



February 10, 1999

SENATE BILL No. 109

DIGEST OF SB 109 (Updated February 8, 1999 3:54 pm - DI 101)

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

Synopsis: Various elections matters. Makes the following changes in election law:

- (1) Eliminates the requirement that certain political party officers appointed within a precinct must belong to opposite political parties.
 - (2) Permits a county chairman to nominate, and a county election board to appoint, except in the case of a precinct inspector, a precinct election officer to serve a term that expires at noon, or begins at noon, on election day. (Current law does not provide for the appointment of a precinct election officer for a part of an election day.)
 - (3) Provides that an employee of or volunteer in a county voter registration office or in a city or town office providing full service voter registration may not engage in certain activity prohibited by current law in other full service voter registration offices.
 - (4) Provides that a person convicted of a crime and imprisoned before conviction and sentenced to serve time in
- (Continued next page)

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

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January 6, 1999, read first time and referred to Committee on Elections.
February 9, 1999, amended, reported favorably — Do Pass.

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prison is deprived of the right of suffrage as are persons who are convicted of a crime and imprisoned after conviction. (5) Requires a person who requests 10,000 or more voter registration forms to submit a voter registration program plan. (Current law states the co-directors of the election division may require submission of a plan.) (6) Requires that a person preparing an absentee ballot application for a voter state the person's name on the absentee ballot application. (7) Makes changes relating to challenging the eligibility of an individual to be a candidate. (8) Makes technical changes in statutes relating to filing petitions of nomination and the filing of certificates of nomination of candidates and certificates of election of delegates to party conventions. (9) Makes changes to the formatting of ballots, including removing the requirement that a political party device must be printed on the primary election ballot for the party. (10) Makes several changes in election challenge, recount, and contest procedures, including payment of recount and contest expenses. Establishes the state recount fund for the purpose of receiving, holding, and disbursing funds as a fiduciary for the state recount commission and individuals providing cash deposits in connection with a recount or contest. Provides for appropriations from the state recount fund to the state recount commission of amounts necessary to pay expenses of recounts. (11) Provides that a criminal statute providing penalties for certain actions to influence a voter applies to the same actions intended to influence a candidate. (12) Provides that an appointed deputy of a person who holds a local office does not hold a lucrative office. (13) Makes technical changes in filings of declarations of candidacy and statements of economic interests by candidates for judicial offices. (14) Provides that a reference in an ordinance to the boundary of a political subdivision, a precinct boundary, or an election district boundary refers to the precinct or boundary as the precinct or boundary existed on the date of adoption of the ordinance. (15) Makes other technical changes in election law. (16) Appropriates \$10,000 from the state general fund to the state recount fund to pay claims timely submitted for reimbursement of expenditures for an election recount or contest conducted by the commission after January 1, 1986, and before January 1, 1999. Provides that such a claim must be submitted not later than noon August 1, 1999. (17) Repeals a statute relating to voter registration applications of individuals less than 18 years of age. Repeals statutes relating to ballot messengers. Repeals obsolete statutes.

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February 10, 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 a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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SENATE BILL No. 109



A BILL FOR AN ACT to amend the Indiana Code concerning elections and to make an appropriation.

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

- 1 SECTION 1. IC 3-6-6-1 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as otherwise
- 3 provided by law, each county election board shall appoint a precinct
- 4 election board for each precinct in the county.
- 5 (b) A precinct election board consists of **the following:**
- 6 (1) One (1) inspector. ~~and~~
- 7 (2) Two (2) judges. ~~of opposite political parties;~~
- 8 (c) **Each county chairman of a major political party of the**
- 9 **county is entitled to nominate one (1) judge under section 9 of this**
- 10 **chapter.**
- 11 (d) Each **inspector and judge** ~~of whom~~ must be a voter of the
- 12 county.
- 13 (e) The inspector ~~shall serve~~ **serves** as the chairman of the precinct
- 14 election board.

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

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

7 ~~(c) The poll clerks must be of opposite political parties and must be~~
 8 ~~voters of the county.~~

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

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

15 ~~(b)~~ (c) Except as provided in subsection ~~(c)~~; **(d)**, the assistant poll
 16 clerks must be ~~of opposite political parties and must be~~ voters of the
 17 county.

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

20 (1) at least sixteen (16) years of age, but not more than seventeen

21 (17) years of age; and

22 (2) a resident of the county.

23 SECTION 4. IC 3-6-6-5 IS AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in
 25 subsection ~~(b)~~; **(d)**, each county election board shall appoint two (2)
 26 election sheriffs for each precinct in the county.

27 **(b) Each county chairman of a major political party of the**
 28 **county is entitled to nominate one (1) election sheriff under section**
 29 **9 of this chapter.**

30 (c) The sheriffs must be ~~of opposite political parties and must be~~
 31 ~~voters of the county.~~

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

37 SECTION 5. IC 3-6-6-10 IS AMENDED TO READ AS FOLLOWS
 38 [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A county chairman may
 39 make nominations for precinct election offices by filing the
 40 nominations in writing with the circuit court clerk no later than noon
 41 fourteen (14) days before the election.

42 **(b) This subsection does not apply to the office of precinct**

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1 inspector. A county chairman may specify in the nomination of an
 2 individual for a precinct election office that the individual is
 3 nominated to serve until noon on election day and that another
 4 individual is nominated to serve in the same precinct election office
 5 beginning at noon on election day until the expiration of the term
 6 of the office under section 37(b) of this chapter.

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

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

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

17 (2) begins at noon on election day and expires under section
 18 37(b) of this chapter;

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

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

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

27 (2) begins at noon on election day and expires under section
 28 37(b) of this chapter.

29 SECTION 7. IC 3-6-6-14 IS AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) This section does not
 31 apply to a vacancy in the office of election sheriff in a precinct that is
 32 subject to a resolution adopted under section 5 of this chapter.

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

41 (c) **If a county chairman fails to nominate the individual**
 42 **appointed to make a nomination to fill a vacant precinct election**

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1 **office under subsection (b), the individual appointed by the county**
 2 **election board to this precinct election office under section 13(b) of**
 3 **this chapter is entitled to make the nomination to fill the vacant**
 4 **precinct office under this section.**

5 ~~(c)~~ **(d)** For the purpose of these nominations, the rank of precinct
 6 election officers is as follows:

- 7 (1) Inspector.
- 8 (2) Judge.
- 9 (3) Poll clerk.
- 10 (4) Assistant poll clerk.
- 11 (5) Election sheriff.

