Reprinted
February 17, 2004

ENGROSSED
SENATE BILL No. 72

DIGEST OF SB 72 (Updated February 16, 2004 5:28 pm - DI 75)

Citations Affected: IC 3-5; IC 3-6; IC 3-7; IC 3-8; IC 3-9; IC 3-10; IC 3-11; IC 3-11.5; IC 3-11.7; IC 3-12; IC 3-13; IC 3-14; IC 4-2; IC 20-4; IC 36-2; IC 36-4.

Synopsis: Various election law matters. Provides that a voter registration application having an illegible or a missing postmark is valid if received not later than 21 days before the election. Provides that a person who serves as a political committee's treasurer in violation of certain statutes is subject to a civil penalty upon the unanimous vote of the commission or county election board. Provides that a candidate for a municipal office shall file certain campaign finance reports even if a primary or municipal election is not held in the municipality. Requires a county election board to conduct municipal elections in all towns unless a town opts out. Provides that one precinct election board may serve all precincts at a single polling place. Provides that voters in a municipality's newly acquired territory may vote regardless of when

(Continued next page)

Effective: Upon passage; July 1, 2004.

Landske, Sipes
(HOUSE SPONSORS — MAHERN, RICHARDSON)

December 2, 2003, read first time and referred to Committee on Elections and Civic Affairs.
January 13, 2004, amended, reported favorably — Do Pass.
January 22, 2004, read second time, ordered engrossed.
January 23, 2004, engrossed.
January 26, 2004, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 4, 2004, read first time and referred to Committee on Elections and Apportionment.
February 12, 2004, amended, reported — Do Pass.
February 16, 2004, read second time, amended, ordered engrossed.

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Digest Continued

the territory was acquired. Provides that only counties that count absentee ballots at a central location may authorize the use of electronic equipment at the clerk's office for the casting of absentee ballots. Requires the voter's signature on an absentee ballot application to be compared to the voter's signature on the voter's registration record under certain circumstances. Requires a special election to be ordered in an election contest after a finding that the occurrence of deliberate acts makes it impossible to determine which candidate received the highest number of votes. Makes changes to qualifications of precinct election officers, the filing place for replacement candidates for local judicial offices of independent and minor party candidates, and small town election procedures. Establishes deadlines for: (1) the election division to certify certain information concerning candidates for president and vice president and presidential electors; and (2) printing provisional ballots in a presidential election year. Allows an absentee ballot cast by a voter required to provide additional documentation to be counted under the provisional ballot procedure if the documentation is filed before 6 p.m. on election day. Establishes eligibility requirements for provisional ballot counters. Establishes a procedure for breaking a tie vote in a municipal election. Resolves a conflict in current law concerning: (1) the resumption of registration after a special election; and (2) the procedure for determining certain voter challenges. Makes technical changes relating to: (1) election administration; (2) precinct election officers; (3) watchers; (4) certification of nominees; (5) campaign finance reports; (6) voter registration; (7) rights of voters; (8) municipal elections; (9) ballot format; (10) absentee voting; (11) polling places; (12) provisional ballots; (13) election recounts and contests; (14) filling vacancies in local offices; (15) the meeting of presidential electors; (16) filing financial disclosure statements; and (17) appointment of deputies of local officials. Repeals: (1) a duplicate requirement for filing with the election division a certificate of the public test of an optical scan voting system; and (2) a special procedure involving a county commissioner's resignation. Reduces the number of landowners required to oppose an annexation by a municipality located in a county contiguous to a county containing a consolidated city. Provides that if: (1) landowners of territory petition a municipality, seeking to be annexed; and (2) at least 50% of the territory's boundary (not including any boundary contiguous to a county boundary) is contiguous with the municipality, the landowners seeking annexation are not required to prove that municipal services are unavailable to the territory in order for the court to order annexation. (The introduced version of this bill was prepared by the census data advisory committee.)

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February 17, 2004

Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

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ENGROSSED
SENATE BILL No. 72

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

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

SECTION 1. IC 3-5-7-7, AS ADDED BY P.L.202-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A registered voter of the election district a candidate seeks to represent may file a sworn statement with the ~~commission~~ **election division** or a county election board under IC 3-8-1-2 if a candidate uses on the ballot a designation not permitted by section 5 of this chapter.

