballot.
16 ~~although However,~~ the two (2) poll clerks or assistant poll clerks must
17 ~~be of opposite not have been nominated to a precinct election office~~
18 ~~by the county chairman of the same political parties: party.~~

19 SECTION 19. IC 3-6-7-2 IS AMENDED TO READ AS FOLLOWS
20 [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** A challenger ~~or pollbook~~
21 ~~holder~~ is entitled to stand at the sides of the chute next to the entrance
22 to the polls.

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

26 SECTION 20. IC 3-6-7-5 IS ADDED TO THE INDIANA CODE
27 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
28 UPON PASSAGE]: Sec. 5. **(a)** A **pollbook holder appointed under**
29 **this chapter is entitled to do the following:**

- 30 **(1)** Enter the polls at least thirty (30) minutes before the
31 opening of the polls and remain there throughout election day
32 until the polls close.
33 **(2)** Enter, leave, and reenter the polls at any time on election
34 day.

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

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

40 SECTION 21. IC 3-7-10 IS ADDED TO THE INDIANA CODE AS
41 A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE UPON
42 PASSAGE]:



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1 **Chapter 10. General Provisions**

2 **Sec. 1. This article is enacted by the general assembly to**
 3 **implement Article 2, Section 14(c) of the Constitution of the State**
 4 **of Indiana, which requires the general assembly to provide for the**
 5 **registration of all persons entitled to vote.**

6 SECTION 22. IC 3-7-12-41 IS ADDED TO THE INDIANA CODE
 7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 8 UPON PASSAGE]: **Sec. 41. As provided in 42 U.S.C.**
 9 **1973gg-5(a)(5), an employee or volunteer of a county voter**
 10 **registration office may not do any of the following:**

11 **(1) Seek to influence an applicant's political preference or**
 12 **party registration.**

13 **(2) Display any political preference or party allegiance,**
 14 **including pictures, photographs, or other likenesses of any**
 15 **currently elected federal, state, county, or local official.**

16 **(3) Make any statement to an applicant or take any action the**
 17 **purpose or effect of which is to discourage the applicant from**
 18 **registering to vote.**

19 **(4) Make any statement to an applicant or take any action the**
 20 **purpose or effect of which is to lead the applicant to believe**
 21 **that a decision whether or not to register has any bearing on**
 22 **the availability of services or benefits.**

23 SECTION 23. IC 3-7-19-6 IS ADDED TO THE INDIANA CODE
 24 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 25 UPON PASSAGE]: **Sec. 6. As provided in 42 U.S.C. 1973gg-5(a)(5),**
 26 **an employee or volunteer of a county voter registration office may**
 27 **not do any of the following:**

28 **(1) Seek to influence an applicant's political preference or**
 29 **party registration.**

30 **(2) Display any political preference or party allegiance,**
 31 **including pictures, photographs, or other likenesses of any**
 32 **currently elected federal, state, county, or local official.**

33 **(3) Make any statement to an applicant or take any action the**
 34 **purpose or effect of which is to discourage the applicant from**
 35 **registering to vote.**

36 **(4) Make any statement to an applicant or take any action the**
 37 **purpose or effect of which is to lead the applicant to believe**
 38 **that a decision whether or not to register has any bearing on**
 39 **the availability of services or benefits.**

40 SECTION 24. IC 3-7-20-7 IS ADDED TO THE INDIANA CODE
 41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 42 UPON PASSAGE]: **Sec. 7. As provided in 42 U.S.C. 1973gg-5(a)(5),**



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1 **an employee or volunteer of a voter registration office designated**
 2 **under this chapter may not do any of the following:**

3 (1) **Seek to influence an applicant's political preference or**
 4 **party registration.**

5 (2) **Display any political preference or party allegiance,**
 6 **including pictures, photographs, or other likenesses of any**
 7 **currently elected federal, state, county, or local official.**

8 (3) **Make any statement to an applicant or take any action the**
 9 **purpose or effect of which is to discourage the applicant from**
 10 **registering to vote.**

11 (4) **Make any statement to an applicant or take any action the**
 12 **purpose or effect of which is to lead the applicant to believe**
 13 **that a decision whether or not to register has any bearing on**
 14 **the availability of services or benefits.**

15 SECTION 25. IC 3-7-22-6 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) As provided
 17 in 42 U.S.C. 1973gg-4(b), the NVRA official shall make registration
 18 by mail forms available for distribution, with particular emphasis on
 19 organized voter registration programs.

20 (b) **This subsection does not apply to a request made by the state**
 21 **chairman of a political party whose nominee received at least two**
 22 **percent (2%) of the total vote cast for secretary of state at the most**
 23 **recent election for secretary of state.** The co-directors ~~may~~ shall
 24 require a person who requests more than ten thousand (10,000)
 25 registration forms to submit a voter registration program plan to the
 26 NVRA official to document the person's need for the desired number
 27 of forms.

28 SECTION 26. IC 3-7-27-23 IS ADDED TO THE INDIANA CODE
 29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 30 UPON PASSAGE]: Sec. 23. (a) **This section applies to a county that**
 31 **maintains voter registration information in a computerized system.**

32 (b) **If a county voter registration office enters into a contract to**
 33 **acquire voter registration computer software provided by a person**
 34 **other than a person who:**

35 (1) **had previously furnished the voter registration computer**
 36 **software to the county; or**

37 (2) **is currently providing technical assistance regarding the**
 38 **computer software to the county voter registration office;**
 39 **the county voter registration office shall notify the person who**
 40 **furnished the software or is providing support for the software of**
 41 **this determination. This notice shall be sent by certified mail,**
 42 **return receipt requested, to the most recent address provided to**



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1 the county by this person.

2 (c) Not later than sixty (60) days after the county voter
3 registration office mails the notice described in subsection (b), the
4 person receiving the notice shall provide the person who has
5 entered into a contract with the county voter registration office
6 with information concerning the specifications for the computer
7 software program furnished to the county or supported by that
8 person. A person is not required to provide proprietary
9 information to another person under this subsection but is
10 required to act in good faith to permit the county voter registration
11 office to install the voter registration software supplied by another
12 person.

13 SECTION 27. IC 3-7-35-2 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The circuit
15 court clerk or board of county voter registration office shall include a
16 notation on the registration record of ensure that the software
17 program used to generate the poll list for the precinct in which the
18 voter to indicate that resides indicates whether the name of the voter
19 should not be included on a poll list.

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

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

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

26 SECTION 28. IC 3-7-35-3 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The circuit
28 court clerk or board of county voter registration office shall include a
29 notation on the registration record of the voter to indicate that ensure
30 that the software program used to generate a jury list indicates
31 whether the name of the voter should not be used for jury service.

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

35 SECTION 29. IC 3-7-38.1-4 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JANUARY 1, 1997 (RETROACTIVE)]:
37 Sec. 4. (a) A contract entered into under section 3 of this chapter must
38 require the following:

39 (1) The contractor shall determine the following information
40 regarding each voter with duplicate registrations:

41 (A) The voter's name.

42 (B) Each address at which the voter is registered.



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(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.
 - (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:

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- 1 (i) The voter's current address, including the county, as
- 2 provided by the voter.
- 3 (ii) Each former address, including the county of each
- 4 former address, at which the voter is registered.
- 5 (B) A list of all voters with duplicate registrations who have
- 6 not returned postcards to the election division before a date
- 7 specified by the election division. The list must indicate each
- 8 county in which each voter is registered to vote.
- 9 (5) Not later than a date specified by the election division, the
- 10 contractor shall mail to each county the following lists:
- 11 (A) A list of all voters with duplicate registrations who have:
- 12 (i) returned postcards to the election division before a date
- 13 specified by the election division; and
- 14 (ii) indicated a current residence within the county.
- 15 (B) A list of all voters with duplicate registrations who:
- 16 (i) have returned postcards to the election division before a
- 17 date specified by the election division;
- 18 (ii) are registered to vote in the county; and
- 19 (iii) have indicated a current residence in another county.
- 20 (C) A list of all voters with duplicate registrations who:
- 21 (i) have not returned postcards to the election division
- 22 before a date specified by the election division; and
- 23 (ii) are registered to vote in the county.
- 24 (6) Not later than a date specified by the election division, the
- 25 contractor shall do the following:
- 26 (A) Send a postcard to each voter described in subdivision
- 27 (5)(B) informing the voter how the voter may register to vote
- 28 in the county of the voter's current residence.
- 29 (B) Send a postcard to each voter described in subdivision
- 30 (5)(C) notifying the voter:
- 31 (i) that if the voter does not notify the county voter
- 32 registration office of the voter's current residence before a
- 33 date specified by the election division, the voter's
- 34 registration will be placed on inactive status; and
- 35 (ii) of the consequences of the voter's registration being
- 36 placed on inactive status.
- 37 Postcards and information supplied on postcards sent under this
- 38 subdivision must comply with 42 U.S.C. 1973gg-6(d).
- 39 (7) Not later than a date specified by the election division, the
- 40 contractor shall assist the election division in updating the
- 41 statewide voter registration file using information obtained from
- 42 the county voter registration offices under section 6 of this

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1 chapter.

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

4 SECTION 30. IC 3-7-38.1-4.5 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. The election
6 division may require the contractor to provide each county voter
7 registration office with original postcards returned to the ~~commission~~
8 **election division** or photocopies of the postcards instead of the lists
9 required under section 4 of this chapter.

10 SECTION 31. IC 3-7-38.1-5 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JANUARY 1, 1997 (RETROACTIVE)]:
12 Sec. 5. After receiving lists under section 4(a)(5) of this chapter or
13 postcards under section 4.5 of this chapter, each county voter
14 registration office shall do the following:

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

18 (2) Cancel the registration of all voters described in section
19 4(a)(5)(B) of this chapter.

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

24 SECTION 32. IC 3-7-38.1-6 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JANUARY 1, 1997 (RETROACTIVE)]:
26 Sec. 6. Before ~~May 25~~ **of a date specified by the election division for**
27 each year, each ~~circuit court clerk or board of county voter~~ registration
28 **office** shall provide to the contractor **a list of information concerning**
29 all voters registered in the county:

30 (1) **in the format prescribed under IC 3-7-26; and**

31 (2) current as of ~~May 15~~ **of a date specified by the election**
32 **division for** each year.

33 SECTION 33. IC 3-7-38.1-7 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A ~~circuit~~
35 ~~court clerk or board of county voter~~ registration **office** shall cancel the
36 registration of a voter who is described by both of the following:

37 (1) The voter is described in section 4(a)(5)(C) of this chapter.

38 (2) The voter has not voted (or appeared to vote or to correct the
39 registration record stating the voter's address) in an election
40 during the period:

41 (A) beginning on the date of the notice sent under section
42 4(a)(3) of this chapter; and



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1 (B) ending on the day after the date of the second general
 2 election that occurs after the date of the notice sent under
 3 section 4(a)(3) of this chapter.

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

8 SECTION 34. IC 3-7-38.2-10 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) As provided
 10 in 42 U.S.C. 1973gg-6(c)(1)(B)(i), if the county voter registration
 11 office determines from information provided under this chapter that a
 12 voter has moved to an address different from the address where voter
 13 is currently registered, the voter registration office shall:

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

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

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

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

22 **the county voter registration office shall indicate on the**
 23 **registration record that the voter is an inactive voter at that**
 24 **address and shall remove the voter's name from the registration**
 25 **rolls under the procedures of this chapter if the voter has not**
 26 **voted, appeared to vote, or has failed to correct the voter**
 27 **registration record within the period described in section 14(2)(B)**
 28 **of this chapter.**

29 SECTION 35. IC 3-7-38.2-13 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. After the
 31 county voter registration office has determined under this chapter that
 32 a voter's residence may have changed, the ~~voter registration office~~
 33 **election division** shall send a notice to the voter that sets forth
 34 substantially the following statements as provided in 42 U.S.C.
 35 1973gg-6(d)(2):

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

42 (A) with a postmark not later than twenty-nine (29) days

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- 1 before the election; or
 2 (B) if a postmark is missing or illegible, to the county voter
 3 registration office not later than ~~twenty-four (24)~~ **twenty-one**
 4 **(21)** days before the election.
- 5 (2) If the card is not returned under subdivision (1), the voter may
 6 be required to affirm or confirm the voter's address before the
 7 voter is permitted to vote in an election during the period:
 8 (A) beginning on the date of the notice; and
 9 (B) ending on the day after the date of the second general
 10 election scheduled to occur after the date of the notice.
- 11 (3) If the voter does not vote in an election described in
 12 subdivision (2), the voter's name will be removed from the voter
 13 registration list.
- 14 (4) If the voter changed residence to a place outside the county in
 15 which the voter is included on the voter registration list,
 16 information concerning how the voter can continue to be eligible
 17 to vote in the county where the voter currently resides.
- 18 SECTION 36. IC 3-7-38.2-15 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. At the
 20 expiration of the period ending thirty (30) days after **the second**
 21 **general election following** the date on which notices are mailed to a
 22 voter described in section 14(2) of this chapter, the county voter
 23 registration office shall cancel the registration of a voter who has not
 24 responded to the notice sent under section 13 of this chapter.
- 25 SECTION 37. IC 3-7-38.2-17 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. The mailing
 27 sent under section 16 of this chapter must inquire whether the voter
 28 still resides at the residence address indicated on the person's voter
 29 registration. If the postcard is returned as undeliverable and the voter
 30 does not vote in either of the two (2) general elections following the
 31 mailing of the postcard, the county voter registration office shall
 32 remove the voter's name from the list of registered voters **at the**
 33 **expiration of the period ending thirty (30) days after the second**
 34 **general election following the date on which notices are mailed to**
 35 **a voter under section 16 of this chapter.**
- 36 SECTION 38. IC 3-7-45-6 IS ADDED TO THE INDIANA CODE
 37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 38 UPON PASSAGE]: Sec. 6. (a) **The election division or a contractor**
 39 **acting on behalf of the election division under IC 3-7-38.1 may**
 40 **obtain a list of Indiana residents identified as deceased by the**
 41 **federal Social Security Administration.**
 42 (b) **The election division or a contractor acting on behalf of the**

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1 election division under IC 3-7-38.1 shall provide each county voter
 2 registration office with a report identifying the deceased
 3 individuals who are shown as residing in the county according to
 4 the statewide voter file prepared under IC 3-7-38.1.

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

8 SECTION 39. IC 3-7-45-7 IS ADDED TO THE INDIANA CODE
 9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 10 UPON PASSAGE]: Sec. 7. (a) If a county voter registration office
 11 determines that:

12 (1) a voter has been identified as deceased in a list or report
 13 described by this chapter; and

14 (2) the identification is in error;

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

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

21 (1) correcting the registration record before a certified list of
 22 voters is prepared under IC 3-7-29-1; or

23 (2) issuing a certificate of error under IC 3-7-48.

24 SECTION 40. IC 3-8-1-2 IS AMENDED TO READ AS FOLLOWS
 25 [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commission, ~~or~~ a
 26 county election board, ~~or a town election board~~ shall act in
 27 accordance with this section if a candidate in accordance with this
 28 section (or a person acting on behalf of a candidate in accordance with
 29 state law) has filed any of the following:

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

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

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

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

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

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

41 (b) The commission has jurisdiction to act under this section with
 42 regard to any filing described in subsection (a) that was made with the

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1 election division. **Except for a filing under the jurisdiction of a town**
 2 **election board**, a county election board has jurisdiction to act under
 3 this section with regard to any filing described in subsection (a) that
 4 was made with the county election board, county voter registration
 5 office, or the circuit court clerk. **A town election board has**
 6 **jurisdiction to act under this section with regard to any filing that**
 7 **was made with the county election board, the county voter**
 8 **registration office, or the circuit court clerk for nomination or**
 9 **election to a town office.**

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

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

18 **(d) The eligibility of a candidate nominated by a convention,**
 19 **petition, or primary may not be challenged under this section if the**
 20 **commission or board determines that all of the following occurred:**

- 21 **(1) The eligibility of the candidate was challenged under this**
 22 **section before the candidate was nominated.**
 23 **(2) The commission or board conducted a hearing on the**
 24 **affidavit before the nomination.**
 25 **(3) This challenge would be based on substantially the same**
 26 **grounds as the previous challenge to the candidate.**

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

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

38 SECTION 41. IC 3-8-1-5 IS AMENDED TO READ AS FOLLOWS
 39 [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section does not
 40 apply to a candidate for federal office.

41 (b) A person is disqualified from holding or being a candidate for
 42 an elected office if the person:

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- 1 (1) gave or offered a bribe, threat, or reward to procure the
- 2 person's election, as provided in Article 2, Section 6 of the
- 3 Constitution of the State of Indiana;
- 4 (2) does not comply with IC 5-8-3 **by having a conviction for a**
- 5 **violation of the federal laws listed in that statute;**
- 6 (3) has:
 - 7 (A) entered a plea of guilty or nolo contendere to; or
 - 8 (B) been convicted of;
 - 9 a felony (as defined in IC 35-50-2-1);
 - 10 (4) has been removed from the office the candidate seeks under
 - 11 Article 7, Section 11 or Article 7, Section 13 of the Constitution
 - 12 of the State of Indiana; ~~or~~
 - 13 (5) is a member of the United States armed forces on active duty
 - 14 and prohibited by the United States Department of Defense from
 - 15 being a candidate; ~~or~~
 - 16 **(6) is subject to:**
 - 17 **(A) 5 U.S.C. 1502 (the Little Hatch Act); or**
 - 18 **(B) 5 U.S.C. 7321-7326 (the Hatch Act);**
 - 19 **and would violate either federal statute by becoming or**
 - 20 **remaining the candidate of a political party for nomination or**
 - 21 **election to an elected office or a political party office.**
 - 22 SECTION 42. IC 3-8-1-5.5 IS AMENDED TO READ AS
 - 23 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) Except as
 - 24 provided in IC 3-13-1-19 and IC 3-13-2-10 for filling a vacancy on a
 - 25 ticket, a person who:
 - 26 (1) is defeated in a primary election; ~~or~~
 - 27 (2) appears as a candidate for nomination at a ~~state~~ convention
 - 28 **and is defeated; or**
 - 29 (3) files a declaration of candidacy for nomination by a **county,**
 - 30 **city, or** town convention and is defeated; ~~or~~
 - 31 (4) **files a declaration of candidacy for nomination by a caucus**
 - 32 **conducted under IC 3-13-1 or IC 3-13-2 and is defeated;**
 - 33 is not eligible to become a candidate for the same office in the next
 - 34 general or municipal election.
 - 35 (b) For the purposes of subsection (a):
 - 36 (1) a candidate for an at-large seat on a fiscal body is considered
 - 37 a candidate for the same office as a candidate for a district seat on
 - 38 a fiscal body; and
 - 39 (2) a candidate for United States representative from a district in
 - 40 Indiana is considered a candidate for the same office as a
 - 41 candidate for any other congressional district in Indiana.
 - 42 (c) This section does not apply to a candidate who files a written

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1 request for placement on the presidential primary ballot under IC 3-8-3.