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

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

23 SECTION 9. IC 3-7-10 IS ADDED TO THE INDIANA CODE AS
 24 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
 25 PASSAGE]:

26 **Chapter 10. General Provisions**

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

31 SECTION 10. IC 3-7-12-41 IS ADDED TO THE INDIANA CODE
 32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 33 UPON PASSAGE]: **Sec. 41. As provided in 42 U.S.C.**
 34 **1973gg-5(a)(5), an employee or volunteer of a county voter**
 35 **registration office may not do any of the following:**

- 36 (1) **Seek to influence an applicant's political preference or**
 37 **party registration.**
- 38 (2) **Display any political preference or party allegiance,**
 39 **including pictures, photographs, or other likenesses of any**
 40 **currently elected federal, state, county, or local official.**
- 41 (3) **Make any statement to an applicant or take any action the**
 42 **purpose or effect of which is to discourage the applicant from**



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1 **registering to vote.**

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

6 SECTION 11. IC 3-7-13-4 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A person
 8 who is:

9 (1) convicted of a crime; and

10 (2) imprisoned **either:**

11 **(A) following conviction; or**

12 **(B) preceding conviction and sentenced to time already**
 13 **served upon conviction;**

14 is deprived of the right of suffrage by the general assembly pursuant to
 15 Article 2, Section 8 of the Constitution of the State of Indiana.

16 (b) A person described in subsection (a) is ineligible to register
 17 under this article during the period that the person is:

18 (1) imprisoned; or

19 (2) otherwise subject to lawful detention.

20 SECTION 12. IC 3-7-19-6 IS ADDED TO THE INDIANA CODE
 21 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 22 **UPON PASSAGE]: Sec. 6. As provided in 42 U.S.C. 1973gg-5(a)(5),**
 23 **an employee or volunteer of a county voter registration office may**
 24 **not do any of the following:**

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

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

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

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

37 SECTION 13. IC 3-7-20-7 IS ADDED TO THE INDIANA CODE
 38 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 39 **UPON PASSAGE]: Sec. 7. As provided in 42 U.S.C. 1973gg-5(a)(5),**
 40 **an employee or volunteer of a voter registration office designated**
 41 **under this chapter may not do any of the following:**

42 **(1) Seek to influence an applicant's political preference or**



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1 **party registration.**

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

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

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

12 SECTION 14. IC 3-7-22-6 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) As provided
 14 in 42 U.S.C. 1973gg-4(b), the NVRA official shall make registration
 15 by mail forms available for distribution, with particular emphasis on
 16 organized voter registration programs.

17 (b) The co-directors ~~may~~ **shall** require a person who requests more
 18 than ten thousand (10,000) registration forms to submit a voter
 19 registration program plan to the NVRA official to document the
 20 person's need for the desired number of forms.

21 SECTION 15. IC 3-8-1-2 IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commission or a
 23 county election board shall act in accordance with this section if a
 24 candidate in accordance with this section (or a person acting on behalf
 25 of a candidate in accordance with state law) has filed any of the
 26 following:

27 (1) A declaration of candidacy under IC 3-8-2.

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

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

32 (4) A certificate of nomination under IC 3-8-7.

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

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

41 (c) Before the commission or county election board acts under this
 42 section, a registered voter of the election district that a candidate seeks



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1 to represent must file a sworn statement with the election division or a
2 county election board:

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

7 **(d) The eligibility of a candidate nominated by a convention,
8 petition, or primary may not be challenged under this section if
9 either of the following occurred:**

10 **(1) The commission or board determines that:**

11 **(A) the eligibility of the candidate was challenged under
12 this section before the candidate was nominated;**

13 **(B) the commission or board conducted a hearing on the
14 affidavit before the nomination; and**

15 **(C) this challenge would be based on substantially the same
16 grounds as the previous challenge to the candidate.**

17 **(2) The commission or board determines that:**

18 **(A) the eligibility of the candidate was not challenged
19 under this section before the candidate was nominated;**

20 **(B) the person filing the affidavit had adequate time to file
21 a challenge under this section before the candidate was
22 nominated; and**

23 **(C) the allegations forming the basis of the challenge were
24 known (or reasonably should have been known) before the
25 nomination by the person who filed the affidavit.**

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

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

37 SECTION 16. IC 3-8-1-5 IS AMENDED TO READ AS FOLLOWS
38 [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section does not
39 apply to a candidate for federal office.

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

- 42 (1) gave or offered a bribe, threat, or reward to procure the

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1 person's election, as provided in Article 2, Section 6 of the
2 Constitution of the State of Indiana;

3 (2) does not comply with IC 5-8-3 **by having a conviction for a**
4 **violation of the federal laws listed in that statute;**

5 (3) has:

6 (A) entered a plea of guilty or nolo contendere to; or

7 (B) been convicted of;

8 a felony (as defined in IC 35-50-2-1);

9 (4) has been removed from the office the candidate seeks under
10 Article 7, Section 11 or Article 7, Section 13 of the Constitution
11 of the State of Indiana; **or**

12 (5) is a member of the United States armed forces on active duty
13 and prohibited by the United States Department of Defense from
14 being a candidate; **or**

15 **(6) is subject to:**

16 **(A) 5 U.S.C. 1502 (the Little Hatch Act); or**

17 **(B) 5 U.S.C. 7321-7326 (the Hatch Act);**

18 **and would violate either federal statute by becoming or**
19 **remaining the candidate of a political party for nomination or**
20 **election to an elected office or a political party office.**

21 SECTION 17. IC 3-8-1-5.5 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) Except as
23 provided in IC 3-13-1-19 and IC 3-13-2-10 for filling a vacancy on a
24 ticket, a person who:

25 (1) is defeated in a primary election; **or**

26 (2) appears as a candidate for nomination at a ~~state~~ convention
27 **and is defeated; or**

28 (3) files a declaration of candidacy for nomination by a **county,**
29 **city, or town** convention and is defeated; **or**

30 (4) **files a declaration of candidacy for nomination by a caucus**
31 **conducted under IC 3-13-1 or IC 3-13-2 and is defeated;**

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

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

35 (1) a candidate for an at-large seat on a fiscal body is considered
36 a candidate for the same office as a candidate for a district seat on
37 a fiscal body; and

38 (2) a candidate for United States representative from a district in
39 Indiana is considered a candidate for the same office as a
40 candidate for any other congressional district in Indiana.