(b) A complaint filed under this section must contain the following information:

(1) The legal name of the candidate who has used a designation not permitted by section 5 of this chapter.

(2) The designation the candidate has used that is not permitted under section 5 of this chapter.

(c) If the commission or county election board finds that the candidate used a designation not permitted by section 5 of this chapter,

the candidate is considered to have withdrawn the candidate's candidacy.

SECTION 2. IC 3-6-6-23, AS AMENDED BY P.L.126-2002, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. The oath prescribed for a precinct election officer must be signed before a person authorized to administer oaths and contain the following information:

I do solemnly swear (or affirm) the following:

(1) I will support the Constitution of the United States and the Constitution of the State of Indiana.

(2) I will faithfully and impartially discharge the duties of inspector (or judge, poll clerk, assistant poll clerk, or sheriff) of this precinct under the law.

(3) I will not knowingly permit any person to vote who is not qualified and will not knowingly refuse the vote of any qualified voter or cause any delay to any person offering to vote other than is necessary to procure satisfactory information of the qualification of that person as a voter.

(4) I am now a bona fide resident of the county in which the precinct in which I am to act as a member of the election board is situated and, if required by law, am a qualified voter of that county.

(5) I will not disclose or communicate to any person how any voter has voted at this election or how any ballot has been folded or marked.

(6) I am able to read, write, and speak the English language.

(7) I have no property bet or wagered on the result of this election.

(8) I am not a candidate to be voted for at this election **in this precinct,** except as an unopposed candidate for a political party office.

(9) If I am serving as an inspector, I am not the chairman or treasurer of the committee of a candidate whose name appears on the ballot.

(10) I am not related to any person to be voted for at this election **in this precinct** as the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of that person, unless that person is an unopposed candidate.

(11) I was trained as required by IC 3-6-6-40.

SECTION 3. IC 3-6-6-38, AS ADDED BY P.L.126-2002, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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UPON PASSAGE]: Sec. 38. (a) As used in this section, "omitted precinct election officer" refers to a precinct election officer that a precinct is not required to have by a resolution adopted under this section.

(b) Notwithstanding other provisions of this title, a county election board may adopt a resolution to provide that specified precincts or all precincts of the county are not required to have any or all of the following precinct election officers:

(1) ~~Sheriff.~~ **Sheriffs.**

(2) Poll clerks.

(c) A resolution adopted under this section must be adopted by unanimous vote of the entire membership of the board.

(d) A resolution adopted under this section must state the following:

(1) The precincts to which the resolution applies.

(2) For each precinct identified in the resolution, which precinct election officers are omitted precinct election officers.

(3) For each precinct identified in the resolution, which precinct election officers will perform the duties required by this title of the omitted precinct election officers.

(e) Notwithstanding any other law, the precinct election officer specified in a resolution adopted under this section shall perform the duties of the omitted precinct election officers as stated in the resolution.

(f) A resolution adopted under this section expires December 31 after the resolution is adopted.

SECTION 4. IC 3-6-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) If:

(1) twenty-six percent (26%) or more of all candidates of a political party who are candidates for:

(A) nomination to elected offices at a county **primary election** (or municipal primary election **within the municipality in which the municipal primary is to be conducted),** not including candidates for delegates to the state convention or candidates for precinct committeemen; or

(B) precinct committeemen at an election for precinct committeemen, whose names are certified to the county election board as candidates to be voted for at the primary election for precinct committeemen; or

(2) any candidate or group of candidates for a school board office; desire to have watchers at the polls in any precinct of the county or municipality, they shall sign a written statement indicating their desire to name watchers.

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(b) If the candidates signing the statement are candidates for nomination at a county primary election or for election as precinct committeemen or to a school board office, the written statement shall be filed with the circuit court clerk of the county where the candidates reside.

(c) If the candidates signing the statement are candidates for nomination at a municipal primary election, the written statement shall be filed with the circuit court clerk of the county that contains the greatest percentage of the population of the election district.

SECTION 5. IC 3-7-12-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) The circuit court clerk or board of registration members shall, following the cancellation of voter registrations as provided by the voter list maintenance program under this article, file an affidavit under affirmation with the ~~county auditor.~~ **election division.**

(b) The affidavit must be on a form prescribed by the commission and must state that the clerk or board has:

(1) conducted the voter list maintenance program under this article; and

(2) canceled the registrations required under the voter list maintenance program.