2 SECTION 43. IC 3-8-1-5.7 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.7. (a) Except as
4 expressly provided by law, a candidate for selection under **IC 3-13-5**
5 **or** IC 3-13-11 for an appointment pro tempore to an office must comply
6 with the requirements imposed under this chapter on a candidate for
7 election to the office.

8 (b) If a town council member:

9 (1) was elected or selected as a candidate from a town council
10 district; and

11 (2) served on a council that subsequently adopted an ordinance
12 under IC 36-5-2-4.1 abolishing town council districts;

13 a candidate for selection for an appointment pro tempore to succeed the
14 town council member is not required to reside within the district
15 formerly represented by the town council member.

16 SECTION 44. IC 3-8-1-28.5 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28.5. (a) This
18 section does not apply to a candidate for the office of judge of a city
19 court in a city located in a county having a population of more than two
20 hundred thousand (200,000) but less than three hundred thousand
21 (300,000).

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

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

30 SECTION 45. IC 3-8-2-9 IS AMENDED TO READ AS FOLLOWS
31 [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: Sec. 9. (a) A
32 petition required by section 8 of this chapter must request that the name
33 of the candidate be placed on the ballot at the primary election. ~~In order~~
34 ~~for the secretary of state to consider a petition valid; the circuit court~~
35 ~~clerk or board of~~

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

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



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1 SECTION 46. IC 3-8-2-15 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) A person
 3 who files a declaration of candidacy for an elected office for which a
 4 per diem or salary is provided for by law is disqualified from filing a
 5 declaration of candidacy for another office for which a per diem or
 6 salary is provided for by law until the original declaration is withdrawn.

7 (b) A person may file both:

8 (1) a declaration of candidacy under this chapter for nomination
 9 to a federal or state office; and

10 (2) a written request under IC 3-8-3-1 that the person's name be
 11 placed on the ballot in a primary election as a candidate for
 12 nomination for the office of President of the United States.

13 (c) A person may not file:

14 (1) a declaration of candidacy for a nomination; and

15 (2) a petition of nomination **or declaration of intent to be a**
 16 **write-in candidate** for a school board office that is elected at the
 17 same time as the primary election.

18 If a person files both a declaration of candidacy and a petition of
 19 nomination described in this subsection, the matter shall be referred to
 20 the county election board under section 18 of this chapter. The board
 21 shall determine which document was most recently filed and shall
 22 consider the previously filed document to have been withdrawn.

23 SECTION 47. IC 3-8-2-19 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) Upon
 25 receipt of the certified list under section 17 of this chapter, a county
 26 election board shall immediately compile under the proper political
 27 party designation the following:

28 (1) The title of each office.

29 (2) The name of each individual who has filed a ~~written~~ request
 30 to be placed on the presidential primary ballot.

31 (3) The names and addresses of all persons for whom declarations
 32 of candidacy have been filed for nomination to an office on the
 33 primary election ballot.

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

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

38 (6) The date of the primary election.

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

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

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

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1 (2) File a copy of the information described in subsection (a):
2 (A) with the election division; and
3 (B) in the minutes of the county election board.
4 (c) The county election board shall file the copies required under
5 subsection (b)(2) not later than noon, ten (10) days before election day.
6 (d) An election is not invalidated by the failure of the board to
7 comply with this section.
8 (e) If the county election board receives an amendment from the
9 election division under section 17 of this chapter after:
10 (1) compilation of the information described in subsection (a) has
11 occurred; or
12 (2) the board determines that it is impractical to recompile
13 completely revised information;
14 the board is only required to ~~provide copies~~ **file a copy** of the
15 amendment to ~~persons listed in subsection (b)(2)~~ **with the minutes of**
16 **the board.**
17 SECTION 48. IC 3-8-5-17 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) This section
19 applies to a political party:
20 (1) not qualified to conduct a primary election under IC 3-10; and
21 (2) not required to nominate candidates by a petition of
22 nomination under IC 3-8-6.
23 (b) **An individual who desires to be nominated for a town office**
24 **by the political party must file a declaration of candidacy in the**
25 **same manner as a candidate for nomination by a major political**
26 **party under section 10.5 of this chapter. If a convention would be**
27 **required for the political party under section 10 of this chapter,** the
28 political party shall conduct a convention to nominate candidates for
29 town office not later than the date for conducting a major party town
30 convention under section 10 of this chapter.
31 (c) The chairman and secretary of the town convention shall
32 execute, acknowledge, and file a certificate setting forth the nominees
33 of the convention in accordance with section 13 of this chapter.
34 (d) Each candidate nominated under this section shall execute a
35 consent to the nomination in the same form as a candidate nominated
36 by petition under IC 3-8-6. The consent must be filed with the
37 certificate under subsection (c). **An individual who wishes to**
38 **withdraw as a candidate after nomination by the convention must**
39 **do so in the manner prescribed by section 14.5 of this chapter.**
40 (e) The circuit court clerk shall file a copy of each certificate and
41 each candidate's consent with the town clerk-treasurer in accordance
42 with section 13 of this chapter.

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1 SECTION 49. IC 3-8-6-10 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Except as
 3 provided in section 11 of this chapter, a petition of nomination must be
 4 submitted to the county voter registration office of each county in
 5 which the election district is located.

6 (b) The petition must be

7 ~~(1)~~ filed during the period beginning January 1 of the year in
 8 which the election will be held and ending at noon July 15 before
 9 the election. ~~and~~

10 ~~(2) accompanied by the candidate's written consent to become a~~
 11 ~~candidate and any statement of economic interests required under~~
 12 ~~IC 3-8-1-33.~~

13 (c) The county voter registration office shall certify and file a
 14 petition that complies with the requirements of this chapter with the
 15 public official authorized to place names on the ballot (and with the
 16 town clerk-treasurer, if the petition of nomination is for a town office)
 17 by noon August 1. Following certification of a petition under this
 18 section, the office may, upon the request of a candidate named in the
 19 petition, return the original petition to the candidate for filing with the
 20 appropriate official in accordance with this subsection.

21 (d) During a year in which a federal decennial census, federal
 22 special census, special tabulation, or corrected population count
 23 becomes effective under IC 1-1-3.5, a petition of nomination may be
 24 filed for an office that will appear on the primary election ballot that
 25 year as a result of the new tabulation of population or corrected
 26 population count.

27 SECTION 50. IC 3-8-7-6 IS AMENDED TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 1999]: Sec. 6. ~~Within~~ **(a) Not later than noon**
 29 ten (10) days after:

30 **(1)** receipt of the candidate ~~and delegate~~ lists from each circuit
 31 court clerk under section 5 of this chapter; **or**

32 **(2) the certification of the canvass performed by the election**
 33 **division under IC 3-10-1-34;**

34 **whichever occurs later**, the secretary of state shall furnish to the state
 35 chairman of each **major** political party **in of** the state ~~whose nominee~~
 36 ~~received at least ten percent (10%) of the total vote cast for secretary~~
 37 ~~of state at the last election a complete~~ list, certified under the
 38 secretary's hand and seal. ~~of:~~

39 **(b) The list described in subsection (a) must:**

40 **(1) contain the names of** all candidates nominated ~~and delegates~~
 41 ~~elected~~ as certified by the **circuit court** clerks under section 5 of
 42 this chapter; ~~and~~

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1 (2) **contain the names of** all candidates shown to be nominated
 2 by the canvass of the ~~secretary of state election division~~
 3 **conducted** under IC 3-10-1-34; ~~Each list must and~~
 4 (3) include the address of each candidate. ~~and delegate. The~~
 5 ~~delegate lists shall be certified in duplicate; separate from the~~
 6 ~~candidate lists.~~

7 (c) **No other form of certification of nomination for office is**
 8 **necessary for an individual included on the list described by this**
 9 **section.**

10 SECTION 51. IC 3-8-7-6.5 IS ADDED TO THE INDIANA CODE
 11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 1999]: **Sec. 6.5. (a) Not later than noon ten (10) days after receipt**
 13 **of the delegate lists from each circuit court clerk under section 5 of**
 14 **this chapter, the secretary of state shall furnish to the state**
 15 **chairman of each major political party of the state a list of**
 16 **individuals elected as delegates to the convention of the chairman's**
 17 **political party.**

18 (b) **The list described under subsection (a) must:**

- 19 (1) **contain the names of all delegates elected, as certified by**
 20 **the circuit court clerks under section 5 of this chapter; and**
 21 (2) **include the address of each delegate.**

22 (c) **The delegate lists must be certified separately from the**
 23 **candidate lists certified under section 6 of this chapter and may not**
 24 **contain the name of an individual appointed to serve as a state**
 25 **convention delegate.**

26 SECTION 52. IC 3-8-7-20 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 20. (a) If a person**
 28 **has been nominated as a candidate for the same office by:**

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

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

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

- 40 (1) **acknowledged before a person authorized to take**
 41 **acknowledgments;**
 42 (2) **in the office where a petition of nomination for the office must**

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



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1 division or county election board under IC 3-8-6-10(c), and the
 2 place occupied by the person's name in a subsequent petition must
 3 be left blank. However, if the candidate files a written statement:

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

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

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

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

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

14 (f) This subsection applies to a person nominated by more than
 15 one (1) convention. The person's name must be placed on the list of
 16 candidates nominated by convention for the first certificate of
 17 nomination filed with the public official with whom the certificate
 18 is required to be filed, and the place occupied by the person's name
 19 in a subsequent certificate of nomination of the convention must be
 20 left blank. However, if the candidate files a written statement:

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

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

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

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

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

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

39 SECTION 53. IC 3-8-7-21 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) If a person
 41 has been nominated by two (2) or more political parties, or as an
 42 independent candidate and as the nominee of at least one (1) political

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1 party, the person must elect which of the nominations the person will
2 accept.

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

8 SECTION 54. IC 3-8-7-22 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) **This**
10 **section applies** if a person nominated by two (2) or more political
11 parties or as an independent candidate and as the nominee of at least
12 one (1) political party does not make and file an election as required by
13 section 21 of this chapter.

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

16 (c) **The election division or clerk shall give preference ~~shall be~~**
17 **given** to the nomination made by **primary election and secondly to**
18 **the nomination given by convention. If the candidate is nominated**
19 **by more than one (1) convention or more than one (1) petition and**
20 **the candidate does not make the election, the election division or**
21 **clerk shall give preference to the first certificate of nomination for**
22 **a convention given to the candidate under IC 3-8-5-13 or**
23 **IC 3-8-7-8, or the first petition of nomination given to the**
24 **candidate under IC 3-8-6-10.**

25 SECTION 55. IC 3-8-7-24 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. The election
27 division and each circuit court clerk shall preserve ~~in their offices~~ all
28 certificates and petitions of nomination filed under this article for the
29 period required under IC 3-10-1-31.

30 SECTION 56. IC 3-8-7-25.5 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25.5. (a) This
32 section does not apply to the change of a candidate's name that occurs
33 after absentee ballots have been printed bearing the candidate's name.

34 (b) A candidate who:

35 (1) is:

36 (A) nominated for election; **or**

37 (B) **a candidate for nomination**; and

38 (2) wishes to change the candidate's name after:

39 (A) the candidate has been nominated; **or**

40 (B) **becoming a candidate for nomination**;

41 may file a statement setting forth the former and current name of the
42 candidate with the office where a declaration of candidacy or certificate

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1 of nomination for the office is required to be filed. **If the final date**
 2 **and hour has not passed for filing a declaration of candidacy,**
 3 **consent for nomination, or declaration of intent to be a write-in**
 4 **candidate, the candidate must file the request for a change of name**
 5 **on the form prescribed by the commission for the declaration or**
 6 **consent.**

7 (c) The statement filed under subsection (b) must also indicate that
 8 the candidate has previously filed a change of name request with a
 9 county voter registration office so that the name set forth in the
 10 statement is identical to the candidate's name on the county voter
 11 registration record.

12 (d) Upon the filing of the statement, the election division and each
 13 county election board shall print the candidate's name on the ballot as
 14 set forth in the statement.

15 SECTION 57. IC 3-9-3-2.5 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) This
 17 section does not apply to any of the following:

- 18 (1) A communication relating to an election to a federal office.
- 19 (2) A communication relating to the outcome of a public question.
- 20 (3) A communication in a medium regulated by federal law.
- 21 (4) **Bumper stickers, pins, buttons, pens, and similar small**
 22 **items upon which the disclaimer required by this section**
 23 **cannot be conveniently printed.**
- 24 (5) **Skywriting, water towers, wearing apparel, or other**
 25 **means of displaying an advertisement on which the inclusion**
 26 **of a disclaimer would be impracticable.**
- 27 (6) **Checks, receipts, and similar items of minimal value that**
 28 **do not contain a political message and are used for purely**
 29 **administrative purposes.**
- 30 (7) **A communication by a political action committee**
 31 **organized and controlled by a corporation soliciting**
 32 **contributions to the political action committee by the**
 33 **stockholders, executives, or employees of the corporation and**
 34 **the families of those individuals.**
- 35 (8) **A communication by a political action committee**
 36 **organized and controlled by a labor organization soliciting**
 37 **contributions to the political action committee by the**
 38 **members or executive personnel of the labor organization and**
 39 **the families of those individuals.**
- 40 (9) **A direct mailing of one hundred (100) or less substantially**
 41 **similar pieces of mail.**

42 (b) This section applies whenever a person:



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

4 (2) solicits a contribution;

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

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

10 (1) The name of the candidate involved appears.

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

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

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

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

24 (f) **This subsection does not apply to a communication, such as**
 25 **a billboard, that contains only a front face. The disclaimer need not**
 26 **appear on the front or cover page of the communication if the**
 27 **disclaimer appears within the communication.**

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

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

31 (A) a candidate;

32 (B) an authorized political committee of a candidate; or

33 (C) the committee's agents;

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

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

38 (A) a candidate;

39 (B) an authorized political committee of a candidate; or

40 (C) the committee's agents;

41 the communication must clearly state that the communication is
 42 paid for by the other persons and authorized by the authorized

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1 political committee.
 2 (3) If the communication is not authorized by:
 3 (A) a candidate;
 4 (B) an authorized political committee of a candidate; or
 5 (C) the committee's agents;
 6 the communication must clearly state the name of the person who
 7 paid for the communication and state that the communication is
 8 not authorized by any candidate or candidate's committee.
 9 **(4) If the communication is a solicitation directed to the**
 10 **general public on behalf of a political committee that is not a**
 11 **candidate's committee, the solicitation must clearly state the**
 12 **full name of the person who paid for the communication.**
 13 **(h) A communication by a regular party committee consisting**
 14 **of:**
 15 **(1) a printed slate card, a sample ballot, or other printed**
 16 **listing of three (3) or more candidates for public office at an**
 17 **election;**
 18 **(2) campaign materials such as handbills, brochures, posters,**
 19 **party tabloids or newsletters, and yard signs distributed by**
 20 **volunteers and used by the regular party committee in**
 21 **connection with volunteer activities on behalf of any nominee**
 22 **of the party; or**
 23 **(3) materials distributed by volunteers as part of the regular**
 24 **party's voter registration or get-out-the-vote efforts;**
 25 **must clearly state the name of the person who paid for the**
 26 **communication but is not required to state that the communication**
 27 **is authorized by any candidate or committee.**
 28 SECTION 58. IC 3-10-1-5 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Whenever
 30 there is no contest in a political party for the nomination of a candidate
 31 or candidates for an office, the party may hold a primary election for
 32 that nomination. The appropriate election board shall certify the names
 33 of the candidates for each nomination for which there is no contest as
 34 though a primary election had been held. However, except as provided
 35 in subsections (b) through (c), if there is a contest in any party for any
 36 nomination, the name of each candidate of each party shall be placed
 37 on the primary election ballot, whether or not the candidate is opposed.
 38 (b) If the only contest in a political party is for the election of a
 39 precinct committeeman or a delegate to the party's state convention, the
 40 names of unopposed candidates for nomination are not required to be
 41 placed on the primary election ballot **unless the appointed member**
 42 **of the county election board affiliated with the political party files**

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1 **a written request that these names be printed on the primary**
 2 **election ballot.**

3 (c) The names of unopposed candidates for election as a precinct
 4 committeeman or a delegate to a political party's state convention are
 5 not required to be placed on the primary election ballot **unless the**
 6 **appointed member of the county election board affiliated with the**
 7 **political party files a written request that these names be printed**
 8 **on the primary election ballot.**

9 (d) **A request under subsection (b) or (c) must be filed with the**
 10 **clerk of the circuit court not later than the date provided under**
 11 **IC 3-11-4-10 by which the clerk must estimate the number of**
 12 **absentee ballots to be printed.**

13 SECTION 59. IC 3-10-1-14 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) All the
 15 candidates for each office who have qualified in the manner prescribed
 16 by IC 3-8 for placement on the primary election ballot shall be grouped
 17 together under the name of the office and printed in type with uniform
 18 capital letters, with uniform space between each name. At the head of
 19 each group where only one (1) candidate for each group is to be voted
 20 for, the words "vote for one (1) only" shall be printed. If more than one
 21 (1) candidate in a group is to be voted for, the number to be voted for
 22 shall be specified at the head of the group.

23 (b) **This subsection does not apply to a candidate for a political**
 24 **party office.** A candidate's given name and surname as set forth in the
 25 candidate's voter registration record shall be printed in full.

26 (c) In addition to the candidate's given name and surname, the
 27 candidate may use:

28 (1) initials; or

29 (2) a nickname by which the candidate is commonly known;
 30 if the candidate's choice of initials or nickname does not exceed twenty
 31 (20) characters. Any nickname used must appear in parentheses
 32 between the candidate's given name and the candidate's surname.

33 (d) A candidate may not use a designation such as a title or degree
 34 or a nickname that implies a title or degree.

35 (e) A candidate's name must be printed on the ballot exactly as the
 36 name appears on the candidate's certificate of nomination, petition of
 37 nomination, or declaration of candidacy.