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

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1 SECTION 18. IC 3-8-1-5.7 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.7. (a) Except as
 3 expressly provided by law, a candidate for selection under **IC 3-13-5**
 4 **or IC 3-13-11** for an appointment pro tempore to an office must comply
 5 with the requirements imposed under this chapter on a candidate for
 6 election to the office.

7 (b) If a town council member:

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

10 (2) served on a council that subsequently adopted an ordinance
 11 under IC 36-5-2-4.1 abolishing town council districts;
 12 a candidate for selection for an appointment pro tempore to succeed the
 13 town council member is not required to reside within the district
 14 formerly represented by the town council member.

15 SECTION 19. IC 3-8-2-15 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) A person
 17 who files a declaration of candidacy for an elected office for which a
 18 per diem or salary is provided for by law is disqualified from filing a
 19 declaration of candidacy for another office for which a per diem or
 20 salary is provided for by law until the original declaration is withdrawn.

21 (b) A person may file both:

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

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

27 (c) A person may not file:

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

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

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

37 SECTION 20. IC 3-8-6-10 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Except as
 39 provided in section 11 of this chapter, a petition of nomination must be
 40 submitted to the county voter registration office of each county in
 41 which the election district is located.

42 (b) The petition must be

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1 (+) filed during the period beginning January 1 of the year in
 2 which the election will be held and ending at noon July 15 before
 3 the election. ~~and~~
 4 (2) ~~accompanied by the candidate's written consent to become a~~
 5 ~~candidate and any statement of economic interests required under~~
 6 ~~IC 3-8-1-33.~~

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

15 (d) During a year in which a federal decennial census, federal
 16 special census, special tabulation, or corrected population count
 17 becomes effective under IC 1-1-3.5, a petition of nomination may be
 18 filed for an office that will appear on the primary election ballot that
 19 year as a result of the new tabulation of population or corrected
 20 population count.

21 SECTION 21. IC 3-8-6-12 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) A petition
 23 of nomination for an office filed under section 10 of this chapter must
 24 be filed with and certified by the person with whom a declaration of
 25 candidacy must be filed under IC 3-8-2.

26 (b) The petition of nomination must be accompanied by the
 27 following:

- 28 (1) ~~Each~~ **The** candidate's written consent to become a candidate.
- 29 (2) A statement that the candidate:

30 (A) is aware of the provisions of IC 3-9 regarding campaign
 31 finance and the reporting of campaign contributions and
 32 expenditures; and

33 (B) agrees to comply with the provisions of IC 3-9.
 34 The candidate must separately sign the statement required by this
 35 subdivision.

36 (3) If the candidate is subject to IC 3-9-1-5, a statement by the
 37 candidate that the candidate has filed a campaign finance
 38 statement of organization under IC 3-9-1-5 or is aware that the
 39 candidate may be required to file a campaign finance statement of
 40 organization not later than noon seven (7) days after the final date
 41 for filing a petition for nomination under section 10 of this
 42 chapter.

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- 1 (4) A statement that if the individual is a candidate for a school
- 2 board office, the candidate is aware of the requirement to file a
- 3 campaign finance statement of organization under IC 3-9 after the
- 4 first of either of the following occurs:
- 5 (A) The candidate receives more than five hundred dollars
- 6 (\$500) in contributions as a school board candidate.
- 7 (B) The candidate makes more than five hundred dollars
- 8 (\$500) in expenditures as a school board candidate.
- 9 (5) A statement indicating whether or not each candidate:
- 10 (A) has been a candidate for state or local office in a previous
- 11 primary or general election; and
- 12 (B) has filed all reports required by IC 3-9-5-10 for all
- 13 previous candidacies.
- 14 (6) A statement that each candidate is legally qualified to hold the
- 15 office that the candidate seeks, including any applicable residency
- 16 requirements and restrictions on service due to a criminal
- 17 conviction.
- 18 (7) If the petition is filed with the secretary of state for an office
- 19 not elected by the electorate of the whole state, a statement signed
- 20 by the circuit court clerk of each county in the election district of
- 21 the office sought by the individual.
- 22 **(8) Any statement of economic interests required under**
- 23 **IC 3-8-1-33.**
- 24 (c) The statement required under subsection (b)(7) must:
- 25 (1) be certified by each circuit court clerk; and
- 26 (2) indicate the number of votes cast for secretary of state:
- 27 (A) at the last election for secretary of state; and
- 28 (B) in the part of the county included in the election district of
- 29 the office sought by the individual filing the petition.
- 30 (d) The secretary of state shall, by noon August 20, certify each
- 31 petition of nomination filed in the secretary of state's office to the
- 32 appropriate county.
- 33 (e) The commission shall provide that the form of a petition of
- 34 nomination includes the following information near the separate
- 35 signature required by subsection (b)(2):
- 36 (1) The dates for filing campaign finance reports under IC 3-9.
- 37 (2) The penalties for late filing of campaign finance reports under
- 38 IC 3-9.
- 39 SECTION 22. IC 3-8-7-6 IS AMENDED TO READ AS FOLLOWS
- 40 [EFFECTIVE JULY 1, 1999]: Sec. 6. ~~Within~~ **(a) Not later than noon**
- 41 **ten (10) days after:**
- 42 **(1) receipt of the candidate and delegate lists from each circuit**

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1 court clerk under section 5 of this chapter; or

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

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

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

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

13 (2) **contain the names of** all candidates shown to be nominated
14 by the canvass of the ~~secretary of state~~ **election division**
15 **conducted** under IC 3-10-1-34; ~~Each list must and~~

16 (3) include the address of each candidate. ~~and delegate. The~~
17 ~~delegate lists shall be certified in duplicate; separate from the~~
18 ~~candidate lists.~~