SECTION 6. IC 3-7-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a) Except as provided in subsection (b),** the definitions in IC 9-13-2 apply to this chapter.

(b) A reference to the "commission" in this chapter is a reference to the Indiana election commission unless otherwise stated.

SECTION 7. IC 3-7-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. As provided in 42 U.S.C. 1973gg-3(c)(1), the **bureau of motor vehicles** commission shall include a voter registration application form as a part of the application for a driver's license prescribed under IC 9-24.

SECTION 8. IC 3-7-14-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. An employee of the **bureau of motor vehicles** commission who provides an individual with a driver's license or identification card application shall do the following:

(1) Inform each individual who applies for a driver's license or an identification card that the information the individual provides on the individual's application will be used to register the individual to vote unless:

(A) the individual is not eligible to vote; or

(B) the individual declines to register to vote or fails to

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complete the voter registration part of the application.

(2) Provide each individual who indicates a desire to register or transfer registration with assistance in filling out the voter registration application if requested to do so by the individual.

(3) Check the completed voter registration form for legibility and completeness.

(4) Deliver the completed registration form to the license branch manager (or the employee designated by the manager to be responsible for voter registration services) for transmittal to the appropriate circuit court clerk or board of registration.

(5) Inform the individual that the individual will receive a mailing from the circuit court clerk or board of registration of the county where the individual resides concerning the disposition of the voter registration application.

(6) Inform each individual who submits a change of address for a driver's license or identification card that the information serves as notice of a change of address for voter registration unless the applicant states in writing on the form that the change of address is not for voter registration purposes.

SECTION 9. IC 3-7-14-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. If an individual is registering to vote after the twenty-ninth day before the date that a primary, general, municipal, or special election is scheduled in the precinct where the voter resides, the employee of the **bureau of motor vehicles** commission who provides an individual with a driver's license or an identification card application shall do the following:

(1) Inform the individual that license branch registration will not permit the individual to vote in the next election.

(2) Inform the individual of other procedures the individual may follow to vote in the next election.

SECTION 10. IC 3-7-14-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. Whenever an applicant completes a voter registration application under section 4 of this chapter, the **bureau of motor vehicles** commission shall provide the applicant with a written acknowledgment that the applicant has completed a voter registration application at a license branch. The acknowledgment:

(1) may be a detachable part of the registration form prescribed under section 4 of this chapter; and

(2) must set forth the name and residential address of the applicant and the date that the application was completed.

SECTION 11. IC 3-7-14-12 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) An applicant who completes a voter registration application under section 4 of this chapter is not required to submit the application to a circuit court clerk or board of registration member.

(b) The **bureau of motor vehicles** commission shall forward the voter registration part of the application to a circuit court clerk or board of registration not later than five (5) days after the date of acceptance and as provided in IC 9-24-2.5 and 42 U.S.C. 1973gg-3(c)(2)(E).

SECTION 12. IC 3-7-14-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. Voter registration information received or maintained by the **bureau of motor vehicles** commission under this chapter is confidential and may be used only for voter registration purposes as provided in this article, 42 U.S.C. 1973gg-3(b), and 42 U.S.C. 1973gg-6(a)(6).

SECTION 13. IC 3-7-14-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. As provided in 42 U.S.C. 1973gg-3(d), a circuit court clerk or board of registration may update the address in the voter registration of an applicant, unless the applicant indicates on an application to obtain or renew a motor vehicle driver's license (or any other change of address form submitted to the clerk or board by the **bureau of motor vehicles** commission) that the change of address of the applicant is not for voter registration purposes.

SECTION 14. IC 3-7-30-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As provided in 42 U.S.C. 1973gg-3(c), the fact that an applicant declined to register at a license branch **or** at a voter registration agency ~~or by mail~~ is confidential.

SECTION 15. IC 3-7-33-4, AS AMENDED BY P.L.209-2003, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This section applies to a voter registration application submitted on a registration by mail form under IC 3-7-22.

(b) Except as provided in subsection (c), and as provided in 42 U.S.C. 1973gg-6(a)(1), an eligible applicant whose application is postmarked not later than twenty-nine (29) days before the election shall be registered to vote in the election.