38 SECTION 60. IC 3-10-1-17 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. Political parties
 40 may be distinguished in a primary election by the use of different color
 41 ballot labels. The party device for a political party that has been
 42 adopted in accordance with IC 3-8 and the party name or other



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1 ~~designation~~ shall be placed before the list of candidates of the party.

2 SECTION 61. IC 3-10-1-28.5 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:
4 Sec. 28.5. (a) **This section does not apply to an optical scan ballot
5 card voting system.**

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

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

12 (1) accept the envelope and deposit it with the ballot card inside
13 into the ballot box; or

14 (2) decline the envelope and require the judge to deposit it in the
15 ballot box.

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

17 SECTION 62. IC 3-10-1-33 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. (a) The county
19 election board shall also make an additional duplicate showing the
20 votes cast for each candidate required to file a declaration of candidacy
21 with the election division under IC 3-8-2. ~~or for whom a certificate of
22 nomination must be filed with the election division under IC 3-8-7.~~

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

27 SECTION 63. IC 3-10-1-34 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 34. The election
29 division, not later than **noon**:

30 (1) **on** the second Wednesday following a primary election
31 conducted in a year in which a general election will be held; **or**

32 (2) **seven (7) days after receipt of the final recount certificate
33 transmitted under IC 3-12-6-31 or IC 3-12-11-18;**

34 **whichever occurs later**, shall canvass the votes cast for candidates
35 required to file a declaration of candidacy with the election division
36 under IC 3-8-2 and tabulate the result as provided in IC 3-12.

37 SECTION 64. IC 3-10-6-4.5 IS ADDED TO THE INDIANA CODE
38 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
39 UPON PASSAGE]: Sec. 4.5. (a) **Notwithstanding section 2 of this
40 chapter, this section applies to a town with a legislative body that
41 adopts an ordinance under IC 36-5-2-4.5.**

42 (b) **Unless a primary election is not required under section 4 of**

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1 this chapter, a primary election shall be held in a town under this
2 section at both of the following times:

3 (1) During a year that municipal elections are held under
4 section 5 of this chapter.

5 (2) At the time of the primary election held in the year stated
6 in an ordinance adopted under IC 36-5-2-4.5(c)(2).

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

12 (1) At the time of the primary held in the town under
13 subsection (b)(1), the following candidates:

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

19 (B) Candidates for all other town offices other than the
20 town legislative body.

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

27 The primary election is conducted under this chapter.

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

30 (1) During a year municipal elections are held under section
31 5 of this chapter, the following town offices are elected:

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

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

39 (2) During a year in which candidates for the town legislative
40 body are nominated under subsection (c)(2), three (3)
41 members of the town legislative body, two (2) of whom are
42 elected from districts and one (1) who is elected at large. If the

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1 town legislative body adopts an ordinance under
 2 IC 36-5-2-4.5(e), all members are elected from districts.
 3 The election shall be conducted under this chapter.

4 SECTION 65. IC 3-10-9-5 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. **Except as provided**
 6 **in section 7 of this chapter**, a local public question may not be placed
 7 on the ballot at an election unless the placement of the local public
 8 question on the ballot at the election is expressly authorized by statute.

9 SECTION 66. IC 3-10-9-7 IS ADDED TO THE INDIANA CODE
 10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 11 1, 1999]: Sec. 7. (a) **This section applies to a county having a**
 12 **population of more than four hundred thousand (400,000) but less**
 13 **than seven hundred thousand (700,000).**

14 (b) **As used in this section, "combined board" refers to the**
 15 **combined county election board and board of registration**
 16 **established by IC 3-6-5.2-3.**

17 (c) **Except as provided in subsection (d), a public question to**
 18 **urge a specific political subdivision within the county to take**
 19 **specific action shall be placed on the ballot of that political**
 20 **subdivision if the following occur:**

21 (1) **At least ten percent (10%) of the registered voters who are**
 22 **eligible to vote in the political subdivision sign a petition**
 23 **requesting the public question to be placed on the ballot. The**
 24 **petition must meet the requirements under section 6 of this**
 25 **chapter.**

26 (2) **Not later than one hundred twenty (120) days before the**
 27 **election, the petition is submitted to the combined board for**
 28 **certification that the petition contains the signatures of at**
 29 **least ten percent (10%) of the registered voters who are**
 30 **eligible to vote in that political subdivision.**

31 (d) **Not more than ten (10) public questions may be placed on a**
 32 **ballot in the county during an election under this section. If more**
 33 **than ten (10) public questions are submitted to the combined board**
 34 **under subsection (c)(2), the first ten (10) petitions that are**
 35 **submitted and that have the required number of valid signatures**
 36 **must be placed on the ballot.**

37 (e) **The combined board shall do the following:**

38 (1) **Complete the certification of the signatures not later than**
 39 **ninety (90) days before the election.**

40 (2) **If the petition has an adequate number of valid signatures,**
 41 **certify the petition in accordance with section 3 of this**
 42 **chapter.**



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1 **(f) The combined board may do the following:**

2 **(1) Correct grammar, punctuation, and spelling errors in the**
 3 **text of the recommended action before placing the text on the**
 4 **ballot.**

5 **(2) Place not more than the first one hundred (100) words of**
 6 **the text or explanatory text for the public question on the**
 7 **ballot.**

8 **(g) The results of the voting on the public question under this**
 9 **section are not binding upon the political subdivision.**

10 SECTION 67. IC 3-10-11-1 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter:

12 **(1) applies to a general, municipal, primary, school district, and**
 13 **special election; and**

14 **(2) is enacted to implement Article 2, Section 2(c) of the**
 15 **Constitution of the State of Indiana.**

16 SECTION 68. IC 3-10-12-1 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter:

18 **(1) prescribes the procedure for certain voters to cast ballots**
 19 **under 42 U.S.C. 1973gg-6(e)(2) in a precinct where the voter**
 20 **formerly resided; and**

21 **(2) is enacted to implement Article 2, Section 2(c) of the**
 22 **Constitution of the State of Indiana.**

23 SECTION 69. IC 3-11-1.5-3.5 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.5. (a) This
 25 section does not apply to a precinct located in a county having a
 26 consolidated city.

27 (b) This section applies to a precinct:

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

- 29 (A) Ball State University;
- 30 (B) Indiana State University;
- 31 (C) Indiana University;
- 32 (D) Purdue University;
- 33 (E) The University of Evansville;
- 34 (F) The University of Southern Indiana; or
- 35 (G) Vincennes University;

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

38 (2) that contains a structure owned by a university described in
 39 subdivision (1) that houses more than one hundred (100) students
 40 of the university.

41 (c) A county executive may establish a precinct subject to this
 42 section without regard to the number of registered voters permitted



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1 under section 3 of this chapter if less than forty percent (40%) of the
 2 active voters entitled to vote in the precinct voted in the last ~~general~~
 3 **primary** election.

4 SECTION 70. IC 3-11-3-6 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. ~~(a) Each circuit~~
 6 ~~court clerk shall pick up~~ **The election division shall deliver** the state
 7 and presidential paper ballots at a site designated by the election
 8 division:

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

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

15 (2) **in a county subject to IC 3-6-5.2, the chief deputy of the**
 16 **combined county election board and board of registration.**

17 SECTION 71. IC 3-11-3-29.5 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29.5. (a) The
 19 election division or an election board shall act under subsection (c) **to**
 20 **print new ballots** or have pasters made to cover the name of a
 21 candidate who has died or is no longer a candidate under IC 3-13-2-1
 22 if:

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

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

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

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

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

36 (1) The absentee voter board.

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

39 (3) The circuit court clerk.

40 (c) If the election division or election board determines that the use
 41 of pasters under this section would be impractical or uneconomical, the
 42 election division or board may order the printing of new ballots that



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1 omit the name of a candidate described in subsection (a). A ballot
 2 printed under this subsection must contain the statement "NO
 3 CANDIDATE" or "CANDIDATE DECEASED" or words to that effect
 4 at the appropriate position on the ballot.

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

11 SECTION 72. IC 3-11-4-2 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter who
 13 is eligible to vote by absentee ballot must apply to the county election
 14 board for an official absentee ballot.

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

18 SECTION 73. IC 3-11-4-3 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as
 20 provided in ~~subsections (b) and (c)~~ **subsection (b)** and sections 6 and
 21 8 of this chapter, an application for an absentee ballot must be received
 22 by the circuit court clerk **(or, in a county subject to IC 3-6-5.2, the**
 23 **chief deputy of the combined county election board and board of**
 24 **registration)** not earlier than ninety (90) days before election day nor
 25 later than **the following:**

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

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

29 (A) the application is a mailed or hand delivered application
 30 from a confined voter or ~~person voter~~ caring for a confined
 31 person; and

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

34 (3) Midnight on the eighth day before election day if the
 35 application:

36 (A) is a mailed application; or

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

39 (b) This subsection applies to an absentee ballot application from a
 40 confined voter or ~~person voter~~ caring for a confined ~~voter~~ **person** that
 41 is **sent by facsimile (fax) transmission**, mailed, or hand delivered to
 42 the circuit court clerk of a county having a consolidated city. An

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1 application subject to this subsection that is **sent by facsimile (fax)**
 2 **transmission or** hand delivered must be received by the circuit court
 3 clerk not earlier than ninety (90) days before election day nor later than
 4 10 p.m. on the fifth day before election day. An application subject to
 5 this subsection that is mailed must be received by the circuit court clerk
 6 not earlier than ninety (90) days before election day and not later than
 7 10 p.m. on the eighth day before election day.

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

16 SECTION 74. IC 3-11-4-12 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The
 18 absentee ballots for:

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

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

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

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

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

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

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

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

- 37 (1) must indicate each state office to be elected by the voters at
 38 the general election;
- 39 (2) must set forth each public question to be voted for at the
 40 general election by the electorate of the entire state;
- 41 (3) may not state the name of any political party or candidate for
 42 election; and



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- 1 (4) must permit the voter to write in the name of a political party
- 2 or a candidate for election to each office; **and**
- 3 ~~(f) The special absentee ballot described in subsection (d)~~
- 4 **(5) must include**
- 5 ~~(1) a form permitting registration under IC 3-7-36; and~~
- 6 ~~(2) a notice stating that regular absentee ballots will be mailed to~~
- 7 ~~the voter by the county election board as soon as the ballots are~~
- 8 ~~available.~~

9 SECTION 75. IC 3-11-4-21 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) On the other
 11 side of the envelope required by section 20 of this chapter shall be
 12 printed an affidavit providing that the voter affirms under penalty of
 13 perjury that the following information is true:

- 14 (1) The name of the precinct and township (or ward and city or
- 15 town).
- 16 (2) That the voter is:
- 17 (A) a resident of; or
- 18 (B) entitled under IC 3-10-11 or IC 3-10-12 to vote in;
- 19 the precinct.
- 20 (3) The voter's complete residence address, including the name of
- 21 the city or town and county.
- 22 (4) That the voter is entitled to vote in the precinct, the type of
- 23 election to be held, and the date of the election.
- 24 (5) That:
- 25 (A) the voter has personally marked the enclosed ballot or
- 26 ballots in secret and has enclosed them in this envelope and
- 27 sealed them without exhibiting them to any other person;
- 28 **(B) the voter personally marked the enclosed ballot or**
- 29 **ballots, enclosed them in this envelope, and sealed them**
- 30 **with the assistance of an individual whose name is listed on**
- 31 **the envelope and who affirms under penalty of perjury**
- 32 **that the voter was not coerced or improperly influenced by**
- 33 **the individual assisting the voter or any other person, in a**
- 34 **manner prohibited by state or federal law, to cast the**
- 35 **ballot for or against any candidate, political party, or**
- 36 **public question; or**
- 37 (C) as the properly authorized attorney in fact for the
- 38 undersigned under IC 30-5-5-14, the attorney in fact affirms
- 39 the voter personally marked the enclosed ballot or ballots in
- 40 secret and enclosed them in this envelope and sealed them
- 41 without exhibiting them to the attorney in fact or to any other
- 42 person.

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- 1 (6) The date and the voter's signature.
- 2 (b) If the affidavit is signed by an attorney in fact, the name of the
3 attorney in fact must be indicated. ~~and a copy of the power of attorney~~
4 ~~attached to the affidavit.~~
- 5 (c) A guardian or conservator of an individual may not sign an
6 affidavit for the individual under this section unless the guardian or
7 conservator also holds a power of attorney authorizing the guardian or
8 conservator to sign the affidavit.
- 9 SECTION 76. IC 3-11-7-2 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. ~~The commission~~
11 ~~shall adopt rules setting standards for the approval of ballot card voting~~
12 ~~systems.~~ The commission may approve a **ballot card voting** system
13 only if ~~it the commission~~ determines that the system
14 (1) ~~complies with the standards in the rules;~~ and
15 (2) meets the standards in this chapter **and IC 3-11-15.**
- 16 SECTION 77. IC 3-11-7-3.5 IS ADDED TO THE INDIANA CODE
17 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
18 1, 1999]: **Sec. 3.5. A ballot card printed for use under this article**
19 **must have the year of the election to be conducted printed or**
20 **stamped on the face of the ballot card.**
- 21 SECTION 78. IC 3-11-7-5 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. A ballot card
23 voting system must be:
24 (1) suitably designed for the purpose used;
25 (2) of durable construction;
26 (3) safe, efficient, and accurate in the conduct of elections and
27 counting of ballots; and
28 (4) in compliance with the standards for systems that are
29 purchased after the effective date of the standards established by
30 ~~the commission under section 2 of this chapter~~ **and IC 3-11-15.**
- 31 SECTION 79. IC 3-11-7-9 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. If a voter votes
33 a straight party ticket for more than one (1) political party, a ballot card
34 voting system must consider the whole ballot void **except for the**
35 **voter's vote for a school board candidate or on a public question** in
36 accordance with IC 3-12-1-7(d).
- 37 SECTION 80. IC 3-11-7-16 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. The
39 commission may not approve the sale of a ballot card voting system by
40 a vendor if the commission finds that the system fails to meet all
41 statutory requirements. ~~and the standards adopted by the commission~~
42 ~~under section 2 of this chapter.~~



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1 SECTION 81. IC 3-11-7-17 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) The election
 3 division (or a competent person designated by the commission to act on
 4 behalf of the election division) may periodically examine a ballot card
 5 voting system that the commission has previously approved to
 6 determine if the system is still in compliance with all statutory
 7 requirements. ~~and the standards adopted by the commission under~~
 8 ~~section 2 of this chapter.~~

9 (b) If the election division or competent person finds that a system
 10 examined under subsection (a) fails to meet all requirements and
 11 standards, and the commission concurs in these findings, the
 12 commission may, by unanimous vote of all of the members of the
 13 commission, rescind the commission's approval of the vendor.

14 (c) If the commission's approval is rescinded under subsection (b),
 15 the commission may, by unanimous vote of all of the members of the
 16 commission:

- 17 (1) recommend that use of the system be discontinued; and
- 18 (2) prohibit the system from being leased, marketed, or sold for
 19 use in Indiana in an election conducted under this title.

20 (d) This subsection applies to a ballot card voting system approved
 21 **for its initial certification** before:

- 22 (1) ~~the initial adoption of rules under section 2 of this chapter;~~
 23 **March 25, 1992;** or
- 24 (2) a revision of ~~the rules adopted under section 2 of this chapter.~~
 25 **IC 3-11-15 enacted after July 1, 1997, that imposes additional**
 26 **standards that did not apply to the voting system at the time**
 27 **of the system's initial certification.**

28 The commission may, by unanimous consent of its entire membership,
 29 require the voting system to be tested by an independent authority
 30 designated by the commission. The vendor shall pay any testing
 31 expenses under this subsection.

32 (e) If the independent testing authority determines that a voting
 33 system tested under subsection (d) does not comply with ~~the standards~~
 34 ~~adopted by the commission under section 2 of this chapter;~~ **article,** the
 35 commission may, by unanimous consent of its entire membership,
 36 prohibit the system from being leased, marketed, or sold for use in
 37 Indiana in an election conducted under this title.

38 (f) This subsection applies to a ballot card voting system that:

- 39 (1) the commission has recommended discontinuing under
 40 subsection (c); or
- 41 (2) an independent testing authority has determined under
 42 subsection (e) to be out of compliance with ~~the standards adopted~~



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1 ~~under section 2 of this chapter: article.~~

2 Notwithstanding the recommendation under subsection (c) or the
3 determination under subsection (e), a ballot card voting system may be
4 used in a county until the circuit court clerk or the county election
5 board of a county that uses the ballot card voting system files a request
6 with the election division for an investigation of the ballot card voting
7 system and the commission, by unanimous consent of its entire
8 membership, makes a finding under subsection (g).

9 (g) The commission finding described under subsection (f) must
10 satisfy both of the following:

11 (1) Be based on evidence of the ballot card voting system's use by
12 a county election board.

13 (2) Contain the following determinations:

14 (A) The use of the voting system has resulted in a clear pattern
15 of unreliable or erroneous casting or tabulation of ballots.

16 (B) The continued use of the voting system would undermine
17 the public confidence in the accuracy and integrity of Indiana's
18 electoral system.

19 SECTION 82. IC 3-11-7.5-3 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. ~~The commission~~
21 ~~shall adopt rules establishing standards for electronic voting systems~~
22 ~~purchased after the effective date of the standards.~~ The commission
23 may approve ~~a~~ **an electronic voting** system only if the system complies
24 with the

25 ~~(1)~~ requirements of this chapter. ~~and~~

26 ~~(2)~~ standards adopted by the commission.

27 SECTION 83. IC 3-11-7.5-4 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. If the
29 commission finds that an electronic voting system complies with this
30 chapter, ~~and the standards adopted by the commission under section 3~~
31 ~~of this chapter~~, the commission may approve the system. The approved
32 system then may be adopted for use at an election.

33 SECTION 84. IC 3-11-7.5-5 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A proposed
35 improvement or change to an electronic voting system shall be reported
36 to the election division by:

37 (1) the vendor, if a vendor is involved in the proposed change;
38 and

39 (2) the county election board, if a county is proposing the change.
40 A proposed improvement or change may not be implemented before
41 the improvement or change is approved by the commission.

42 (b) A report of an improvement or change must be in the form

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1 prescribed by the commission.