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

22 SECTION 23. IC 3-8-7-6.5 IS ADDED TO THE INDIANA CODE
23 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
24 1, 1999]: **Sec. 6.5. (a) Not later than noon ten (10) days after receipt**
25 **of the delegate lists from each circuit court clerk under section 5 of**
26 **this chapter, the secretary of state shall furnish to the state**
27 **chairman of each major political party of the state a list of**
28 **individuals elected as delegates to the convention of the chairman's**
29 **political party.**

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

31 (1) **contain the names of all delegates elected, as certified by**
32 **the circuit court clerks under section 5 of this chapter; and**

33 (2) **include the address of each delegate.**

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

38 SECTION 24. IC 3-8-7-25.5 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 25.5. (a) This**
40 **section does not apply to the change of a candidate's name that occurs**
41 **after absentee ballots have been printed bearing the candidate's name.**

42 (b) A candidate who:

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(1) is:
 (A) nominated for election; **or**
 (B) **a candidate for nomination**; and
 (2) wishes to change the candidate's name after:
 (A) the candidate has been nominated; **or**
 (B) **becoming a candidate for nomination**;

may file a statement setting forth the former and current name of the candidate with the office where a declaration of candidacy or certificate of nomination for the office is required to be filed. **If the final date and hour has not passed for filing a declaration of candidacy, consent for nomination, or declaration of intent to be a write-in candidate, the candidate must file the request for a change of name on the form prescribed by the commission for the declaration or consent.**

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

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

SECTION 25. IC 3-10-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Whenever there is no contest in a political party for the nomination of a candidate or candidates for an office, the party may hold a primary election for that nomination. The appropriate election board shall certify the names of the candidates for each nomination for which there is no contest as though a primary election had been held. However, except as provided in subsections (b) through (c), if there is a contest in any party for any nomination, the name of each candidate of each party shall be placed on the primary election ballot, whether or not the candidate is opposed.

(b) If the only contest in a political party is for the election of a precinct committeeman or a delegate to the party's state convention, the names of unopposed candidates for nomination are not required to be placed on the primary election ballot **unless the appointed member of the county election board affiliated with the political party files a written request that these names be printed on the primary election ballot.**

(c) The names of unopposed candidates for election as a precinct committeeman or a delegate to a political party's state convention are not required to be placed on the primary election ballot **unless the**

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1 **appointed member of the county election board affiliated with the**
 2 **political party files a written request that these names be printed**
 3 **on the primary election ballot.**

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

8 SECTION 26. IC 3-10-1-14 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) All the
 10 candidates for each office who have qualified in the manner prescribed
 11 by IC 3-8 for placement on the primary election ballot shall be grouped
 12 together under the name of the office and printed in type with uniform
 13 capital letters, with uniform space between each name. At the head of
 14 each group where only one (1) candidate for each group is to be voted
 15 for, the words "vote for one (1) only" shall be printed. If more than one
 16 (1) candidate in a group is to be voted for, the number to be voted for
 17 shall be specified at the head of the group.

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

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

23 (1) initials; or

24 (2) a nickname by which the candidate is commonly known;

25 if the candidate's choice of initials or nickname does not exceed twenty
 26 (20) characters. Any nickname used must appear in parentheses
 27 between the candidate's given name and the candidate's surname.

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

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

33 SECTION 27. IC 3-10-1-17 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. Political parties
 35 may be distinguished in a primary election by the use of different color
 36 ballot labels. The party ~~device for a political party that has been~~
 37 ~~adopted in accordance with IC 3-8 and the party name or other~~
 38 ~~designation~~ shall be placed before the list of candidates of the party.

39 SECTION 28. IC 3-10-1-33 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. (a) The county
 41 election board shall also make an additional duplicate showing the
 42 votes cast for each candidate required to file a declaration of candidacy

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1 with the election division under IC 3-8-2. ~~or for whom a certificate of~~
 2 ~~nomination must be filed with the election division under IC 3-8-7.~~

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

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

- 10 (1) **on** the second Wednesday following a primary election
 11 conducted in a year in which a general election will be held; **or**
 12 (2) **seven (7) days after receipt of the final recount certificate**
 13 **transmitted under IC 3-12-6-31 or IC 3-12-11-18;**

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

17 SECTION 30. IC 3-10-11-1 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter:

- 19 (1) applies to a general, municipal, primary, school district, and
 20 special election; **and**
 21 (2) **is enacted to implement Article 2, Section 2(c) of the**
 22 **Constitution of the State of Indiana.**

23 SECTION 31. IC 3-10-12-1 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter:

- 25 (1) prescribes the procedure for certain voters to cast ballots
 26 under 42 U.S.C. 1973gg-6(e)(2) in a precinct where the voter
 27 formerly resided; **and**
 28 (2) **is enacted to implement Article 2, Section 2(c) of the**
 29 **Constitution of the State of Indiana.**

30 SECTION 32. IC 3-11-4-5.1 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) The
 32 commission shall prescribe the form of an application for an absentee
 33 ballot.

34 (b) The form prescribed by the commission shall require that a voter
 35 who:

- 36 (1) requests an absentee ballot; and
 37 (2) is eligible to vote in the precinct under IC 3-10-11 or
 38 IC 3-10-12;

39 must include the affidavit required by IC 3-10-11 or a written
 40 affirmation described in IC 3-10-12.

41 (c) **The form prescribed by the commission must require that an**
 42 **individual who assists the applicant in completing the application**



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1 **state the individual's name on the application.**

2 SECTION 33. IC 3-11-7-3.5 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 1999]: **Sec. 3.5. A ballot card printed for use under this article
5 must have the year of the election to be conducted printed or
6 stamped on the face of the ballot card.**

7 SECTION 34. IC 3-11-13-27.5 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27.5. At the
9 opening of the polls, after the organization of and in the presence of the
10 precinct election board, the inspector shall:

- 11 (1) open the packages of ballot cards in a manner that preserves
12 the seals intact;
13 (2) deliver ~~twenty-five (25)~~ **fifty (50)** of each of the state and local
14 ballots to the poll clerk ~~of representing~~ the opposite political
15 party; and
16 (3) deliver to the other poll clerk a device for marking the ballots.