(c) If a postmark on a registration by mail form is missing or illegible, an eligible applicant shall be registered to vote in the election if the form is received by the county voter registration office not later than ~~twenty-four (24) days~~ **the Monday following the close of the registration period** before the election.

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SECTION 16. IC 3-8-5-2, AS AMENDED BY P.L.167-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A candidate for a town office may be nominated using any of the following methods:

(1) By convention conducted under this chapter.

(2) By a primary election.

(3) By petition filed under IC 3-8-6.

(4) If a town convention or a primary election is not required under section 10 of this chapter for the political party of which the candidate is a member, by the candidate's declaration of candidacy.

(b) Unless a town legislative body adopts an ordinance under subsection (c), a town shall use the convention method described in this chapter to nominate candidates for town offices.

(c) The town legislative body of a town covered by this chapter may adopt an ordinance to specify any other method described in subsection (a) to nominate candidates for town offices.

(d) The town legislative body must adopt an ordinance under subsection (c) not later than January 1 of the year in which a municipal election is held. The town clerk-treasurer shall send a copy of the ordinance to the circuit court clerk of the county that contains the greatest percentage of the town's population.

(e) If a town **described by section 1 of this chapter** adopts an ordinance under subsection (c) to nominate candidates by a primary election, the following apply:

(1) The county election board of the county that contains the greatest percentage of the town's population shall conduct the primary election for the town.

(2) All statutes governing primary elections for towns apply.

(3) The town may not change the method of nominating candidates for town offices more than one (1) time in any twelve (12) year period.

SECTION 17. IC 3-8-5-10.5, AS AMENDED BY P.L.167-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10.5. (a) A person who desires to be nominated for a town office by a major political party must file a declaration of candidacy with the circuit court clerk of the county containing the greatest percentage of population of the town.

(b) A declaration of candidacy must be filed:

(1) not earlier than January 1; and

(2) not later than:

(A) noon August 1 before a municipal election if the town

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nominates its candidates by convention; and

(B) the date that a declaration of candidacy must be filed under IC 3-8-2-4 if the town nominates its candidates by a primary election.

(c) The declaration must be subscribed and sworn to (or affirmed) before a notary public or other person authorized to administer oaths.

(d) The declaration of each candidate required by this section must certify the following information:

(1) The candidate's name, printed or typewritten as:

(A) the candidate wants the candidate's name to appear on the ballot; and

(B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

(2) That the candidate is a registered voter and the location of the candidate's precinct and township (or the ward and town), county, and state.

(3) The candidate's complete residence address and the candidate's mailing address if the mailing address is different from the residence address.

(4) The candidate's party affiliation and the office to which the candidate seeks nomination, including the district designation if the candidate is seeking a town legislative body seat.

(5) That the candidate complies with all requirements under the laws of Indiana to be a candidate for the above named office, including any applicable residency requirements, and is not ineligible to be a candidate due to a criminal conviction that would prohibit the candidate from serving in the office.

(6) The candidate's signature.

(e) **This subsection does not apply to a town whose municipal election is to be conducted by a county.** Immediately after the deadline for filing, the circuit court clerk shall do all of the following:

(1) Certify to the town clerk-treasurer and release to the public a list of the candidates of each political party for each office. The list shall indicate any candidates of a political party nominated for an office under this chapter because of the failure of any other candidates of that political party to file a declaration of candidacy for that office.

(2) Post a copy of the list in a prominent place in the circuit court clerk's office.

(3) File a copy of each declaration of candidacy with the town clerk-treasurer.

(f) A person who files a declaration of candidacy for an elected

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office for which a per diem or salary is provided for by law is disqualified from filing a declaration of candidacy for another office for which a per diem or salary is provided for by law until the original declaration is withdrawn.

(g) A person who files a declaration of candidacy for an elected office may not file a declaration of candidacy for that office in the same year as a member of a different political party until the original declaration is withdrawn.

(h) A person who files a declaration of candidacy under this section may file a written notice withdrawing the person's declaration of candidacy in the same manner as the original declaration was filed, if the notice of withdrawal is filed not later than:

(1) noon August 1 before the municipal election if the town nominates its candidates by convention; and

(2) the date that a declaration of candidacy may be withdrawn under IC 3-8-2-20 if the town nominates its candidates in a primary election.