2 (c) The election division (or a competent person designated by the
3 commission to act on behalf of the election division) shall review the
4 improvement or change to the voting system and report the results of
5 the review to the commission. The commission shall determine within
6 a reasonable period of time whether the improvement or change
7 impairs the accuracy, efficiency, capacity, or ability to meet the
8 requirements of this chapter or of the standards adopted by the
9 commission under section 3 of this chapter. **article.**

10 (d) After the commission has examined and approved an
11 improvement or change to an electronic voting system, the
12 improvement or change may be implemented.

13 SECTION 85. IC 3-11-7.5-7 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The commission
15 may not approve an electronic voting system unless the system meets
16 ~~(+) the specifications in sections 8 through 19 of this chapter and~~
17 **in IC 3-11-15.**

18 ~~(2) the standards adopted by the commission under section 3 of~~
19 ~~this chapter.~~

20 SECTION 86. IC 3-11-7.5-20 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. Section 7 of
22 this chapter does not prevent the approval of a new or improved type
23 of electronic voting system that renders unnecessary or obsolete one (1)
24 or more of the specifications in sections 8 through 19 of this chapter **or**
25 **in IC 3-11-15.**

26 SECTION 87. IC 3-11-7.5-26 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) The election
28 division (or a competent person designated by the commission to act on
29 behalf of the election division) may periodically examine an electronic
30 voting system that the commission has previously approved to
31 determine if that system is still in compliance with all statutory
32 requirements. ~~and the standards adopted by the commission under~~
33 ~~section 3 of this chapter.~~

34 (b) If the election division or competent person finds that a system
35 examined under subsection (a) fails to meet all requirements and
36 standards, and the commission concurs in these findings, the
37 commission may, by unanimous vote of all of the members of the
38 commission, rescind the commission's approval of the vendor.

39 (c) If the commission's approval is rescinded under subsection (b),
40 the commission may by unanimous vote of all of the members of the
41 commission:

42 (1) recommend that use of the system be discontinued; and



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1 (2) prohibit the system from being leased, marketed, or sold for
2 use in Indiana in an election conducted under this title.

3 (d) This subsection applies to an electronic voting system approved
4 **for its initial certification** before:

5 (1) ~~the initial adoption of rules under section 3 of this chapter;~~
6 **March 25, 1992;** or

7 (2) a revision of ~~the rules adopted under section 3 of this chapter;~~
8 **IC 3-11-15 enacted after July 1, 1997, that imposes additional**
9 **standards that did not apply to the voting system at the time**
10 **of the system's initial certification.**

11 The commission may, by unanimous consent of its entire membership,
12 require the voting system to be tested by an independent authority
13 designated by the commission. The vendor shall pay any testing
14 expenses under this subsection.

15 (e) If the independent testing authority determines that a voting
16 system tested under subsection (d) does not comply with ~~the standards~~
17 ~~adopted by the commission under section 3 of this chapter;~~ **article,** the
18 commission may, by unanimous consent of its entire membership,
19 prohibit the system from being leased, marketed, or sold for use in
20 Indiana in an election conducted under this title.

21 (f) This subsection applies to an electronic voting system that:

22 (1) the commission has recommended discontinuing under
23 subsection ~~(b)~~; **(c)**; or

24 (2) an independent testing authority has determined under
25 subsection ~~(d)~~ **(e)** to be out of compliance with ~~the standards~~
26 ~~adopted under section 3 of this chapter;~~ **article.**

27 Notwithstanding the recommendation under subsection ~~(b)~~ **(c)** or the
28 determination under subsection ~~(d)~~; **(e)**, an electronic voting system
29 may be used in a county until the circuit court clerk or the county
30 election board of a county that uses the electronic voting system files
31 a request with the election division for an investigation of the
32 electronic voting system and the commission, by unanimous consent of
33 its entire membership, makes a finding under subsection (g).

34 (g) The commission finding described under subsection (f) must
35 satisfy both of the following:

36 (1) Be based on evidence of the electronic voting system's use by
37 a county election board.

38 (2) Contain the following determinations:

39 (A) The use of the voting system has resulted in a clear pattern
40 of unreliable or erroneous casting or tabulation of ballots.

41 (B) The continued use of the voting system would undermine
42 the public confidence in the accuracy and integrity of Indiana's

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- 1 electoral system.
- 2 SECTION 88. IC 3-11-8-6 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) If possible,
- 4 the county executive shall locate the polls for each precinct in a facility
- 5 that meets **the standards for** accessibility ~~guidelines established by the~~
- 6 ~~commission~~ for voters with disabilities and elderly voters ~~and in~~
- 7 ~~accordance with established~~ **under** 42 U.S.C. 1973ee through
- 8 1973ee-6. If the county executive determines that no accessible facility
- 9 is available in a precinct and that no facility can be made temporarily
- 10 accessible, the county executive shall designate at least one (1) special
- 11 voting poll in the county at least twenty-nine (29) days before election
- 12 day. A special voting poll must:
- 13 (1) be accessible to voters with disabilities and elderly voters
- 14 under federal law; and
- 15 (2) operate under all other requirements for precincts and polls
- 16 under this title.
- 17 (b) The county executive shall:
- 18 (1) provide public notice; and
- 19 (2) file a report;
- 20 listing each inaccessible precinct and each special voting poll in the
- 21 county with the election division at least twenty-nine (29) days before
- 22 election day. The list shall be available to any person upon request.
- 23 (c) A precinct poll may also be used as a special voting poll for the
- 24 county if the precinct poll meets the standards for accessibility by
- 25 voters with disabilities and elderly voters established under federal law.
- 26 (d) The county election board shall assign a special voting poll to a
- 27 voter with disabilities or elderly voter:
- 28 (1) whose regular precinct poll is inaccessible to voters with
- 29 disabilities or elderly voters; and
- 30 (2) who submits an application on a form prescribed by the
- 31 commission at least ten (10) days before election day.
- 32 (e) Applications may be submitted under subsection (d)(2):
- 33 (1) in person at the principal office of the county election board;
- 34 or
- 35 (2) by mail.
- 36 (f) The precinct election board at a special voting poll shall do the
- 37 following:
- 38 (1) Provide each voter with disabilities or elderly voter assigned
- 39 under subsection (d) a ballot that includes all offices and public
- 40 questions to be voted for in the voter's precinct of residence.
- 41 (2) Prepare a separate poll list for the voters with disabilities and
- 42 elderly voters assigned to the special voting poll.

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

3 SECTION 89. IC 3-11-8-15 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) Persons
5 other than:

6 (1) members of a precinct election board;

7 (2) poll clerks and assistant poll clerks;

8 (3) election sheriffs;

9 (4) deputy election commissioners;

10 (5) **pollbook holders**;

11 (6) watchers; and

12 ~~(6)~~ (7) minor children accompanying voters as provided under
13 IC 3-11-11-8 and IC 3-11-12-29;

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

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

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

25 SECTION 90. IC 3-11-8-16 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. Challengers
27 ~~and pollbook holders~~ appointed under IC 3-6-7 are entitled to stand at
28 the sides of the chute next to the entrance to the polls, as provided in
29 IC 3-6-7-2. No other person may remain within fifty (50) feet of the
30 entrance to the polls except for the purpose of offering to vote.

31 SECTION 91. IC 3-11-10-17 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) If the
33 inspector finds under section 15 of this chapter that:

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

36 (A) the two (2) members of the absentee voter board in the
37 office of the circuit court clerk under IC 3-11-4-19 or ~~IC~~
38 ~~3-11-10-26~~; or **section 26 of this chapter**;

39 (B) **the two (2) members of the absentee voter board**
40 **visiting the voter under section 25(b) of the chapter**; or

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

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1 (2) a copy of the voter's signature has been furnished to the
 2 precinct election board and that the signatures do not correspond
 3 or there is no signature;

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

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

6 (5) the absentee voter has not registered;

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

8 (7) the ballot envelope contains more than one (1) ballot of any
 9 kind **for the same office or public question;**

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

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

15 then the ballots may not be accepted or counted.

16 **(b) Subsection (c) applies whenever a voter with a disability is**
 17 **unable to make a signature:**

18 **(1) on an absentee ballot application that corresponds to the**
 19 **voter's signature in the records of the county voter**
 20 **registration office; or**

21 **(2) on an absentee ballot secrecy envelope that corresponds**
 22 **with the voter's signature:**

23 **(A) in the records of the county voter registration office; or**

24 **(B) on the absentee ballot application.**

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

27 **(1) the absentee voter board under section 25(b) of this**
 28 **chapter;**

29 **(2) a member of the voter's household; or**

30 **(3) an individual serving as attorney in fact for the voter.**

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

34 SECTION 92. IC 3-11-10-24 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) Except as
 36 provided in subsection (b), each voter entitled to vote by absentee
 37 ballot is entitled to vote by mail.

38 (b) A voter with disabilities who:

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

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



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

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

6 (1) section 1.5 of this chapter; or

7 (2) section 33 of this chapter.

8 SECTION 93. IC 3-11-13-6 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Before an
10 election at which a ballot card voting system is used, a county election
11 board shall:

12 (1) have the marking devices prepared for the election;

13 (2) have the marking devices put in order, set and adjusted, and
14 made ready for voting when delivered to the precincts; and

15 (3) provide the precinct election officers with marking devices, a
16 demonstration marking device (**except in precincts using optical**
17 **scan ballot cards**), ballot cards, ballot boxes, ballot labels, and
18 other records and supplies as required.

19 (b) While acting under subsection (a), the county election board
20 may restrict access to parts of the room where marking devices and
21 other election material are being handled to safeguard this material.

22 (c) Each county election board shall have each ballot card voting
23 system, along with all necessary furniture and appliances that go with
24 the system at the polls, delivered to the appropriate precinct not later
25 than 6 p.m. of the day before election day. The county executive shall
26 provide transportation for the systems if requested to do so by the
27 county election board.

28 SECTION 94. IC 3-11-13-18 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:
30 Sec. 18. (a) **This section does not apply to an optical scan ballot**
31 **card voting system.**

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

37 (1) The name of the political subdivision holding the election.

38 (2) The designation of the election.

39 (3) The date of the election.

40 (4) The instructions to the voters.

41 (5) In a primary election, the name of the political party.

42 ~~(b)~~ (c) The county election board in a county using a ballot card

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1 voting system shall provide ballot cards to the precinct election board
 2 that permit voters to cast write-in votes for each officer to be voted for
 3 at that election.

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

5 (1) designed to be folded; or

6 (2) accompanied by a secrecy envelope;

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

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

11 SECTION 95. IC 3-11-13-22 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) At least
 13 fourteen (14) days before election day, the **county election officer**
 14 **board** of each county ~~in charge~~ **planning to use automatic tabulating**
 15 **machines at the next election** shall have the automatic tabulating
 16 machines tested to ascertain that the machines will correctly count the
 17 votes cast **in all precincts** for all candidates and on all public
 18 questions. **Not later than seven (7) days after conducting the test**
 19 **under this subsection, the county election board shall certify to the**
 20 **election division that the pretest has been conducted in conformity**
 21 **with this subsection.**

22 (b) **At least seven (7) days before election day, a county election**
 23 **board required to conduct a pretest under subsection (a) shall**
 24 **conduct a public test under this subsection. The public test**
 25 **conducted under this subsection consists of a sample of precincts**
 26 **designated by the county election board. However, the sample must**
 27 **include at least one (1) precinct in each election district in which**
 28 **each candidate appears on the ballot.** Public notice of the time and
 29 place ~~of the tests~~ shall be given at least forty-eight (48) hours before the
 30 test. The notice shall be published once in accordance with IC 5-3-1-4.

31 SECTION 96. IC 3-11-13-23 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) The two (2)
 33 appointed members of the county election board shall observe the tests
 34 required by section 22 of this chapter and certify the tests as meeting
 35 the requirements of section 22 of this chapter.

36 (b) A copy of the certification **of the test conducted under section**
 37 **22(b) of this chapter** shall be transmitted to the election division
 38 immediately, and another copy shall be filed with the election returns.

39 (c) The tests must be open to representatives of political parties,
 40 candidates, the media, and the public.

41 SECTION 97. IC 3-11-13-26 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) The ~~tests~~



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1 **public test** required by section ~~22~~ **22(b)** of this chapter shall be
 2 repeated and certified again in the same manner immediately before the
 3 start of the official count of the ballot cards.

4 (b) The certification shall be filed with the election returns **but is**
 5 **not required to be filed with the election division.**

6 (c) After the completion of the count, **the county election board**
 7 **shall conduct a posttest using the same sample included in the**
 8 **public test conducted under section 22(b) of this chapter. The**
 9 **county election board shall certify the results of the posttest and**
 10 **file the certification with the election returns. A copy of the posttest**
 11 **certification is not required to be filed with the election division.**

12 (d) **After completion of the posttest,** the tested tabulating
 13 machines shall be sealed in the same manner as voting machines under
 14 IC 3-12-2.5-6. ~~and~~ The ballot cards and all other election materials
 15 shall be sealed, retained, and disposed of as provided for paper ballots.

16 SECTION 98. IC 3-11-13-27.5 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27.5. At the
 18 opening of the polls, after the organization of and in the presence of the
 19 precinct election board, the inspector shall:

20 (1) open the packages of ballot cards in a manner that preserves
 21 the seals intact;

22 (2) deliver ~~twenty-five (25)~~ **fifty (50)** of each of the state and local
 23 ballots to the poll clerk ~~of~~ **representing** the opposite political
 24 party; and

25 (3) deliver to the other poll clerk a device for marking the ballots.

26 SECTION 99. IC 3-11-13-28 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) This section
 28 does not apply to a ballot card voted by absentee ballot.

29 (b) The two (2) poll clerks of each precinct shall place their initials
 30 in ink on the back of each ballot card at the time the card is issued to
 31 a voter. The initials must be in the poll clerks' ordinary handwriting or
 32 printing and without a distinguishing mark of any kind.

33 (c) **Except as provided in IC 3-12-1-12,** a ballot card is not valid
 34 unless it is initialed by both poll clerks.

35 SECTION 100. IC 3-11-13-28.5 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:
 37 Sec. 28.5. (a) **This section does not apply to an optical scan ballot**
 38 **card voting system.**

39 (b) Unless challenged, a voter may proceed to vote. After a voter
 40 has signed the poll list, the poll clerk holding the ballot card shall
 41 remove the top stub, as described in section 18 of this chapter, and
 42 deliver to the voter one (1) of each ballot card that the voter is entitled



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1 to vote at the election. The top stub (and any second stub declined by
2 the voter under section 33 of this chapter) shall be retained by the
3 precinct election board and returned to the election board following the
4 close of the polls.

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

9 SECTION 101. IC 3-11-13-28.7 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28.7. (a) The two
11 (2) poll clerks of each precinct shall place their initials in ink on the
12 secrecy envelope of a ballot card (**or on the fold-over part of a ballot**
13 **card described in section 18(c)(1) of this chapter**) at the time the
14 card is issued to a voter. The initials must be in the poll clerk's ordinary
15 handwriting or printing and without a distinguishing mark of any kind.

16 (b) A write-in vote cast on a secrecy envelope **or fold-over**
17 **envelope:**

18 (1) is not valid unless:

- 19 (A) the secrecy envelope is initialed by both poll clerks; and
20 (B) the vote includes both the name of the write-in candidate
21 and the office for which the write-in vote is cast; and

22 (2) makes the secrecy envelope **or fold-over envelope** a ballot for
23 purposes of this title.

24 SECTION 102. IC 3-11-13-30 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. When a voter
26 is handed a ballot card, the voter shall be instructed to:

27 (1) use only the marking device provided for punching, slotting,
28 or marking the cards and that the voter is not to mark a card in
29 any other way;

30 (2) be certain that the initials of the poll clerks appear on the
31 voter's card and that if the initials are not on the card it will not be
32 counted **except as provided by IC 3-12-1-12**; and

33 (3) place the voter's card in an envelope ~~or other container~~ after
34 the voter has voted or to fold the card in a manner so that no card
35 is exposed upon which a choice is indicated.

36 SECTION 103. IC 3-11-13-31.7 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31.7. (a) After
38 receiving ballot cards, a voter shall, without leaving the room, go alone
39 into one (1) of the booths or compartments that is unoccupied and
40 indicate:

41 (1) the candidates for whom the voter desires to vote by punching
42 a hole in or marking the squares immediately ~~before~~ **beside** the

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1 candidates' names; and
 2 (2) the voter's preference on each public question by punching a
 3 hole in or marking the square beside the word "yes" or "no" under
 4 the question.

5 (b) If an election is a general or municipal election and a voter
 6 desires to vote for all the candidates of one (1) political party or group
 7 of petitioners, the voter may punch a hole in or mark the circle
 8 enclosing the device and ~~before~~ **beside** the name under which the
 9 candidates of the party or group of petitioners are printed. The voter's
 10 vote shall then be counted for all the candidates under that name.
 11 However, if the voter punches a hole in or marks the circle of an
 12 independent ticket comprised of two (2) candidates, the vote shall not
 13 be counted for any other independent candidate on the ballot.

14 SECTION 104. IC 3-11-13-33 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. (a) After a
 16 voter has marked a ballot card, the voter shall place it inside the
 17 envelope provided for this purpose **or fold the envelope described in**
 18 **section 18(c)(1) of this chapter** and return the ballot card to the judge.
 19 ~~who~~

20 **(b) This subsection does not apply to an optical scan ballot card**
 21 **or to a ballot card with a fold-over envelope. The judge** shall
 22 remove the second stub, as described in section 18 of this chapter, from
 23 the envelope **and offer the second stub to the voter.**

24 (c) The judge shall ~~then~~ offer to return the envelope with the ballot
 25 card inside ~~and the second stub~~ to the voter. ~~who~~ **The voter** shall:

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

29 ~~(b)~~ **(d)** If a voter offers to vote a ballot card that is not inside the
 30 envelope provided for this purpose **or with the envelope not folded if**
 31 **the ballot is described in section 18(c)(1) of this chapter**, the
 32 precinct election board shall direct the voter to return to the booth and
 33 place the ballot card in the envelope provided for this purpose **or fold**
 34 **the envelope.**

35 ~~(c)~~ **(e)** After a voter's ballot cards have been deposited in the ballot
 36 box, the poll clerks shall make a voting mark after the voter's name on
 37 the poll list.

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

42 SECTION 105. IC 3-11-13-34 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)];
 2 Sec. 34. (a) **This section does not apply to an optical scan ballot**
 3 **card voting system.**

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

8 SECTION 106. IC 3-11-13-34.5 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)];
 10 Sec. 34.5. (a) **This section does not apply to an optical scan ballot**
 11 **card voting system.**

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

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

16 absentee ballot secrecy envelope;
 17 the ballot card shall be counted if the ballot card is otherwise valid
 18 under this title.