17 SECTION 35. IC 3-12-5-9 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Upon receipt
19 of the certified statements from the circuit court clerks under section 6
20 of this chapter, the election division shall:

- 21 (1) ~~compare and estimate~~ **tabulate** the number of votes cast for
22 each candidate for United States Senator and United States
23 Representative; and
24 (2) prepare a certificate **of election** for the secretary of state to
25 **certify transmit** to:

26 (A) the governor **for signature and certification to the**
27 **secretary of the United States Senate, setting forth the**
28 **name of the candidate receiving the highest number of votes**
29 **for each the office of United States Senator, in the manner**
30 **required by 2 U.S.C. 1; and**

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

35 (b) The secretary of state shall promptly execute the certificate
36 prepared under subsection ~~(a)~~ **(a)(2)(A)** and ~~file~~ **transmit** the
37 certificate ~~with~~ **to the governor. The governor shall promptly execute**
38 **the certificate and transmit the certificate to the election division**
39 **for attestation by the secretary of state and transmission to the**
40 **secretary of the United States Senate.**

41 (c) The secretary of state shall promptly execute the certificate
42 prepared under subsection (a)(2)(B) and transmit the certificate to

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the clerk of the United States House of Representatives.

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

SECTION 37. 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 38. 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 39. 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~~

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

4 **The motion to dismiss must:**

5 **(1) state that the petitioner or cross-petitioner has failed to**
 6 **comply with this chapter; and**

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

9 **(c) As the first item of business, the recount commission shall**
 10 **adopt procedures for conducting the recount, based as closely as is**
 11 **practical on the procedures adopted by the state recount**
 12 **commission. After adopting these procedures, the recount**
 13 **commission shall expeditiously complete the recount of all votes**
 14 **ordered recounted.**

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

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

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

34 **(1) beginning when a recount is ordered under section 14 of this**
 35 **chapter; and**

36 **(2) ending when the recount commission certifies the recount**
 37 **results under section 22 of this chapter;**

38 the recount commission may petition the court that acquired
 39 jurisdiction over the recount under section 8 of this chapter to rule on
 40 questions raised by the recount commission.

41 SECTION 40. IC 3-12-6-21.9 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 21.9. **(a) A recount for**

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1 nomination to an office conducted under this chapter shall be
2 completed not later than the final Friday in June following the
3 primary.

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

6 SECTION 41. IC 3-12-8-1 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) **This section
8 does not apply to a challenge filed before an election to the
9 eligibility of a candidate nominated by petition for election to an
10 office. The challenge described by this section must be conducted
11 in accordance with IC 3-8-1-2.**

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

15 (b) (c) If a candidate who is entitled to contest the nomination or
16 election of a candidate under this chapter does not file a petition within
17 the period established by section 5 of this chapter, the county chairman
18 of a political party of which the candidate entitled to file a petition
19 under this chapter was a member may file a petition to contest the
20 nomination or election of a candidate. A county chairman is entitled to
21 contest an election under this chapter only in a partisan race.

22 SECTION 42. IC 3-12-8-2 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. An election may
24 be contested under section 1 of this chapter if a petitioner alleges that
25 one (1) of the following circumstances existed:

- 26 (1) The contestee was ineligible.
- 27 (2) A mistake occurred in the printing or distribution of ballots
28 used in the election that makes it impossible to determine which
29 candidate received the highest number of votes.
- 30 (3) A mistake occurred in the programming of a voting machine
31 or an electronic voting system, making it impossible to determine
32 the candidate who received the highest number of votes.
- 33 (4) A voting machine or an electronic voting system
34 malfunctioned, making it impossible to determine the candidate
35 who received the highest number of votes.

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

39 SECTION 43. IC 3-12-8-6 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A petition
41 filed under section 5 of this chapter must state the following:

- 42 (1) That the petitioner desires to contest the nomination or

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election to an office.

(2) The name of each candidate as set forth on the ballot for the election and address of each candidate at the election for the office involved, as set forth in the records of the county election board or election division.

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

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

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

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

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

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

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

(1) ballots:

(A) containing the printing mistake; or

(B) distributed by mistake;

were cast;

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

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

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

SECTION 44. IC 3-12-8-6.5 IS ADDED TO THE INDIANA CODE

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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 1999]: **Sec. 6.5. (a) Except as provided in subsection (b), the court
3 in which a petition is filed may allow the petition or cross-petition
4 to be amended at any time upon the terms and conditions that the
5 court orders.**

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

9 **(1) failed to comply with this chapter; or**

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

11 SECTION 45. IC 3-12-8-22 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 22. (a) The costs
13 of a contest may include the following:**

14 **(1) Compensation of additional employees required to conduct the
15 contest, including overtime payments to regular employees who
16 are eligible to receive such payments.**

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

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

19 **(1) General administrative costs.**

20 **(2) Security.**

21 **(3) Allowances for meals or lodging.**

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

24 SECTION 46. IC 3-12-10-2.2 IS ADDED TO THE INDIANA
25 CODE AS A NEW SECTION TO READ AS FOLLOWS
26 [EFFECTIVE UPON PASSAGE]: **Sec. 2.2. (a) The state recount
27 fund is established for the purpose of receiving, holding, and
28 disbursing funds as a fiduciary for the state recount commission
29 and individuals who have provided a cash deposit under this
30 article. The fund shall be administered by the administrative
31 division of the office of the secretary of state.**

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

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

36 SECTION 47. IC 3-12-10-8 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 8. The state board of
38 accounts shall conduct any recount or other contest proceeding ordered
39 by the state recount commission in accordance with this article and
40 guidelines adopted by the commission.**

41 SECTION 48. IC 3-12-10-12 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12. (a) The**



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1 expenses of a recount ~~or contest~~ conducted by the state recount
 2 commission shall be paid from the state ~~general~~ **recount** fund
 3 **following the commission's determination whether a full or partial**
 4 **refund of the cash deposit should be granted under IC 3-12-11-10.**

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

7 **(c) A person (other than a party to a recount or contest) who**
 8 **claims reimbursement of expenses described by subsection (a) or**
 9 **(b) must submit a claim to the state recount commission not later**
 10 **than noon sixty (60) days after the commission adopts a final order**
 11 **concerning the recount or contest. If the commission approves the**
 12 **claim, the treasurer of state shall issue a warrant to the person in**
 13 **accordance with IC 5-13-5.**

14 **(d) There is appropriated to the state recount commission from**
 15 **the state general fund an amount sufficient for the commission's**
 16 **use in the payment of expenses under this section.**

17 SECTION 49. IC 3-12-11-3 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) Each petition for
 19 a recount filed under section 2 of this chapter must state the following:

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

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

- 35 (1) The nomination or election to office that the petitioner
 36 contests.
- 37 (2) That the individual is entitled to contest an election or a
 38 nomination to office under this chapter.
- 39 (3) The name **of the candidates as set forth on the ballot for the**
 40 **election** and address of each of the candidates **as set forth in the**
 41 **records of the election division.**
- 42 (4) That the petitioner in good faith believes that **one (1) or more**



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1 **of the following occurred:**

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

6 (B) A mistake was made in the printing or distribution of
7 ballots **used in the election** that makes it impossible to
8 determine which candidate received the highest number of
9 votes cast in the election.