19 SECTION 107. IC 3-11-13-35 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 35. (a) If a voter
 21 spoils or defaces a ballot card or marks it erroneously, the voter shall
 22 return the card ~~with the stub folded~~ so as not to disclose any choices
 23 that the voter has made.

24 (b) **This subsection does not apply to an optical scan ballot card.**
 25 **A voter returning a ballot must comply with subsection (a) by**
 26 **folding the stub on the ballot card.**

27 (c) **After complying with subsection (b),** the voter then may
 28 receive another ballot card. Upon receipt of a defective ballot card, the
 29 precinct election board shall:

- 30 (1) immediately cancel the defective card by writing on the back
 31 of the card and stub the word "VOID" in ink or in indelible pencil;
 32 and
- 33 (2) without detaching ~~the any~~ stub **attached to the card**, place
 34 the card in the container for voided ballots in a manner that does
 35 not expose the choices of the voter.

36 SECTION 108. IC 3-11.5-4-13 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) If the
 38 absentee ballot counters find under section 11 of this chapter that:

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

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

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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 109. 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 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;

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1 (3) is a candidate to be voted for at the election, except as an
 2 unopposed candidate for precinct committeeman or state
 3 convention delegate; or

4 (4) is the spouse, parent, father-in-law, mother-in-law, child,
 5 son-in-law, daughter-in-law, grandparent, grandchild, brother,
 6 sister, brother-in-law, sister-in-law, uncle, aunt, nephew, **or** niece
 7 **or first cousin** of a candidate or declared write-in candidate to be
 8 voted for at the election except as an unopposed candidate. This
 9 subdivision disqualifies a person whose relationship to the
 10 candidate is the result of birth, marriage, or adoption. ~~This~~
 11 ~~subdivision does not disqualify a person who is a spouse of a first~~
 12 ~~cousin of the candidate.~~

13 SECTION 110. IC 3-11.5-4-23 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) **Not later**
 15 **than noon ten (10) days before absentee voting begins under**
 16 **IC 3-11-10-26**, each county election board shall notify the county
 17 chairmen of the two (2) political parties that have appointed members
 18 on the county election board of the number of:

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

22 to be appointed under section 22 of this chapter.

23 (b) The county chairmen shall make written recommendations for
 24 the appointments ~~within ten (10) days after notification under~~
 25 ~~subsection (a); and to the county election board not later than noon~~
 26 **three (3) days before absentee voting begins under IC 3-11-10-26.**
 27 The county election board shall make the appointments as
 28 recommended.

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

31 SECTION 111. IC 3-11.5-7-2 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The voters
 33 appointed as couriers or absentee ballot counters under this article shall
 34 be compensated in the following manner:

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

41 (2) The absentee ballot counters who are assigned to perform
 42 duties regarding absentee ballots on election day are entitled to a

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1 per diem not to exceed fifty dollars (\$50); established by the
2 county executive.

3 SECTION 112. IC 3-12-1-16 IS ADDED TO THE INDIANA
4 CODE AS A NEW SECTION TO READ AS FOLLOWS
5 [EFFECTIVE UPON PASSAGE]: **Sec. 16. (a) This section applies**
6 **when:**

7 **(1) a ballot:**

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

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

13 **(2) the candidate vacancy is filled following the application of**
14 **the pasters or the reprinting of the ballots.**

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

18 SECTION 113. IC 3-12-5-2 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2. (a) Whenever a**
20 **candidate is elected:**

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

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

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

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

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

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

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

42 (2) tabulate the total votes cast for that office or on that question



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1 as shown on the certified statement of each county in the election
 2 district; and
 3 (3) issue a certificate of election to the candidate ~~upon the~~
 4 ~~expiration of the period required when permitted~~ under section
 5 16 of this chapter or a certificate declaring the local public
 6 question approved or rejected.

7 SECTION 114. IC 3-12-5-9 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Upon receipt
 9 of the certified statements from the circuit court clerks under section 6
 10 of this chapter, the election division shall:

11 (1) ~~compare and estimate tabulate~~ the number of votes cast for
 12 each candidate for United States Senator and United States
 13 Representative; and

14 (2) prepare a certificate **of election** for the secretary of state to
 15 **certify transmit** to:

16 (A) the governor **for signature and certification to the**
 17 **secretary of the United States Senate, setting forth the**
 18 **name of the candidate receiving the highest number of votes**
 19 **for each the office of United States Senator, in the manner**
 20 **required by 2 U.S.C. 1; and**

21 (B) **the clerk of the United States House of Representatives,**
 22 **setting forth the name of each candidate receiving the**
 23 **highest number of votes for United States Representative,**
 24 **in the manner required by 2 U.S.C. 26.**

25 (b) The secretary of state shall promptly execute the certificate
 26 prepared under subsection ~~(a)~~ (a)(2)(A) and ~~file~~ **transmit** the
 27 certificate ~~with to~~ the governor. **The governor shall promptly execute**
 28 **the certificate and transmit the certificate to the election division**
 29 **for attestation by the secretary of state and transmission to the**
 30 **secretary of the United States Senate.**

31 (c) **The secretary of state shall promptly execute the certificate**
 32 **prepared under subsection (a)(2)(B) and transmit the certificate to**
 33 **the clerk of the United States House of Representatives.**

34 SECTION 115. IC 3-12-5-10 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The ~~governor~~
 36 **election division** shall transmit to each candidate certified under
 37 section 9 of this chapter ~~a~~ **an original copy of the** certificate of
 38 election. The secretary of state shall seal and attest the certificate of
 39 election.

40 SECTION 116. IC 3-12-5-16 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. A certificate of
 42 election may not be issued until the ~~ten (10) day~~ **ten** day period allowed **under**



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section 14 of this chapter for the discovery and correction of errors has expired.

SECTION 117. IC 3-12-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. Each petition filed under section 2 of this chapter must state the following:

- (1) The office for which the petitioner desires a recount.
- (2) The precincts within the county in which the petitioner desires a recount.
- (3) That the petitioner is entitled to a recount under section 1 of this chapter.
- (4) That the nomination or office was voted upon in the precincts specified.
- (5) The name **of each candidate for the nomination or office as set forth on the ballot for the election** and the address of each candidate for nomination or election to the office **as set forth in the records of the county election board or election division.**
- (6) That the petitioner in good faith believes that the votes cast for nomination or election to the office at the election in the precincts were not correctly counted and returned.
- (7) That the petitioner desires a recount of all of the votes cast for nomination or election to the office in the precincts specified.

SECTION 118. IC 3-12-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) **Except as provided in subsection (b),** the court in which a petition or cross-petition is filed may allow the petition or cross-petition to be amended at any time upon the terms and conditions that the court orders.

(b) The court may not allow a petition or cross-petition to be amended following the deadline for filing a petition or cross-petition under this chapter if the petition or cross-petition as originally filed:

- (1) failed to comply with this chapter; or**
- (2) was not filed before the deadline specified in this chapter.**

SECTION 119. IC 3-12-6-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) After a recount is ordered under section 14 of this chapter, the recount commission shall convene at a place fixed by order of the court. ~~and~~

(b) Whenever a motion to dismiss a petition or cross-petition for a recount is filed with the court, the court shall rule on the motion to dismiss before the recount commission conducts the recount.

The motion to dismiss must:

- (1) state that the petitioner or cross-petitioner has failed to**

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1 **comply with this chapter; and**

2 **(2) specifically identify the requirement that the petitioner or**
 3 **cross-petitioner has failed to comply with.**

4 **(c) As the first item of business, the recount commission shall**
 5 **adopt procedures for conducting the recount, based as closely as is**
 6 **practical on the procedures adopted by the state recount**
 7 **commission. After adopting these procedures, the recount**
 8 **commission shall** expeditiously complete the recount of all votes
 9 ordered recounted.

10 ~~(b)~~ **(d)** The proceedings of the recount commission shall be
 11 performed in public under IC 5-14-1.5 (the Open Door Law). However,
 12 the commission may restrict access to parts of a room where the
 13 recount is being conducted to safeguard the election material or to
 14 permit the material to be handled or transported by the commission.
 15 Each candidate affected by the recount may have a watcher present at
 16 the recount and may also be present in person. A watcher for a
 17 candidate under this subsection has the same rights as a watcher
 18 appointed under IC 3-6-8-4. Representatives of the media may also
 19 attend the recount and have the same rights as media watchers
 20 appointed under IC 3-6-10.

21 ~~(c)~~ **(e)** An order issued by the state recount commission under
 22 IC 3-12-10 supersedes an order issued by the recount commission
 23 appointed under this chapter to the extent that the orders conflict. The
 24 state recount commission shall assist a recount commission appointed
 25 under this chapter to the extent that the ability of the state recount
 26 commission to preserve the integrity of election records or equipment
 27 is not hindered.

28 ~~(d)~~ **(f)** During the period:

29 (1) beginning when a recount is ordered under section 14 of this
 30 chapter; and

31 (2) ending when the recount commission certifies the recount
 32 results under section 22 of this chapter;

33 the recount commission may petition the court that acquired
 34 jurisdiction over the recount under section 8 of this chapter to rule on
 35 questions raised by the recount commission.

36 SECTION 120. IC 3-12-6-21.9 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 21.9. **(a) A recount for**
 38 **nomination to an office conducted under this chapter shall be**
 39 **completed not later than the final Friday in June following the**
 40 **primary.**

41 **(b)** A recount for election to an office conducted under this chapter
 42 shall be completed not later than December 20 following the election.

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1 SECTION 121. IC 3-12-6-22 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) When a
 3 recount is completed by a commission appointed under this chapter, the
 4 commission shall:

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

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

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

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

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

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

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

22 SECTION 122. IC 3-12-6-28 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. A circuit court
 24 clerk shall immediately transmit a certificate prepared under section 27
 25 of this chapter showing the votes cast for nomination or election to an
 26 office to the election division **if the recount concerned an office for
 27 which a declaration of candidacy must be filed with the election
 28 division under IC 3-8-2.**

29 SECTION 123. IC 3-12-8-1 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) **This section
 31 does not apply to a challenge filed before an election to the
 32 eligibility of a candidate nominated by petition for election to an
 33 office. The challenge described by this section must be conducted
 34 in accordance with IC 3-8-1-2.**

35 (b) Any candidate for nomination or election to a local or school
 36 board office may contest the nomination or election of a candidate who
 37 is declared nominated or elected to the office.

38 ~~(b)~~ (c) If a candidate who is entitled to contest the nomination or
 39 election of a candidate under this chapter does not file a petition within
 40 the period established by section 5 of this chapter, the county chairman
 41 of a political party of which the candidate entitled to file a petition
 42 under this chapter was a member may file a petition to contest the

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1 nomination or election of a candidate. A county chairman is entitled to
 2 contest an election under this chapter only in a partisan race.

3 SECTION 124. IC 3-12-8-2 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. An election may
 5 be contested under section 1 of this chapter if a petitioner alleges that
 6 one (1) of the following circumstances existed:

7 (1) The contestee was ineligible.

8 (2) A mistake occurred in the printing or distribution of ballots
 9 used in the election that makes it impossible to determine which
 10 candidate received the highest number of votes.

11 (3) A mistake occurred in the programming of a voting machine
 12 or an electronic voting system, making it impossible to determine
 13 the candidate who received the highest number of votes.

14 (4) A voting machine or an electronic voting system
 15 malfunctioned, making it impossible to determine the candidate
 16 who received the highest number of votes.

17 **(5) A deliberate act or series of actions occurred making it**
 18 **impossible to determine the candidate who received the**
 19 **highest number of votes cast in the election.**

20 SECTION 125. IC 3-12-8-6 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A petition
 22 filed under section 5 of this chapter must state the following:

23 (1) That the petitioner desires to contest the nomination or
 24 election to an office.

25 (2) The name **of each candidate as set forth on the ballot for**
 26 **the election** and address of each candidate ~~at the election for the~~
 27 ~~office involved:~~ **as set forth in the records of the county**
 28 **election board or election division.**

29 (3) That the petitioner in good faith believes that **one (1) or more**
 30 **of the following occurred:**

31 (A) The person declared nominated or elected does not comply
 32 with a **specific** constitutional or statutory requirement **set**
 33 **forth in the petition that is** applicable to a candidate for the
 34 office.

35 (B) A mistake was made in the printing or distribution of
 36 ballots **used in the election** that makes it impossible to
 37 determine which candidate received the highest number of
 38 votes cast in the election.

39 (C) A mistake occurred in the programming of a voting
 40 machine or an electronic voting system, making it impossible
 41 to determine the candidate who received the highest number
 42 of votes. or



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1 (D) A voting machine or an electronic voting system
 2 malfunctioned, making it impossible to determine the
 3 candidate who received the highest number of votes.

4 **(E) A deliberate act or series of actions occurred making**
 5 **it impossible to determine the candidate who received the**
 6 **highest number of votes cast in the election.**

7 (b) A petition stating that the petitioner believes that it is impossible
 8 to determine the candidate that received the highest number of votes
 9 for one (1) of the reasons ~~set forth~~ **described** in subsection ~~(a)~~
 10 **(a)(3)(B), (a)(3)(C), or (a)(3)(D)** must identify each precinct in which:

11 (1) ballots:

12 (A) containing the printing mistake; or

13 (B) distributed by mistake;

14 were cast;

15 (2) a mistake occurred in the programming of a voting machine
 16 or an electronic voting system; or

17 (3) a voting machine or an electronic voting system
 18 malfunctioned.

19 **(c) A petition stating that the petitioner believes that an act or**
 20 **series of actions described in subsection (a)(3)(E) occurred must**
 21 **identify each precinct or other location in which the act or series**
 22 **of actions occurred to the extent known to the petitioner.**

23 SECTION 126. IC 3-12-8-6.5 IS ADDED TO THE INDIANA
 24 CODE AS A NEW SECTION TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 1999]: **Sec. 6.5. (a) Except as provided in**
 26 **subsection (b), the court in which a petition is filed may allow the**
 27 **petition or cross-petition to be amended at any time upon the terms**
 28 **and conditions that the court orders.**

29 **(b) The court may not allow a petition to be amended following**
 30 **the deadline for filing a petition under this chapter if the petition**
 31 **as originally filed:**

32 (1) failed to comply with this chapter; or

33 (2) was not filed before the deadline specified in this chapter.

34 SECTION 127. IC 3-12-8-18 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18. A circuit court**
 36 **clerk shall certify the determination made concerning the election**
 37 **contest under section 17 of this chapter to the: appropriate public**
 38 **official:**

39 (1) county election board;

40 (2) election division, if the contest concerned an office for
 41 which a declaration of candidacy must be filed with the
 42 election division under IC 3-8-2; and

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1 **(3) governor, if the contest concerned an office commissioned**
 2 **by the governor under IC 4-3-1-5.**

3 SECTION 128. IC 3-12-8-22 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) The costs
 5 of a contest may include the following:

6 (1) Compensation of additional employees required to conduct the
 7 contest, including overtime payments to regular employees who
 8 are eligible to receive such payments.

9 (2) Postage and telephone charges directly related to the contest.

10 (b) The costs of a contest may not include the following:

11 (1) General administrative costs.

12 (2) Security.

13 (3) Allowances for meals or lodging.

14 **(c) The costs of a contest shall be paid from the county general**
 15 **fund without appropriation.**

16 SECTION 129. IC 3-12-10-2.2 IS ADDED TO THE INDIANA
 17 CODE AS A NEW SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE UPON PASSAGE]: Sec. 2.2. **(a) The state recount**
 19 **fund is established for the purpose of receiving, holding, and**
 20 **disbursing funds as a fiduciary for the state recount commission**
 21 **and individuals who have provided a cash deposit under this**
 22 **article. The fund shall be administered by the administrative**
 23 **division of the office of the secretary of state.**

24 **(b) The expenses of administering the fund shall be paid from**
 25 **money in the fund.**

26 **(c) Money in the fund at the end of a state fiscal year does not**
 27 **revert to the state general fund.**

28 **(d) All money accruing to the fund is appropriated continuously**
 29 **for the purposes specified in subsection (a).**

30 SECTION 130. IC 3-12-10-8 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. The state board of
 32 accounts shall conduct any recount or other contest proceeding ordered
 33 by the state recount commission **in accordance with this article and**
 34 **guidelines adopted by the commission.**

35 SECTION 131. IC 3-12-10-12 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The
 37 expenses of a recount ~~or contest~~ conducted by the state recount
 38 commission shall be paid from the state ~~general~~ **recount** fund
 39 **following the commission's determination whether a full or partial**
 40 **refund of the cash deposit should be granted under IC 3-12-11-10.**

41 **(b) The expenses of a contest conducted by the state recount**
 42 **commission shall be paid from the state recount fund.**



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1 (c) A person (other than a party to a recount or contest) who
 2 claims reimbursement of expenses described by subsection (a) or
 3 (b) must submit a claim to the state recount commission not later
 4 than noon sixty (60) days after the commission adopts a final order
 5 concerning the recount or contest. If the commission approves the
 6 claim, the treasurer of state shall issue a warrant to the person
 7 subject to the balance of the fund and appropriations made by the
 8 general assembly.

9 SECTION 132. IC 3-12-11-3 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) Each petition for
 11 a recount filed under section 2 of this chapter must state the following:

- 12 (1) The office for which the petitioner desires a recount.
- 13 (2) The precincts in which the petitioner desires a recount.
- 14 (3) That the individual is entitled to a recount under this chapter
 15 and that the nomination or election to office at issue was voted
 16 upon in the precincts specified.
- 17 (4) The name **of the candidates as set forth on the ballot for the**
 18 **election** and address of the candidates **as set forth in the records**
 19 **of the election division.**
- 20 (5) That the petitioner in good faith believes that the votes cast for
 21 nomination or election to the office at the election in the precincts
 22 were not correctly counted and returned.
- 23 (6) That the petitioner desires a recount of all of the votes cast for
 24 nomination or election to the office in the precincts specified.