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

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

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

20 (c) A petition stating that the petitioner believes that a mistake ~~in the~~
21 ~~printing or distribution of ballots described in subsection (b)(4)(B),~~
22 **(b)(4)(C), or (b)(4)(D)** has occurred must identify each precinct in
23 which:

24 (1) ballots:

25 (A) containing the printing mistake; or

26 (B) distributed by mistake;

27 were cast;

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

30 (3) a voting machine or an electronic voting system
31 malfunctioned.

32 **(d) A petition stating that the petitioner believes that an act or**
33 **series of actions described in subsection (b)(4)(E) occurred must**
34 **identify each precinct or other location in which the act or series**
35 **of actions occurred to the extent known to the petitioner.**

36 SECTION 50. IC 3-12-11-7 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. **(a) Except as**
38 **provided in subsection (b) or (c),** the state recount commission may
39 allow a petition or cross-petition to be amended at any time upon the
40 terms and conditions that the state recount commission orders.
41 ~~However,~~

42 **(b) The commission may not allow a petition or cross-petition to**

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1 be amended following the deadline for filing a petition or
2 cross-petition under this chapter if the petition or cross-petition as
3 originally filed:

- 4 (1) failed to comply with section 3 or section 6 of this chapter;
- 5 or
- 6 (2) was not filed before the deadline specified in section 2 or
- 7 section 4 of this chapter.

8 (c) The commission may not allow a candidate who filed a petition
9 or cross-petition to amend the petition or cross-petition by striking a
10 precinct in which the candidate had desired a recount unless each
11 opposing candidate consents to the amendment.

12 SECTION 51. IC 3-12-11-10 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Each
14 petitioner shall furnish a cash deposit for the payment of costs of the
15 recount chargeable to the petitioner. The minimum amount of the cash
16 deposit is one hundred dollars (\$100). **The cash deposit shall be**
17 **deposited in the state recount fund.**

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

- 20 (1) A legislative office in which, on the face of the election
- 21 returns, the difference between the number of votes cast for the
- 22 candidate nominated or elected and the petitioner is not more than
- 23 one percent (1%).
- 24 (2) An office other than a legislative office in which, on the face
- 25 of the election returns, the difference between the number of votes
- 26 cast for the candidate nominated or elected and the petitioner is
- 27 not more than one percent (1%).

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

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

- 33 (1) A legislative office in which, on the face of the election
- 34 returns, the difference between the number of votes cast for the
- 35 candidate nominated or elected and the petitioner is more than
- 36 one percent (1%).
- 37 (2) An office other than a legislative office in which, on the face
- 38 of the election returns, the difference between the number of votes
- 39 cast for the candidate nominated or elected and the petitioner is
- 40 more than one percent (1%).

41 If the number of precincts to be recounted exceeds ten (10), the amount
42 of the deposit shall be increased by one hundred dollars (\$100) for each

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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 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

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1 cast for the cross-petitioner and the petitioner with the greatest
 2 number of votes is more than one percent (1%).
 3 The cross-petitioner shall furnish a cash deposit equal to ten dollars
 4 (\$10) multiplied by the number of precincts that the cross-petitioner
 5 seeks to have recounted for the first ten (10) precincts recounted. For
 6 each precinct in excess of ten (10) the cross-petitioner seeks to have
 7 recounted, the cross-petitioner shall furnish an additional cash deposit
 8 equal to one hundred dollars (\$100) multiplied by the number of
 9 precincts in excess of ten (10) that the cross-petitioner seeks to have
 10 recounted. **The cash deposit shall be deposited in the state recount**
 11 **fund.**

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

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

18 SECTION 53. IC 3-12-11-12 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. (a) **Except as**
 20 **provided in subsection (d)**, the state recount commission shall grant
 21 the petitions and cross-petitions that have been filed and order the
 22 recount of the votes in the precincts upon:

23 (1) the filing of a petition and cash deposit or bond under this
 24 chapter;

25 (2) the expiration of the period under section 4 of this chapter for
 26 filing a cross-petition; and

27 (3) proof of service of all notices.

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

32 (1) the filing of a cash deposit or bond under this chapter; and

33 (2) proof of service of all notices.

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

37 (1) the filing of a petition under this chapter; and

38 (2) proof of service of all notices.

39 (d) **Whenever a motion to dismiss a petition or cross-petition for**
 40 **a recount or a petition for a contest is filed with the state recount**
 41 **commission or is made by a member of the commission, the**
 42 **commission shall rule on the motion to dismiss before ordering or**

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1 **continuing with a recount or a contest. The motion to dismiss must:**

2 **(1) state that the petitioner or cross-petitioner has failed to**
3 **comply with this chapter; and**

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

6 SECTION 54. IC 3-12-12-5 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Each petition
8 filed under section 2 of this chapter must be accompanied by a cash
9 deposit or a bond with corporate surety to the approval of the court for
10 the payment of all costs of the recount. The minimum amount of the
11 cash deposit or bond is one hundred dollars (\$100). **A cash deposit for**
12 **a recount conducted by a county recount commission shall be**
13 **deposited in the county general fund. A cash deposit in a recount**
14 **conducted by the state recount commission shall be deposited in the**
15 **state recount fund.**

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

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

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

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

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

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

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

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

42 (d) If after a recount, it is determined that the result of the public

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1 question is other than what was shown on the face of the election
 2 returns, the deposit furnished by the petitioner shall be returned to the
 3 petitioner in full.