25 (b) Each petition for a contest filed under section 2 of this chapter
 26 must state the following:

- 27 (1) The nomination or election to office that the petitioner
 28 contests.
- 29 (2) That the individual is entitled to contest an election or a
 30 nomination to office under this chapter.
- 31 (3) The name **of the candidates as set forth on the ballot for the**
 32 **election** and address of each of the candidates **as set forth in the**
 33 **records of the election division.**
- 34 (4) That the petitioner in good faith believes that **one (1) or more**
 35 **of the following occurred:**
 - 36 (A) The person declared nominated or elected does not comply
 37 with a **specific** constitutional or statutory requirement **set**
 38 **forth in the petition that is** applicable to a candidate for the
 39 office.
 - 40 (B) A mistake was made in the printing or distribution of
 41 ballots **used in the election** that makes it impossible to
 42 determine which candidate received the highest number of



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- 1 votes cast in the election.
- 2 (C) A mistake occurred in the programming of a voting
3 machine or an electronic voting system, making it impossible
4 to determine the candidate who received the highest number
5 of votes. ~~or~~
- 6 (D) A voting machine or an electronic voting system
7 malfunctioned, making it impossible to determine the
8 candidate who received the highest number of votes.
- 9 **(E) A deliberate act or series of actions occurred making
10 it impossible to determine the candidate who received the
11 highest number of votes cast in the election.**
- 12 (c) A petition stating that the petitioner believes that a mistake ~~in the~~
13 ~~printing or distribution of ballots described in subsection (b)(4)(B),~~
14 **(b)(4)(C), or (b)(4)(D)** has occurred must identify each precinct in
15 which:
- 16 (1) ballots:
17 (A) containing the printing mistake; or
18 (B) distributed by mistake;
19 were cast;
- 20 (2) a mistake occurred in the programming of a voting machine
21 or an electronic voting system; or
- 22 (3) a voting machine or an electronic voting system
23 malfunctioned.
- 24 **(d) A petition stating that the petitioner believes that an act or
25 series of actions described in subsection (b)(4)(E) occurred must
26 identify each precinct or other location in which the act or series
27 of actions occurred to the extent known to the petitioner.**
- 28 SECTION 133. IC 3-12-11-7 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. **(a) Except as
30 provided in subsection (b) or (c),** the state recount commission may
31 allow a petition or cross-petition to be amended at any time upon the
32 terms and conditions that the state recount commission orders.
33 ~~However,~~
- 34 **(b) The commission may not allow a petition or cross-petition to
35 be amended following the deadline for filing a petition or
36 cross-petition under this chapter if the petition or cross-petition as
37 originally filed:**
- 38 **(1) failed to comply with section 3 or section 6 of this chapter;**
39 **or**
40 **(2) was not filed before the deadline specified in section 2 or
41 section 4 of this chapter.**
- 42 (c) The commission may not allow a candidate who filed a petition

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1 or cross-petition to amend the petition or cross-petition by striking a
 2 precinct in which the candidate had desired a recount unless each
 3 opposing candidate consents to the amendment.

4 SECTION 134. IC 3-12-11-10 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Each
 6 petitioner shall furnish a cash deposit for the payment of costs of the
 7 recount chargeable to the petitioner. The minimum amount of the cash
 8 deposit is one hundred dollars (\$100). **The cash deposit shall be**
 9 **deposited in the state recount fund.**

10 (b) This subsection applies only to a recount of an election for
 11 nomination or election to either of the following:

12 (1) A legislative office in which, on the face of the election
 13 returns, the difference between the number of votes cast for the
 14 candidate nominated or elected and the petitioner is not more than
 15 one percent (1%).

16 (2) An office other than a legislative office in which, on the face
 17 of the election returns, the difference between the number of votes
 18 cast for the candidate nominated or elected and the petitioner is
 19 not more than one percent (1%).

20 If the number of precincts to be recounted exceeds ten (10), the amount
 21 of the deposit shall be increased by ten dollars (\$10) for each precinct
 22 in excess of ten (10).

23 (c) This subsection applies only to a recount of an election for
 24 nomination or election to either of the following:

25 (1) A legislative office in which, on the face of the election
 26 returns, the difference between the number of votes cast for the
 27 candidate nominated or elected and the petitioner is more than
 28 one percent (1%).

29 (2) An office other than a legislative office in which, on the face
 30 of the election returns, the difference between the number of votes
 31 cast for the candidate nominated or elected and the petitioner is
 32 more than one percent (1%).

33 If the number of precincts to be recounted exceeds ten (10), the amount
 34 of the deposit shall be increased by one hundred dollars (\$100) for each
 35 precinct in excess of ten (10).

36 (d) If after a recount, it is determined that a petitioner has been
 37 nominated or elected, the deposit furnished by that petitioner shall be
 38 returned to that petitioner in full.

39 (e) Any unexpended balance remaining in a deposit after payment
 40 of the costs of the recount shall be returned to the depositor in the
 41 following manner:

42 (1) If the recount results in a reduction of at least fifty percent

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- 1 (50%) but less than one hundred percent (100%) of the margin of
- 2 the total certified votes, the petitioner shall receive a refund of
- 3 that percentage of the unexpended balance.
- 4 (2) If after a recount, it is determined that a petitioner has been
- 5 nominated or elected, the deposit or the bond furnished by that
- 6 petitioner shall be returned to that petitioner in full.
- 7 (3) Any unexpended balance remaining after the provision of
- 8 subdivision (1) has ~~have~~ been satisfied shall be deposited in the
- 9 state ~~general~~ **recount** fund.

10 SECTION 135. IC 3-12-11-11 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) This section
 12 applies if a cross-petition is filed under this chapter.

13 (b) This subsection applies only to a recount of an election for
 14 nomination or election to either of the following:

- 15 (1) A legislative office in which, on the face of the election
- 16 returns, the difference between the number of votes cast for the
- 17 cross-petitioner and the petitioner with the greatest number of
- 18 votes is not more than one percent (1%).
- 19 (2) An office other than a legislative office in which, on the face
- 20 of the election returns, the difference between the number of votes
- 21 cast for the cross-petitioner and the petitioner with the greatest
- 22 number of votes is not more than one percent (1%).

23 The cross-petitioner shall furnish a cash deposit equal to ten dollars
 24 (\$10) multiplied by the number of precincts that the cross-petitioner
 25 seeks to have recounted. **The cash deposit shall be deposited in the**
 26 **state recount fund.**

27 (c) This subsection applies only to a recount of an election for
 28 nomination or election to either of the following:

- 29 (1) A legislative office in which, on the face of the election
- 30 returns, the difference between the number of votes cast for the
- 31 cross-petitioner and the petitioner with the greatest number of
- 32 votes is more than one percent (1%).
- 33 (2) An office other than a legislative office in which, on the face
- 34 of the election returns, the difference between the number of votes
- 35 cast for the cross-petitioner and the petitioner with the greatest
- 36 number of votes is more than one percent (1%).

37 The cross-petitioner shall furnish a cash deposit equal to ten dollars
 38 (\$10) multiplied by the number of precincts that the cross-petitioner
 39 seeks to have recounted for the first ten (10) precincts recounted. For
 40 each precinct in excess of ten (10) the cross-petitioner seeks to have
 41 recounted, the cross-petitioner shall furnish an additional cash deposit
 42 equal to one hundred dollars (\$100) multiplied by the number of

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1 precincts in excess of ten (10) that the cross-petitioner seeks to have
2 recounted. **The cash deposit shall be deposited in the state recount**
3 **fund.**

4 (d) If after a recount, it is determined that the cross-petitioner has
5 been nominated or elected, the deposit furnished by the cross-petitioner
6 shall be returned to the cross-petitioner in full.

7 (e) Any unexpended balance remaining in a deposit after payment
8 of the costs of the recount shall be deposited in the state ~~general~~
9 **recount** fund.

10 SECTION 136. IC 3-12-11-12 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. (a) **Except as**
12 **provided in subsection (d)**, the state recount commission shall grant
13 the petitions and cross-petitions that have been filed and order the
14 recount of the votes in the precincts upon:

- 15 (1) the filing of a petition and cash deposit or bond under this
16 chapter;
17 (2) the expiration of the period under section 4 of this chapter for
18 filing a cross-petition; and
19 (3) proof of service of all notices.

20 (b) **Except as provided in subsection (d)**, whenever a petition filed
21 under section 2 of this chapter requests a recount in all precincts in the
22 election district, the state recount commission may order a recount in
23 the precincts upon:

- 24 (1) the filing of a cash deposit or bond under this chapter; and
25 (2) proof of service of all notices.

26 (c) **Except as provided in subsection (d)**, the state recount
27 commission shall grant a petition for a contest that has been filed and
28 order a contest proceeding upon:

- 29 (1) the filing of a petition under this chapter; and
30 (2) proof of service of all notices.

31 (d) **Whenever a motion to dismiss a petition or cross-petition for**
32 **a recount or a petition for a contest is filed with the state recount**
33 **commission or is made by a member of the commission, the**
34 **commission shall rule on the motion to dismiss before ordering or**
35 **continuing with a recount or a contest. The motion to dismiss must:**

- 36 (1) **state that the petitioner or cross-petitioner has failed to**
37 **comply with this chapter; and**
38 (2) **specifically identify the requirement that the petitioner or**
39 **cross-petitioner has failed to comply with.**

40 SECTION 137. IC 3-12-12-5 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Each petition
42 filed under section 2 of this chapter must be accompanied by a cash

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1 deposit or a bond with corporate surety to the approval of the court for
 2 the payment of all costs of the recount. The minimum amount of the
 3 cash deposit or bond is one hundred dollars (\$100). **A cash deposit for
 4 a recount conducted by a county recount commission shall be
 5 deposited in the county general fund. A cash deposit in a recount
 6 conducted by the state recount commission shall be deposited in the
 7 state recount fund.**

8 (b) This subsection applies to the recount of a public question to
 9 which either of the following applies:

10 (1) The public question is a local public question under IC 3-10-9
 11 in which, on the face of the election returns, the difference
 12 between the number of affirmative and negative votes cast is not
 13 more than two hundred (200).

14 (2) The public question is covered under section 23 of this chapter
 15 and, on the face of the election returns, the difference between the
 16 number of affirmative and negative votes cast is not more than
 17 two thousand (2,000).

18 If the number of precincts to be recounted exceeds ten (10), then the
 19 amount of the deposit shall be increased by ten dollars (\$10) for each
 20 precinct in excess of ten (10).

21 (c) This subsection applies to the recount of a public question to
 22 which either of the following applies:

23 (1) The public question is a local public question under IC 3-10-9
 24 and, on the face of the election returns, the difference between the
 25 number of affirmative and negative votes cast is more than two
 26 hundred (200).

27 (2) The public question is covered under section 23 of this chapter
 28 and, on the face of the election returns, the difference between the
 29 number of affirmative and negative votes cast is more than two
 30 thousand (2,000).

31 If the number of precincts to be recounted exceeds ten (10), the amount
 32 of the deposit shall be increased by one hundred dollars (\$100) for each
 33 precinct in excess of ten (10).

34 (d) If after a recount, it is determined that the result of the public
 35 question is other than what was shown on the face of the election
 36 returns, the deposit furnished by the petitioner shall be returned to the
 37 petitioner in full.

38 (e) Any unexpended balance remaining in a deposit after payment
 39 of all costs of the recount ~~shall be deposited~~ **remains** in the county
 40 general fund.

41 **(f) This subsection applies to a recount conducted by the state
 42 recount commission under this chapter. Any unexpended balance**

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1 **remaining in a deposit after payment of all costs of the recount**
 2 **remains in the state recount fund.**

3 SECTION 138. IC 3-13-1-7 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) Except as
 5 provided in subsection (b), action to fill a candidate vacancy under
 6 section 3, 4, 5, or 6 of this chapter must be taken:

7 (1) before noon ~~August 1~~; **thirty-five (35) days after the**
 8 **primary election** if the vacancy exists on a general or municipal
 9 election ballot; and

10 (2) within thirty (30) days after the occurrence of the vacancy, if
 11 the vacancy exists on a special election ballot, subject to section
 12 2 of this chapter.

13 (b) This subsection applies to a candidate vacancy that exists due to:

14 (1) the death of a candidate;

15 (2) the withdrawal of a candidate who has moved from the
 16 election district;

17 (3) the disqualification of a candidate under IC 3-8-1-5; or

18 (4) a court order issued under IC 3-8-7-29(d);

19 before the thirtieth day before a general, municipal, or special election.

20 Action to fill a candidate vacancy under section 3, 4, 5, or 6 of this
 21 chapter must be taken within thirty (30) days after the occurrence of the
 22 vacancy.

23 SECTION 139. IC 3-13-1-10 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) To be
 25 eligible to participate in a ~~meeting~~ **caucus** called under section 7 of this
 26 chapter, ~~a~~ **an elected** precinct committeeman or vice committeeman
 27 must

28 ~~(1)~~ be entitled to vote for the office for which a candidate is to be
 29 selected. ~~and~~

30 ~~(2)~~ **If An elected precinct committeeman is eligible to**
 31 **participate in a caucus called under this chapter, regardless**
 32 **of when the ballot vacancy occurred. The vice committeeman**
 33 **of an elected precinct committeeman is eligible to participate**
 34 **in a caucus called under this chapter.**

35 (b) An appointed precinct committeeman ~~or~~ **is eligible to**
 36 **participate in a caucus called under section 7 of this chapter if the**
 37 **precinct committeeman was a committeeman thirty (30) days**
 38 **before the vacancy occurred. The vice committeeman have been of**
 39 **an appointed precinct committeeman is eligible to participate in a**
 40 **caucus called under section 7 of this chapter if the vice**
 41 **committeeman was a committeeman or vice committeeman**
 42 **continuously for a period beginning thirty (30) days before the vacancy**



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1 occurred.

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

4 (1) the meeting to fill a vacancy is held within thirty-five (35)
5 days after a primary election at which precinct committeemen are
6 elected; and

7 (2) the precinct committeeman representing the precinct of the
8 appointed vice committeeman was elected precinct
9 committeeman at the preceding primary election.

10 SECTION 140. IC 3-13-5-4 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. Each precinct
12 committeeman (a) **To be eligible to participate in a caucus called**
13 **under this chapter, an elected precinct committeeman must be**
14 **entitled to vote for the legislative office for which a successor is to**
15 **be selected. An elected precinct committeeman is eligible to**
16 **participate in a caucus called under this chapter, regardless of**
17 **when the vacancy in the legislative office occurred. The vice**
18 **committeeman of an elected precinct committeeman is eligible to**
19 **participate in a caucus called under this chapter.**

20 (b) **An appointed precinct committeeman is eligible to**
21 **participate in a caucus called under this chapter if the precinct**
22 **committeeman was a committeeman thirty (30) days before the**
23 **vacancy occurred. The vice committeeman of an appointed**
24 **precinct committeeman is eligible to participate in a caucus called**
25 **under this chapter if the vice committeeman was a vice**
26 **committeeman thirty (30) days before the vacancy occurred.**

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

31 SECTION 141. IC 3-13-9-5.6 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.6. (a) If fewer
33 town council members have been elected at large than there were
34 members to be elected, the town council shall determine, **at the**
35 **council's first organizational meeting not later than December 31**
36 **following the election, the incumbent council member or members who**
37 **hold office under Article 15, Section 3 of the Constitution of the State**
38 **of Indiana until a successor is elected and qualified. If a tie vote occurs**
39 **during the vote to determine the members that continue to hold office,**
40 **the town clerk-treasurer casts the deciding vote under IC 36-5-2-8.**

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

42 (c) The notice must:

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

6 SECTION 142. IC 3-13-11-5 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) To be
 8 eligible to be a member of a caucus under this chapter, a ~~person~~
 9 **precinct committeeman or vice committeeman** must **satisfy the**
 10 **following:**

- 11 (1) Be a member of the same political party that elected or
- 12 selected the person who vacated the office to be filled.
- 13 (2) Be the precinct committeeman **or vice committeeman** of a
- 14 precinct in which voters were eligible to vote for the person who
- 15 vacated the office to be filled at the last election conducted or
- 16 permitted for the office. ~~and~~
- 17 (3) **If Satisfy the other requirements of this section.**

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

23 (b) An appointed precinct committeeman ~~have been~~ **is eligible to**
 24 **participate in a caucus called under this chapter if the precinct**
 25 **committeeman was a committeeman thirty (30) days before the**
 26 **vacancy occurred. The vice committeeman of an appointed**
 27 **precinct committeeman is eligible to participate in a caucus called**
 28 **under this chapter if the vice committeeman was a precinct vice**
 29 **committeeman continuously for a period beginning thirty (30) days**
 30 **before the date the vacancy occurred.**

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

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

41 SECTION 143. IC 3-13-11-7 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) This section

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1 does not apply to a vacancy filled by a county chairman under section
2 ~~5(b)~~ 5(c) of this chapter.

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

5 (1) a declaration of candidacy with the chairman of the caucus;
6 and

7 (2) a statement of economic interests with the commission on
8 judicial qualifications if the vacancy is in the office of prosecuting
9 attorney;

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

11 SECTION 144. IC 3-13-11-11 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. No later than
13 noon five (5) days after:

14 (1) the selection required by section 10 of this chapter; or

15 (2) a selection under section ~~5(b)~~ 5(c) of this chapter;

16 the chairman shall certify the pro tempore appointment results to the
17 circuit court clerk of the county in which the greatest percentage of the
18 population of the election district is located. The clerk shall file the
19 certificate in the clerk's office in the same manner as certificates of
20 election are filed. Within twenty-four (24) hours after the certificate is
21 filed, the clerk shall issue a copy of the certificate to the individual
22 named in the certificate.

23 SECTION 145. IC 3-13-11-18 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. A person who
25 assumes the duties of a vacant office under this chapter has all of ~~its~~
26 **the office's** rights and duties. **Except as provided in IC 3-13-6, the**
27 **person serves for the remainder of the unexpired term.**

28 SECTION 146. IC 3-14-2-16 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. A person who
30 knowingly does any of the following commits a Class D felony:

31 (1) Applies for or receives a ballot in a precinct other than that
32 **precinct** in which the person is entitled to vote.

33 (2) **Except when receiving assistance under IC 3-11-9**, shows
34 a ballot after it is marked to another person in such a way as to
35 reveal the contents of it or the name of a candidate for whom the
36 person has voted.

37 (3) **Except when offering assistance requested by a voter in**
38 **accordance with IC 3-11-9**, examines a ballot that a voter has
39 prepared for voting or solicits the voter to show the ballot.

40 (4) Receives from a voter a ballot prepared by the voter for
41 voting, except:

42 (A) the inspector;



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- 1 (B) a member of the precinct election board temporarily acting
 2 for the inspector;
 3 (C) a member of a county election board or an absentee voter
 4 board acting under IC 3-11-10; or
 5 (D) a member of the voter's household or an individual
 6 designated as attorney in fact for the voter, when delivering an
 7 envelope containing an absentee ballot under IC 3-11-10-1.
 8 (5) Receives a ballot from a person other than one of the poll
 9 clerks or authorized assistant poll clerks.
 10 (6) Delivers a ballot to a voter to be voted, unless the person is:
 11 (A) a poll clerk or authorized assistant poll clerk; or
 12 (B) a member of a county election board or an absentee
 13 voter board acting under IC 3-11-10.
 14 (7) Delivers a ballot (other than an absentee ballot) to an inspector
 15 that is not the ballot the voter receives from the poll clerk or
 16 assistant poll clerk.
 17 (8) Delivers an absentee ballot to a team of absentee ballot
 18 counters appointed under IC 3-11.5-4-22, a county election board,
 19 a circuit court clerk, or an absentee voting board under IC 3-11-10
 20 that is not the ballot cast by the absentee voter.

21 SECTION 147. IC 3-14-3-18 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 18. (a) **As used in this**
 23 **section, "candidate" includes an individual whom the person**
 24 **knows is considering becoming a candidate.**

25 (b) A person who, for the purpose of influencing a voter or
 26 candidate:

- 27 (1) seeks to enforce the payment of a debt by force or threat of
 28 force;
 29 (2) ejects or threatens to eject the voter or candidate from a
 30 house the voter or candidate occupies;
 31 (3) begins a criminal prosecution; or
 32 (4) damages the business or trade of the voter or candidate;
 33 commits a Class D felony.

34 SECTION 148. IC 5-4-1-1 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:
 36 Sec. 1. (a) **Except as provided in subsection (c), every officer and**
 37 **every deputy, before entering on the officer's or deputy's official duties,**
 38 **shall take an oath to support the Constitution of the United States and**
 39 **the Constitution of the State of Indiana, and that the officer or deputy**
 40 **will faithfully discharge the duties of such office.**

41 (b) A prosecuting attorney and a deputy prosecuting attorney shall
 42 take the oath required under subsection (a) before taking office.

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1 (c) **This subsection applies to a deputy of a political subdivision.**
 2 **An individual appointed as a deputy is considered an employee of**
 3 **the political subdivision performing ministerial functions on behalf**
 4 **of an officer and is not required to take the oath prescribed by**
 5 **subsection (a). However, if a chief deputy assumes the duties of an**
 6 **office during a vacancy under IC 3-13-11-12, the chief deputy must**
 7 **take the oath required under subsection (a) before entering on the**
 8 **official duties of the office.**

9 SECTION 149. IC 5-4-1-1.2 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.2. (a) **This**
 11 **section does not apply to an individual appointed or elected to an**
 12 **office the establishment or qualifications of which are expressly**
 13 **provided for in the Constitution of the State of Indiana or the**
 14 **Constitution of the United States.**

15 (b) ~~If the township assessor or any city~~ **an officer of a political**
 16 **subdivision** does not take and file the oath **required under section 1**
 17 **of this chapter** within ~~ten (10)~~ **thirty (30)** days after the beginning of
 18 ~~his~~ **the officer's** term, the office becomes vacant.

19 SECTION 150. IC 5-4-1-2 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE DECEMBER 1, 1998 (RETROACTIVE)]:
 21 Sec. 2. (a) The oath required by section 1 of this chapter, except in the
 22 case of a notary public or in those cases specified in section 3 of this
 23 chapter, shall be endorsed on or attached to the:

- 24 (1) commission;
 25 (2) certificate if a certificate was issued under IC 3-10-7-34,
 26 IC 3-12-4, or IC 3-12-5; or
 27 (3) certificate of appointment pro tempore under IC 3-13-11-11;
 28 signed by the person taking the oath, and certified to by the officer
 29 before whom ~~it~~ **the oath** was taken, who shall also deliver to the person
 30 taking the oath a copy of the oath.

31 (b) **A copy of the oath of office of a prosecuting attorney shall be:**

- 32 (1) recorded on the bond required by section 20 of this chapter;
 33 ~~and on or~~
 34 (2) **attached to** the commission of the prosecuting attorney.

35 SECTION 151. IC 5-4-1-4 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) **As used in**
 37 **this section, "political subdivision" has the meaning set forth in**
 38 **IC 36-1-2-13.**

39 (b) The copy of the oath under section 2 of this chapter shall be
 40 deposited by the person as follows:

- 41 (1) Of all officers whose oath is endorsed on **or attached to** the
 42 commission and whose duties are not limited to a particular



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- county **or of a justice, judge, or prosecuting attorney**, in the office of the secretary of state.
- (2) Of ~~county~~ **the circuit court clerk**, officers **of a political subdivision or school corporation**, and constables of a small claims court, in the circuit court clerk's office of the county **containing the greatest percentage of the population of the political subdivision or school corporation**.
- (3) ~~Of county council members~~; officers appointed by the board of county commissioners; and township officers that the board may require to do so; with the county auditor.
- (4) ~~Of township board members~~; with the township trustee.
- (5) ~~Of city officers~~; in the office of the clerk of the city-county council; city clerk; or city clerk-treasurer.
- (6) ~~Of deputies of the surveyor~~; in a book kept by the surveyor for this purpose.
- (7) ~~Of town officers~~; in the office of the town clerk-treasurer.
- (8) ~~Of a justice, judge, or prosecuting attorney~~; in the office of the secretary of state.
- (9) ~~Of a deputy prosecuting attorney~~; in the office of the clerk of the circuit court of the county in which the deputy prosecuting attorney resides.
- (10) ~~Of a school board member~~; in the circuit court clerk's office of the county containing the greatest percentage of population of the school corporation.

SECTION 152. IC 5-6-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) **This subsection does not apply to the deputy of a circuit court clerk.**

(b) ~~Such~~ Deputies shall take the oath required of their principals, and may perform all the official duties of such principals, being subject to the same regulations and penalties.

SECTION 153. IC 5-6-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 4. Deputies of Officers in Political Subdivisions

Sec. 1. This chapter applies to a deputy of an officer of a political subdivision.

Sec. 2. The definitions in IC 36-1-2 apply throughout this chapter.

Sec. 3. For purposes of Article 2, Section 9 of the Constitution of the State of Indiana, an appointed deputy of an officer of a political subdivision is not a lucrative office.

SECTION 154. IC 20-4-1-42 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE UPON PASSAGE]: **Sec. 42. (a) This section applies**
 3 **only to a school corporation with territory in a county having a**
 4 **population of more than one hundred twenty-nine thousand**
 5 **(129,000) but less than one hundred thirty thousand six hundred**
 6 **(130,600).**

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

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

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

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

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

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

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

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

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

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

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

38 SECTION 155. IC 20-4-3-2 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The board of
 40 school trustees shall be elected on a general ticket for a term of four (4)
 41 years by the voters of any such school city. A voter may vote in such
 42 primary election for school trustees without otherwise voting and



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1 without declaring party preference. ~~An individual is not eligible for the~~
 2 ~~office of school trustee for more than three (3) terms out of four (4)~~
 3 ~~consecutive terms. A term, or any part of a term, filled as a result of a~~
 4 ~~vacancy upon such board of school trustees is within the provisions of~~
 5 ~~this limitation.~~ The members of such board shall be elected at the time
 6 of the primary elections as provided in section 1 of this chapter and
 7 shall be taken from the city at large without reference to district. Such
 8 election shall be held under IC 3-10-1, insofar as it is not inconsistent
 9 with the provisions of this chapter.

10 (b) At the time provided by law for the filing of declaration of
 11 candidacy for the primary election in which members of the board of
 12 school trustees are to be elected as provided for in this chapter, legal
 13 voters of such city may present names of candidates for election as
 14 members of the board of school trustees to the county election board in
 15 each county in which is situated a school city within the contemplation
 16 of this chapter as follows:

17 (1) Each candidate shall be proposed in a petition in writing
 18 signed by not fewer than two hundred (200) legal voters of such
 19 school city.

20 (2) Not more than one (1) candidate may be named in any one (1)
 21 petition.

22 (3) No legal voter may sign petitions for a greater number of
 23 candidates than the number of school trustees to be elected in the
 24 primary election concerned.

25 (c) Upon the presentation of such petition to the county election
 26 board, the board shall publish the names proposed in accordance with
 27 IC 5-3-1 and shall certify such nominations in the manner as required
 28 by law. Such election shall be conducted in accordance with IC 3.

29 (d) The county election board shall prepare the ballot for the
 30 primary election at which school trustees are to be elected as provided
 31 in this section so that the names of the candidates nominated for the
 32 office of school trustee appear on the ballot in alphabetical order,
 33 without party designation and in the form prescribed by IC 3-10-1-19.
 34 The name of any candidate shall not be published and placed on the
 35 ballot by the county election board if it shall appear that the candidate
 36 is ineligible for membership on the board of school trustees under the
 37 provisions of this chapter. Each voter may vote for as many candidates
 38 as there are school trustees to be elected.

39 SECTION 156. IC 33-2.1-8-1 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) As used in this
 41 chapter, "cause" means a trial, hearing, arraignment, controversy,
 42 appeal, case, or any business performed within the official duty of a

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1 justice, judge, or prosecuting attorney.

2 (b) As used in this chapter, "compensation" means any money, thing
3 of value, or economic benefit conferred on, or received by, any person
4 in return for services rendered, or for services to be rendered, whether
5 by that person or another.

6 (c) As used in this chapter, "economic interest" means substantial
7 financial interest in investments, employment, awarding of contracts,
8 purchases, leases, sales, or similar matters.

9 (d) As used in this chapter, "employer" means any person from
10 whom the judge, justice, or prosecuting attorney or that person's spouse
11 receives any nonstate income.

12 (e) As used in this chapter, "information of a confidential nature"
13 means information obtained by reason of the position or office held and
14 which information has not been, or will not be, communicated to the
15 general public.

16 (f) As used in this chapter, "person" means any individual,
17 proprietorship, partnership, unincorporated association, trust, business
18 trust, group, limited liability company, or corporation, whether or not
19 operated for profit, or a governmental agency or political subdivision.

20 (g) As used in this chapter, "judge" means a judge of the court of
21 appeals or the tax court, or of a circuit, superior, ~~municipal~~, county,
22 **small claims**, or probate court. A judge pro tempore, commissioner, or
23 hearing officer shall be considered a judge if that person shall sit more
24 than twenty (20) days other than Saturdays, Sundays, or holidays in one
25 (1) calendar year as judge, commissioner, or hearing officer in any
26 court.

27 SECTION 157. IC 33-2.1-8-7 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) The statement of
29 economic interests must be filed with the commission:

30 (1) ~~no~~ **not** later than February 1 ~~and if the individual is required~~
31 **to file the statement as an officeholder; or**

32 (2) **if a candidate for office**, before ~~filing~~ **the individual (or a**
33 **political party officer acting on behalf of the individual) files:**

34 (A) a declaration of candidacy, if required under IC 3-8-2 or
35 IC 3-8-4-11;

36 (B) a **certified** petition of nomination **with the Indiana**
37 **election division** under IC 3-8-6;

38 (C) a **certificate of nomination under IC 3-8-7-8;**

39 ~~(D)~~ (D) a certificate of candidate selection under IC 3-13-1 or
40 IC 3-13-2; or

41 ~~(E)~~ (E) a declaration of intent to be a write-in candidate, if
42 required under IC 3-8-2.

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1 (b) In a county where judges are selected by a county commission
 2 on judicial qualifications, a candidate must file a statement with the
 3 county commission and also with the commission on judicial
 4 qualifications.

5 SECTION 158. IC 33-5-5.1-29 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. (a) The Allen
 7 County superior court consists of nine (9) judges. Two (2) judges serve
 8 in the family relations division, three (3) judges serve in the criminal
 9 division, and four (4) judges serve in the civil division. Each newly
 10 elected or appointed judge assumes the division assignment of the
 11 judge whom the judge replaces.

12 (b) If, at any time, in the opinion of a majority of the judges, there
 13 is an undue disparity in the number of cases in any division, the chief
 14 judge may assign specific cases normally assigned to that division to
 15 a judge in another division as a majority of the judges direct.

16 (c) During the period under IC 3-8-2-4 in which a declaration of
 17 candidacy may be filed for a primary election, any person desiring to
 18 become a candidate for one (1) of the Allen superior court judgeships
 19 must file with the election division a declaration of candidacy adapted
 20 from the form prescribed under IC 3-8-2 that:

21 (1) is signed by the candidate; and

22 (2) designates the division and the name of the incumbent judge
 23 of the judgeship that the candidate seeks.

24 (d) A petition without the designation required under subsection (c)
 25 shall be rejected by the election division (or by the Indiana election
 26 commission under IC 3-8-1-2).

27 **(e) If an individual who files a declaration under subsection (c)**
 28 **ceases to be a candidate after the final date for filing a declaration**
 29 **under subsection (c), the election division may accept the filing of**
 30 **additional declarations of candidacy for that seat not later than**
 31 **noon August 1.**

32 SECTION 159. IC 33-5-43.2-1 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The judge of
 34 the Vanderburgh circuit court and each of the seven (7) judges of the
 35 Vanderburgh superior court shall be elected in nonpartisan elections
 36 every six (6) years.

37 (b) During the period under IC 3-8-2-4 in which a declaration of
 38 candidacy may be filed for a primary election, any person desiring to
 39 become a candidate for any one of the eight (8) judgeships affected by
 40 this chapter shall file with the election division a declaration of
 41 candidacy adapted from the form prescribed under IC 3-8-2, signed by
 42 the candidate and designating on the declaration which judgeship the



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1 candidate seeks. Any petition without such designation shall be
 2 rejected by the election division (or by the Indiana election commission
 3 under IC 3-8-1-2). To be eligible for election, a candidate must be:

- 4 (1) domiciled in the county of Vanderburgh;
- 5 (2) a citizen of the United States; and
- 6 (3) admitted to the practice of law in this state.

7 **(c) If an individual who files a declaration under subsection (b)**
 8 **ceases to be a candidate after the final date for filing a declaration**
 9 **under subsection (b), the election division may accept the filing of**
 10 **additional declarations of candidacy for that judgeship not later**
 11 **than noon August 1.**

12 ~~(c)~~ **(d)** All candidates for each respective judgeship shall be listed
 13 on the general election ballot in the form prescribed by IC 3-11-2,
 14 without party designation. The candidate receiving the highest number
 15 of votes for each judgeship shall be elected to that office.

16 ~~(d)~~ **(e)** IC 3, where not inconsistent with the provisions of this
 17 chapter, applies to elections under this chapter.

18 SECTION 160. IC 33-16-4-1 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. ~~(a)~~ The
 20 following are authorized to **subscribe and** administer oaths and take
 21 acknowledgments ~~generally, of all documents whatsoever,~~ pertaining
 22 to all matters where an oath is required:

- 23 (1) Notaries public.
- 24 (2) Justices and judges of courts, in their respective jurisdictions.
- 25 (3) The secretary of state of Indiana.
- 26 (4) **The clerk of the supreme court.**
- 27 (5) Mayors, clerks, ~~and~~ clerk-treasurers of towns and cities, **and**
 28 **township trustees,** in their respective towns, ~~and~~ cities, **and**
 29 **townships.**
- 30 (6) Clerks of circuit courts and master commissioners, in their
 31 respective counties.
- 32 ~~(6)~~ **(7)** Judges of United States district courts of Indiana, in their
 33 respective jurisdictions.
- 34 ~~(7)~~ **(8)** United States commissioners appointed for any United
 35 States district court of Indiana, in their respective jurisdictions.
- 36 ~~(8)~~ **(9)** A precinct election officer (as defined in IC 3-5-2-40.1)
 37 and an absentee voter board member appointed under IC 3-11-10,
 38 for any purpose authorized under IC 3.
- 39 ~~(9)~~ **(10)** A member of the Indiana election commission, a
 40 co-director of the election division, or an employee of the election
 41 division under IC 3-6-4.2.
- 42 ~~(10)~~ **(11)** County auditors, in their respective counties.



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1 ~~(b) (12)~~ Any member of the general assembly shall have full
 2 power and authority to subscribe and administer oaths and take
 3 acknowledgments of all documents whatsoever anywhere in
 4 Indiana.

5 SECTION 161. IC 36-1-6-10 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) This section
 7 applies to an ordinance adopted by a unit to establish executive, fiscal,
 8 or legislative body election districts within the unit.

9 (b) Except as otherwise provided in the ordinance, the ordinance
 10 takes effect immediately upon passage. However, a previously adopted
 11 ordinance establishing election districts remains in effect for the
 12 purpose of filling a vacancy in the executive, fiscal, or legislative body
 13 until the expiration of the term of that office.

14 **(c) A reference in the ordinance to the boundary of a political**
 15 **subdivision, a precinct boundary, or an election district boundary**
 16 **refers to the precinct or boundary as the precinct or boundary**
 17 **existed on the date of adoption of the ordinance. A change in the**
 18 **boundary of a political subdivision, precinct, or election district**
 19 **following the date of adoption of the ordinance does not alter the**
 20 **boundaries of the election districts established by the ordinance.**

21 SECTION 162. IC 36-5-2-4.5 IS ADDED TO THE INDIANA
 22 CODE AS A NEW SECTION TO READ AS FOLLOWS
 23 [EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) This section applies
 24 to a town if both of the following apply:

25 (1) The town has a population of more than ten thousand
 26 (10,000).