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

7 **(f) This subsection applies to a recount conducted by the state**
 8 **recount commission under this chapter. Any unexpended balance**
 9 **remaining in a deposit after payment of all costs of the recount**
 10 **remains in the state recount fund.**

11 SECTION 55. IC 3-13-1-10.5 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.5. (a) A person
 13 who wishes to be a candidate for appointment to fill a candidate
 14 vacancy under this chapter must file a declaration of candidacy on a
 15 form prescribed by the commission with:

16 (1) the chairman of the caucus; and

17 (2) the official who is required to receive a certificate of candidate
 18 selection following the caucus under section 15 of this chapter;
 19 at least seventy-two (72) hours before the time fixed for the caucus.

20 **(b) The form prescribed under subsection (a) must include a**
 21 **statement that the candidate:**

22 **(1) is aware of the provisions of IC 3-9 regarding campaign**
 23 **finance and the reporting of campaign finance contributions**
 24 **and expenditures; and**

25 **(2) agrees to comply with the provisions of IC 3-9.**

26 **The candidate must separately sign the statement required by this**
 27 **subsection.**

28 **(c) The commission shall provide that the form prescribed**
 29 **under subsection (a) includes the following information near the**
 30 **separate signature:**

31 **(1) The dates for filing campaign finance reports under**
 32 **IC 3-9.**

33 **(2) The penalties for late filing of campaign finance reports**
 34 **under IC 3-9.**

35 SECTION 56. IC 3-13-2-7 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The selection
 37 of a person as a candidate under this chapter is not effective unless:

38 (1) the person's written consent is obtained and filed:

39 (A) in the office in which certificates and petitions of
 40 nomination must be filed; and

41 (B) when the certificate is filed; and

42 (2) the candidate has complied with any requirement under

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1 IC 3-8-1-33 to file a statement of economic interests.

2 (b) **The written consent under subsection (a) must include a**
3 **statement that the candidate:**

4 (1) **is aware of the provisions of IC 3-9 regarding campaign**
5 **finance and the reporting of campaign finance contributions**
6 **and expenditures; and**

7 (2) **agrees to comply with the provisions of IC 3-9.**

8 **The candidate must separately sign the statement required by this**
9 **subsection.**

10 (c) **The commission shall prescribe the form of the written**
11 **consent under subsection (a) and shall include the following**
12 **information near the separate signature:**

13 (1) **The dates for filing campaign finance reports under**
14 **IC 3-9.**

15 (2) **The penalties for late filing of campaign finance reports**
16 **under IC 3-9.**

17 SECTION 57. IC 3-14-3-18 IS AMENDED TO READ AS
18 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 18. (a) **As used in this**
19 **section, "candidate" includes an individual whom the person**
20 **knows is considering becoming a candidate.**

21 (b) **A person who, for the purpose of influencing a voter or**
22 **candidate:**

23 (1) **seeks to enforce the payment of a debt by force or threat of**
24 **force;**

25 (2) **ejects or threatens to eject the voter or candidate from a**
26 **house the voter or candidate occupies;**

27 (3) **begins a criminal prosecution; or**

28 (4) **damages the business or trade of the voter or candidate;**

29 **commits a Class D felony.**

30 SECTION 58. IC 5-4-1-1 IS AMENDED TO READ AS FOLLOWS
31 [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: Sec. 1. (a)

32 **Except as provided in subsection (c), every officer and every deputy,**
33 **before entering on the officer's or deputy's official duties, shall take an**
34 **oath to support the Constitution of the United States and the**
35 **Constitution of the State of Indiana, and that the officer or deputy will**
36 **faithfully discharge the duties of such office.**

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

39 (c) **This subsection applies to a deputy of a political subdivision.**
40 **An individual appointed as a deputy is considered an employee of**
41 **the political subdivision performing ministerial functions on behalf**
42 **of an officer and is not required to take the oath prescribed by**



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1 subsection (a). However, if a chief deputy assumes the duties of an
 2 office during a vacancy under IC 3-13-11-12, the chief deputy must
 3 take the oath required under subsection (a) before entering on the
 4 official duties of the office.

5 SECTION 59. IC 5-4-1-1.2 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.2. (a) This
 7 section does not apply to an individual appointed or elected to an
 8 office the establishment or qualifications of which are expressly
 9 provided for in the Constitution of the State of Indiana or the
 10 Constitution of the United States.

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

15 SECTION 60. IC 5-4-1-2 IS AMENDED TO READ AS FOLLOWS
 16 [EFFECTIVE DECEMBER 1, 1998 (RETROACTIVE)]: Sec. 2. (a)
 17 The oath required by section 1 of this chapter, except in the case of a
 18 notary public or in those cases specified in section 3 of this chapter,
 19 shall be endorsed on or attached to the:

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

- 27 (b) A copy of the oath of office of a prosecuting attorney shall be:
 28 (1) recorded on the bond required by section 20 of this chapter;
 29 and on or
 30 (2) attached to the commission of the prosecuting attorney.

31 SECTION 61. IC 5-4-1-4 IS AMENDED TO READ AS FOLLOWS
 32 [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) As used in this section,
 33 "political subdivision" has the meaning set forth in IC 36-1-2-13.

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

- 36 (1) Of all officers whose oath is endorsed on or attached to the
 37 commission and whose duties are not limited to a particular
 38 county or of a justice, judge, or prosecuting attorney, in the
 39 office of the secretary of state.
 40 (2) Of county the circuit court clerk, officers of a political
 41 subdivision or school corporation, and constables of a small
 42 claims court, in the circuit court clerk's office of the county



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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 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.

SECTION 63. 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 64. IC 33-2.1-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) As used in this chapter, "cause" means a trial, hearing, arraignment, controversy, appeal, case, or any business performed within the official duty of a justice, judge, or prosecuting attorney.

(b) As used in this chapter, "compensation" means any money, thing

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1 of value, or economic benefit conferred on, or received by, any person
 2 in return for services rendered, or for services to be rendered, whether
 3 by that person or another.

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

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

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

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

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

25 SECTION 65. IC 33-2.1-8-7 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) The statement of
 27 economic interests must be filed with the commission:

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

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

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

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

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

37 ~~(D)~~ **(D)** a certificate of candidate selection under IC 3-13-1 or
 38 IC 3-13-2; or

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

41 (b) In a county where judges are selected by a county commission
 42 on judicial qualifications, a candidate must file a statement with the

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1 county commission and also with the commission on judicial
2 qualifications.

3 SECTION 66. IC 33-5-5.1-29 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. (a) The Allen
5 County superior court consists of nine (9) judges. Two (2) judges serve
6 in the family relations division, three (3) judges serve in the criminal
7 division, and four (4) judges serve in the civil division. Each newly
8 elected or appointed judge assumes the division assignment of the
9 judge whom the judge replaces.

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

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

19 (1) is signed by the candidate; and

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

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

25 **(e) If an individual who files a declaration under subsection (c)**
26 **ceases to be a candidate after the final date for filing a declaration**
27 **under subsection (c), the election division may accept the filing of**
28 **additional declarations of candidacy for that seat not later than**
29 **noon August 1.**

30 SECTION 67. IC 33-5-43.2-1 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The judge of
32 the Vanderburgh circuit court and each of the seven (7) judges of the
33 Vanderburgh superior court shall be elected in nonpartisan elections
34 every six (6) years.

35 (b) During the period under IC 3-8-2-4 in which a declaration of
36 candidacy may be filed for a primary election, any person desiring to
37 become a candidate for any one of the eight (8) judgeships affected by
38 this chapter shall file with the election division a declaration of
39 candidacy adapted from the form prescribed under IC 3-8-2, signed by
40 the candidate and designating on the declaration which judgeship the
41 candidate seeks. Any petition without such designation shall be
42 rejected by the election division (or by the Indiana election commission

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1 under IC 3-8-1-2). To be eligible for election, a candidate must be:

- 2 (1) domiciled in the county of Vanderburgh;
 3 (2) a citizen of the United States; and
 4 (3) admitted to the practice of law in this state.

5 **(c) If an individual who files a declaration under subsection (b)**
 6 **ceases to be a candidate after the final date for filing a declaration**
 7 **under subsection (b), the election division may accept the filing of**
 8 **additional declarations of candidacy for that judgeship not later**
 9 **than noon August 1.**

10 ~~(c)~~ **(d)** All candidates for each respective judgeship shall be listed
 11 on the general election ballot in the form prescribed by IC 3-11-2,
 12 without party designation. The candidate receiving the highest number
 13 of votes for each judgeship shall be elected to that office.

14 ~~(d)~~ **(e)** IC 3, where not inconsistent with the provisions of this
 15 chapter, applies to elections under this chapter.

16 SECTION 68. IC 33-16-4-1 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. ~~(a)~~ The
 18 following are authorized to **subscribe and** administer oaths and take
 19 acknowledgments ~~generally, of all documents whatsoever,~~ pertaining
 20 to all matters where an oath is required:

- 21 (1) Notaries public.
 22 (2) Justices and judges of courts, in their respective jurisdictions.
 23 (3) The secretary of state of Indiana.
 24 (4) **The clerk of the supreme court.**
 25 (5) Mayors, clerks, ~~and~~ clerk-treasurers of towns and cities, **and**
 26 **township trustees**, in their respective towns, ~~and~~ cities, **and**
 27 **townships.**
 28 (6) Clerks of circuit courts and master commissioners, in their
 29 respective counties.
 30 ~~(6)~~ **(7)** Judges of United States district courts of Indiana, in their
 31 respective jurisdictions.
 32 ~~(7)~~ **(8)** United States commissioners appointed for any United
 33 States district court of Indiana, in their respective jurisdictions.
 34 ~~(8)~~ **(9)** A precinct election officer (as defined in IC 3-5-2-40.1)
 35 and an absentee voter board member appointed under IC 3-11-10,
 36 for any purpose authorized under IC 3.
 37 ~~(9)~~ **(10)** A member of the Indiana election commission, a
 38 co-director of the election division, or an employee of the election
 39 division under IC 3-6-4.2.
 40 ~~(10)~~ **(11)** County auditors, in their respective counties.
 41 ~~(11)~~ **(12)** Any member of the general assembly ~~shall have full~~
 42 ~~power and authority to subscribe and administer oaths and take~~



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1 ~~acknowledgments of all documents whatsoever~~ anywhere in
2 Indiana.

3 SECTION 69. IC 36-1-6-10 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) This section
5 applies to an ordinance adopted by a unit to establish executive, fiscal,
6 or legislative body election districts within the unit.

7 (b) Except as otherwise provided in the ordinance, the ordinance
8 takes effect immediately upon passage. However, a previously adopted
9 ordinance establishing election districts remains in effect for the
10 purpose of filling a vacancy in the executive, fiscal, or legislative body
11 until the expiration of the term of that office.

12 (c) **A reference in the ordinance to the boundary of a political**
13 **subdivision, a precinct boundary, or an election district boundary**
14 **refers to the precinct or boundary as the precinct or boundary**
15 **existed on the date of adoption of the ordinance. A change in the**
16 **boundary of a political subdivision, precinct, or election district**
17 **following the date of adoption of the ordinance does not alter the**
18 **boundaries of the election districts established by the ordinance.**

19 SECTION 70. THE FOLLOWING ARE REPEALED [EFFECTIVE
20 UPON PASSAGE]: IC 3-7-35-4; IC 3-8-7-9; IC 3-11-3-7; IC 3-11-3-9;
21 IC 3-11-15-35; IC 5-4-1-1.1.

22 SECTION 71. [EFFECTIVE UPON PASSAGE] (a) **This**
23 **SECTION applies to expenses incurred for a contest or recount**
24 **conducted by the state recount commission after January 1, 1986,**
25 **and before January 1, 1999.**

26 (b) **A person (other than a party to a contest or recount) who**
27 **claims reimbursement of expenses described by subsection (a) must**
28 **submit a claim to the state recount commission not later than noon,**
29 **August 1, 1999. If the commission votes to approve the claim, the**
30 **treasurer of state shall issue a warrant to the person in accordance**
31 **with IC 5-13-5.**

32 (c) **There is appropriated to the state recount fund established**
33 **under IC 3-12-10-2.2 ten thousand dollars (\$10,000) from the state**
34 **general fund for its use in the payment of expenses under this**
35 **SECTION.**

36 (d) **This SECTION expires January 1, 2000.**

37 SECTION 72. **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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