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

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

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

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

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

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

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



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- 1 **either:**
- 2 (A) during the year before the year described in
- 3 subdivision (1); or
- 4 (B) during the year after the year described in subdivision
- 5 (1).
- 6 **The year for elections under this subdivision must be chosen**
- 7 **so that during the elections held for the town legislative body**
- 8 **under subdivision (4), a member of the town legislative body**
- 9 **does not serve a term of more than four (4) years.**
- 10 **(3) The members of the legislative body elected at large may**
- 11 **not be elected at the same time.**
- 12 **(4) At the first two (2) elections after the ordinance is adopted,**
- 13 **members are elected to serve the following terms:**
- 14 **(A) Two (2) members elected under subdivision (1) are**
- 15 **elected to a four (4) year term and two (2) members elected**
- 16 **under subdivision (1) are elected to a three (3) year term.**
- 17 **(B) Two (2) members elected under subdivision (2) are**
- 18 **elected to a four (4) year term and one (1) member elected**
- 19 **under subdivision (2) is elected to a three (3) year term.**
- 20 **The ordinance must provide a random procedure to**
- 21 **determine which members serve four (4) year terms and**
- 22 **which members serve three (3) year terms.**
- 23 **(5) A member of the town board elected after the elections**
- 24 **described in subdivision (4) serves a term of four (4) years.**
- 25 **(6) The term of office of a member begins on noon January 1**
- 26 **after the member's election.**
- 27 **(d) An ordinance adopted under this section may provide that**
- 28 **before the first election after adoption of the ordinance, members**
- 29 **of the town legislative body added to the legislative body by the**
- 30 **ordinance may be appointed to the legislative body by a vote of the**
- 31 **current members of the legislative body.**
- 32 **(e) After the first two (2) elections held as described in**
- 33 **subsection (c)(4), the town legislative body may adopt an ordinance**
- 34 **to do the following:**
- 35 **(1) Divide the town into seven (7) districts.**
- 36 **(2) Provide that the members elected at large are each elected**
- 37 **from a district.**
- 38 **An ordinance adopted under this subsection must comply with this**
- 39 **chapter in establishing the districts and provide details to provide**
- 40 **a transition from electing two (2) members at large to electing all**
- 41 **members from districts.**
- 42 **(f) Subject to this section, members of the town legislative body**



1 are elected as provided in IC 3-10-6-4.5.

2 SECTION 163. THE FOLLOWING ARE REPEALED
3 [EFFECTIVE UPON PASSAGE]: IC 3-7-35-4; IC 3-8-7-9;
4 IC 3-11-3-7; IC 3-11-3-9; IC 3-11-7-13; IC 3-11-13-34;
5 IC 3-11-13-34.5; IC 3-11-15-35; IC 5-4-1-1.1.

6 SECTION 164. [EFFECTIVE UPON PASSAGE] (a) As used in
7 this SECTION, "board" refers to the board of elections and
8 registration established by IC 3-6-5.2-3, as amended by this act.

9 (b) As used in this SECTION, "combined board" refers to the
10 combined county election board and board of registration
11 established by IC 3-6-5.2-3, (as in effect before July 1, 1999).

12 (c) An individual serving as a member of the combined board on
13 June 30, 1999, serves as an initial member of the board.

14 (d) An individual serving as chief deputy of the combined board
15 on June 30, 1999, serves as the initial director of the board.

16 (e) An individual serving as assistant chief deputy of the
17 combined board on June 30, 1999, serves as the initial assistant
18 director of the board.

19 (f) An individual serving as an employee of the combined board
20 on June 30, 1999, serves as an employee of the board with all
21 rights, duties, and conditions of employment the individual had as
22 an employee of the combined board before July 1, 1999.

23 (g) On July 1, 1999:

24 (1) all powers, duties, and functions of the combined board
25 are transferred to the board;

26 (2) the property and records of the combined board are
27 transferred to the board; and

28 (3) any appropriations made to the combined board shall be
29 treated as appropriations to the board.

30 (h) After June 30, 1999, any reference to the combined board in
31 any statute, rule, or ordinance shall be treated as a reference to the
32 board.

33 (i) This SECTION expires January 1, 2001.

34 SECTION 165. [EFFECTIVE UPON PASSAGE] (a) The census
35 data advisory committee shall study the desirability of permitting
36 absentee ballots to be cast at a county election board office by using
37 a direct recording electronic voting system. The study must
38 include:

39 (1) whether the use of such a system by voters who:

40 (A) cast absentee ballots; and

41 (B) subsequently become disqualified before election day;
42 can be prevented without the loss of the secrecy of the ballot



1 by other voters; and

2 (2) any other issues related to the implementation of absentee
3 voting by a direct recording electronic voting system that
4 would require the enactment of legislation by the general
5 assembly.

6 (b) This SECTION expires January 1, 2000.

7 SECTION 166. [EFFECTIVE JULY 1, 1995 (RETROACTIVE)] (a)

8 The definitions in IC 3-5-2, as amended by this act, apply to this
9 SECTION.

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

11 (1) was approved for marketing and use in Indiana by the
12 Indiana election commission (or its predecessor, the state
13 election board) before January 1, 1999; and

14 (2) has been tested by an independent testing authority or
15 other entity designated by the commission to determine
16 whether the voting system complies with the standards
17 applicable to that voting system under IC 3-11-7, IC 3-11-7.5,
18 or IC 3-11-15.

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

22 (1) none of the counties using the voting system has objected
23 to the recertification following notification of the public
24 hearing conducted under IC 3-11-7-19 or IC 3-11-7.5-28;

25 (2) mandating retrofitting of the voting system to comply with
26 the standards established by IC 3-11, as amended by this act,
27 that have no direct bearing on the ability of the voting system
28 to tabulate votes accurately or to withstand normal usage in
29 the election process would result in significant expense:

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

33 (B) to a county using the system; and

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

38 SECTION 167. [EFFECTIVE JULY 1, 1997 (RETROACTIVE)] (a)

39 This SECTION applies to a voter registration application form
40 approved by the Indiana election commission (or its predecessor,
41 the state election board), after November 1, 1994, and before
42 January 1, 1999.



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1 **(b) Notwithstanding IC 3-5-4-8, as amended by this act:**
2 **(1) an applicant to register to vote may submit; and**
3 **(2) a county voter registration office may approve;**
4 **a properly completed voter registration application form described**
5 **in subsection (a) from an otherwise qualified applicant to register**
6 **even though the application form is not the most recent version of**
7 **the registration application form approved by the commission.**
8 **(c) This SECTION expires January 1, 2000.**
9 **SECTION 168. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Elections, to which was referred Senate Bill No. 109, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 14.

Page 3, line 13, after "(b)" insert "**This subsection does not apply to the office of precinct inspector.**".

Page 3, line 23, after "(b)" insert "**This subsection does not apply to the office of precinct inspector.**".

Page 3, line 32, after "(c)" insert "**This subsection does not apply to the office of precinct inspector.**".

Page 6, line 8, delete "county".

Page 6, line 8, after "office" insert "**designated under this chapter**".

Page 13, delete lines 33 through 42.

Delete pages 14 through 25.

Page 26, delete lines 1 through 9.

Page 27, line 5, delete "section" and insert "**subsection**".

Page 34, between lines 10 and 11, begin a new paragraph and insert:
 "SECTION 46. IC 3-12-10-2.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.2. (a) The state recount fund is established for the purpose of receiving, holding, and disbursing funds as a fiduciary for the state recount commission and individuals who have provided a cash deposit under this article. The fund shall be administered by the administrative division of the office of the secretary of state.**

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.".

Page 34, line 19, strike "general" and insert "**recount**".

Page 34, line 23, delete "general" and insert "**recount**".

Page 34, line 31, delete "annually".

Page 34, line 32, after "commission" insert "**from the state general fund**".

Page 36, between lines 28 and 29, begin a new paragraph and insert:
 "SECTION 51. IC 3-12-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. (a) Each petitioner shall furnish a cash deposit for the payment of costs of the recount chargeable to the petitioner. The minimum amount of the cash**



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deposit is one hundred dollars (\$100). **The cash deposit shall be deposited in the state recount fund.**

(b) This subsection applies only to a recount of an election for nomination or election to either of the following:

- (1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is not more than one percent (1%).
- (2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is not more than one percent (1%).

If the number of precincts to be recounted exceeds ten (10), the amount of the deposit shall be increased by ten dollars (\$10) for each precinct in excess of ten (10).

(c) This subsection applies only to a recount of an election for nomination or election to either of the following:

- (1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is more than one percent (1%).
- (2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the candidate nominated or elected and the petitioner is more than one percent (1%).

If the number of precincts to be recounted exceeds ten (10), the amount of the deposit shall be increased by one hundred dollars (\$100) for each precinct in excess of ten (10).

(d) If after a recount, it is determined that a petitioner has been nominated or elected, the deposit furnished by that petitioner shall be returned to that petitioner in full.

(e) Any unexpended balance remaining in a deposit after payment of the costs of the recount shall be returned to the depositor in the following manner:

- (1) If the recount results in a reduction of at least fifty percent (50%) but less than one hundred percent (100%) of the margin of the total certified votes, the petitioner shall receive a refund of that percentage of the unexpended balance.
- (2) If after a recount, it is determined that a petitioner has been nominated or elected, the deposit or the bond furnished by that petitioner shall be returned to that petitioner in full.
- (3) Any unexpended balance remaining after the provision of



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subdivision (1) has ~~have~~ been satisfied shall be deposited in the state ~~general~~ **recount** fund.

SECTION 52. IC 3-12-11-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) This section applies if a cross-petition is filed under this chapter.

(b) This subsection applies only to a recount of an election for nomination or election to either of the following:

(1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is not more than one percent (1%).

(2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is not more than one percent (1%).

The cross-petitioner shall furnish a cash deposit equal to ten dollars (\$10) multiplied by the number of precincts that the cross-petitioner seeks to have recounted. **The cash deposit shall be deposited in the state recount fund.**

(c) This subsection applies only to a recount of an election for nomination or election to either of the following:

(1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is more than one percent (1%).

(2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is more than one percent (1%).

The cross-petitioner shall furnish a cash deposit equal to ten dollars (\$10) multiplied by the number of precincts that the cross-petitioner seeks to have recounted for the first ten (10) precincts recounted. For each precinct in excess of ten (10) the cross-petitioner seeks to have recounted, the cross-petitioner shall furnish an additional cash deposit equal to one hundred dollars (\$100) multiplied by the number of precincts in excess of ten (10) that the cross-petitioner seeks to have recounted. **The cash deposit shall be deposited in the state recount fund.**

(d) If after a recount, it is determined that the cross-petitioner has been nominated or elected, the deposit furnished by the cross-petitioner shall be returned to the cross-petitioner in full.

(e) Any unexpended balance remaining in a deposit after payment

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of the costs of the recount shall be deposited in the state ~~general~~ **recount fund.**"

Page 37, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 54. IC 3-12-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Each petition filed under section 2 of this chapter must be accompanied by a cash deposit or a bond with corporate surety to the approval of the court for the payment of all costs of the recount. The minimum amount of the cash deposit or bond is one hundred dollars (\$100). **A cash deposit for a recount conducted by a county recount commission shall be deposited in the county general fund. A cash deposit in a recount conducted by the state recount commission shall be deposited in the state recount fund.**

(b) This subsection applies to the recount of a public question to which either of the following applies:

- (1) The public question is a local public question under IC 3-10-9 in which, on the face of the election returns, the difference between the number of affirmative and negative votes cast is not more than two hundred (200).
- (2) The public question is covered under section 23 of this chapter and, on the face of the election returns, the difference between the number of affirmative and negative votes cast is not more than two thousand (2,000).

If the number of precincts to be recounted exceeds ten (10), then the amount of the deposit shall be increased by ten dollars (\$10) for each precinct in excess of ten (10).

(c) This subsection applies to the recount of a public question to which either of the following applies:

- (1) The public question is a local public question under IC 3-10-9 and, on the face of the election returns, the difference between the number of affirmative and negative votes cast is more than two hundred (200).
- (2) The public question is covered under section 23 of this chapter and, on the face of the election returns, the difference between the number of affirmative and negative votes cast is more than two thousand (2,000).

If the number of precincts to be recounted exceeds ten (10), the amount of the deposit shall be increased by one hundred dollars (\$100) for each precinct in excess of ten (10).

(d) If after a recount, it is determined that the result of the public question is other than what was shown on the face of the election returns, the deposit furnished by the petitioner shall be returned to the

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petitioner in full.

(e) Any unexpended balance remaining in a deposit after payment of all costs of the recount ~~shall be deposited~~ **remains** in the county general fund.

(f) This subsection applies to a recount conducted by the state recount commission under this chapter. Any unexpended balance remaining in a deposit after payment of all costs of the recount remains in the state recount fund."

Page 38, line 32, after "voter" insert "**or candidate**".

Page 38, between lines 35 and 36, begin a new paragraph and insert: "SECTION 58. IC 5-4-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: Sec. 1. (a) **Except as provided in subsection (c)**, every officer and every deputy, before entering on the officer's or deputy's official duties, shall take an oath to support the Constitution of the United States and the Constitution of the State of Indiana, and that the officer or deputy will faithfully discharge the duties of such office.

(b) A prosecuting attorney and a deputy prosecuting attorney shall take the oath required under subsection (a) before taking office.

(c) This subsection applies to a deputy of a political subdivision. An individual appointed as a deputy is considered an employee of the political subdivision performing ministerial functions on behalf of an officer and is not required to take the oath prescribed by subsection (a). However, if a chief deputy assumes the duties of an office during a vacancy under IC 3-13-11-12, the chief deputy must take the oath required under subsection (a) before entering on the official duties of the office.

SECTION 59. IC 5-4-1-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.2. (a) **This section does not apply to an individual appointed or elected to an office the establishment or qualifications of which are expressly provided for in the Constitution of the State of Indiana or the Constitution of the United States.**

(b) **If the township assessor or any city an officer of a political subdivision** does not take and file the oath **required under section 1 of this chapter** within ~~ten (10)~~ **thirty (30)** days after the beginning of ~~his~~ **the officer's** term, the office becomes vacant.

SECTION 60. IC 5-4-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 1998 (RETROACTIVE)]: Sec. 2. (a) The oath required by section 1 of this chapter, except in the case of a notary public or in those cases specified in section 3 of this chapter, shall be endorsed on or attached to the:



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- (1) commission;
- (2) certificate if a certificate was issued under IC 3-10-7-34, IC 3-12-4, or IC 3-12-5; or
- (3) certificate of appointment pro tempore under IC 3-13-11-11; signed by the person taking the oath, and certified to by the officer before whom **it the oath** was taken, who shall also deliver to the person taking the oath a copy of the oath.

(b) **A copy of the oath of office of a prosecuting attorney shall be:**

(1) recorded on the bond required by section 20 of this chapter; **and on or**

(2) **attached to** the commission of the prosecuting attorney.

SECTION 61. IC 5-4-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) **As used in this section, "political subdivision" has the meaning set forth in IC 36-1-2-13.**

(b) The copy of the oath under section 2 of this chapter shall be deposited by the person as follows:

(1) Of all officers whose oath is endorsed on **or attached to** the commission and whose duties are not limited to a particular county **or of a justice, judge, or prosecuting attorney**, in the office of the secretary of state.

(2) Of ~~county~~ **the circuit court clerk**, officers **of a political subdivision or school corporation**, and constables of a small claims court, in the circuit court clerk's office of the county **containing the greatest percentage of the population of the political subdivision or school corporation.**

(3) ~~Of county council members; officers appointed by the board of county commissioners; and township officers that the board may require to do so; with the county auditor:~~

(4) ~~Of township board members; with the township trustee:~~

(5) ~~Of city officers; in the office of the clerk of the city-county council; city clerk; or city clerk-treasurer:~~

(6) ~~Of deputies of the surveyor; in a book kept by the surveyor for this purpose:~~

(7) ~~Of town officers; in the office of the town clerk-treasurer:~~

(8) ~~Of a justice; judge; or prosecuting attorney; in the office of the secretary of state:~~

(9) ~~Of a deputy prosecuting attorney, in the office of the clerk of the circuit court of the county in which the deputy prosecuting attorney resides.~~

(10) ~~Of a school board member; in the circuit court clerk's office of the county containing the greatest percentage of population of the school corporation:~~



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SECTION 62. IC 5-6-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) **This subsection does not apply to the deputy of a circuit court clerk.**

(b) ~~Such~~ Deputies shall take the oath required of their principals, and may perform all the official duties of such principals, being subject to the same regulations and penalties."

Page 41, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 68. IC 33-16-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. ~~(a)~~ The following are authorized to **subscribe and** administer oaths and take acknowledgments ~~generally, of all documents whatsoever,~~ pertaining to all matters where an oath is required:

- (1) Notaries public.
- (2) Justices and judges of courts, in their respective jurisdictions.
- (3) The secretary of state of Indiana.
- (4) **The clerk of the supreme court.**
- (5) Mayors, clerks, ~~and~~ clerk-treasurers of towns and cities, **and township trustees**, in their respective towns, ~~and~~ cities, **and townships.**
- (6) Clerks of circuit courts and master commissioners, in their respective counties.
- ~~(6)~~ (7) Judges of United States district courts of Indiana, in their respective jurisdictions.
- ~~(7)~~ (8) United States commissioners appointed for any United States district court of Indiana, in their respective jurisdictions.
- ~~(8)~~ (9) A precinct election officer (as defined in IC 3-5-2-40.1) and an absentee voter board member appointed under IC 3-11-10, for any purpose authorized under IC 3.
- ~~(9)~~ (10) A member of the Indiana election commission, a co-director of the election division, or an employee of the election division under IC 3-6-4.2.
- ~~(10)~~ (11) County auditors, in their respective counties.
- ~~(b)~~ (12) Any member of the general assembly ~~shall have full power and authority to subscribe and administer oaths and take acknowledgments of all documents whatsoever~~ anywhere in Indiana."

Page 41, delete line 42.

Page 42, delete lines 1 through 20.

Page 42, line 22, delete "IC 3-9-5-21;".

Page 42, line 23, after "IC 3-11-15-35" insert "; IC 5-4-1-1.1".

Page 42, delete lines 24 through 42.

Page 43, delete lines 1 through 10.



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Page 43, line 21, delete "commission" and insert "**fund established under IC 3-12-10-2.2**".

Page 43, line 23, delete "beginning July 1," and insert ".".

Page 43, delete line 24.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 109 as introduced.)

LANDSKE, Chairperson

Committee Vote: Yeas 8, Nays 0.

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SENATE MOTION

Mr. President: I move that Senate Bill 109 be amended to read as follows:

Page 5, delete lines 6 through 19.

Page 21, between lines 35 and 36, begin a new paragraph and insert: "**(d) All money accruing to the fund is appropriated continuously for the purposes specified in subsection (a).**".

Page 22, line 14, delete "commission" and insert "**fund**".

Page 22, line 15, before "commission's" insert "**state recount**".

Page 35, line 34, delete "its use in".

Re-number all SECTIONS consecutively.

(Reference is to SB 109 as printed February 10, 1999.)

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred Senate Bill 109, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 109 as reprinted February 24, 1999.)

KROMKOWSKI, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 109 be amended to read as follows:

Page 5, between lines 21 and 22, begin a new paragraph and insert:

"(f) The board may, by a vote of a majority of the members of the board, hire attorneys to provide legal services for the board, as determined by the board."

(Reference is to ESB 109 as printed April 6, 1999.)

VILLALPANDO

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