(i) A declaration of candidacy must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the declaration of candidacy. If there is a difference between the name on the candidate's declaration of candidacy and the name on the candidate's voter registration record, the officer with whom the declaration of candidacy is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's declaration of candidacy.

SECTION 18. IC 3-8-5-13, AS AMENDED BY P.L.202-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) The chairman and secretary of a town convention shall execute a certificate of nomination in writing, setting out the following:

(1) The name of each nominee as:

(A) the nominee wants the nominee's name to appear on the ballot; and

(B) the nominee's name is permitted to appear on the ballot under IC 3-5-7.

(2) The residence address of each nominee.

(3) The office for which each nominee was nominated.

(4) That each nominee is legally qualified to hold office.

~~(5) The political party device or emblem by which the ticket will~~

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~~be designated on the ballot.~~

(b) Both the chairman and secretary shall acknowledge the certificate before an officer authorized to take acknowledgment of deeds.

(c) The certificate must be filed with the circuit court clerk of the county having the greatest percentage of the population of the town.

(d) The certificate must be filed with the circuit court clerk no later than noon August 28 before the municipal election.

(e) The circuit court clerk shall file a copy of each certificate with the town clerk-treasurer no later than noon September 4.

SECTION 19. IC 3-8-5-14.7, AS AMENDED BY P.L.144-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14.7. (a) All questions regarding the validity of:

(1) a declaration of candidacy;

(2) a petition of nomination; **or**

(3) a certificate of nomination of a candidate by a town convention; ~~or a declaration of intent to be a write-in candidate for election to a town office~~

subject to this chapter shall be **filed under IC 3-8-1-2 not later than noon seven (7) days after the final date for filing a certificate under section 13(d) of this chapter. The question shall be** referred to and determined by the town election board (or by the appropriate county election board if a county election board is conducting the election for the town).

(b) The election board shall rule on the validity of any document described in subsection (a) not later than noon ~~September 11~~ **seven (7) days** following the **deadline for** filing of the document **required by subsection (a).**

(c) A question regarding the validity of a declaration to be a write-in candidate for election to a town office must be filed under IC 3-8-1-2 not later than the date and time specified by IC 3-8-2-14(c), and shall be determined by the election board not later than the date and time specified by IC 3-8-2-14(c).

SECTION 20. IC 3-8-6-17, AS AMENDED BY P.L.202-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) If:

(1) a petition of nomination contains the name of at least one (1) candidate who seeks to be placed on the ballot as the candidate of a political party described by section 1 of this chapter; and

(2) a candidate listed on the petition ceases to be a candidate after the petition is circulated for signature or filed;

the candidate may be replaced on the petition in accordance with this

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section.

(b) This subsection applies to a candidate described in subsection (a) who sought a federal, state, or legislative office **or a local office described by IC 3-8-2-5.** The state chairman of the political party may file a written statement with the election division stating the name of the substitute candidate. The statement must:

(1) be on a form prescribed by the commission;

(2) state the following:

(A) the name of the individual who ceased to be a candidate;

(B) the date and reason the individual ceased to be a candidate; and

(C) the name of the individual who will replace the candidate as:

(i) the individual wants the individual's name to appear on the ballot; and

(ii) the individual's name is permitted to appear on the ballot under IC 3-5-7; and

(3) be accompanied by the following:

(A) The replacement candidate's consent to be nominated by the petition and, if other candidates were listed on the petition, the signed consent of those candidates to be the replacement.

(B) The former candidate's statement of withdrawal in a form substantially similar to the form prescribed under IC 3-8-7-28 if the individual withdrew as a candidate.

A replacement candidate's consent to the nomination must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the consent to the nomination. If there is a difference between the name on the candidate's consent to the nomination and the name on the candidate's voter registration record, the officer with whom the consent to the nomination is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's consent to the nomination.

(c) This subsection applies to a candidate described in subsection (a) who sought a local office **other than a local office described by IC 3-8-2-5.** The county, city, or town chairman of the political party may file a written statement that conforms with subsection (b) with the election board conducting the election for the local office.

(d) The statement required under subsection (b) or (c) must be filed not later than the final date and time for the certification of presidential

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and vice presidential nominees under IC 3-10-4-5.

(e) If a petition of nomination is circulated or filed by an independent candidate and that individual ceases to be a candidate, another candidate may not be substituted on the petition of nomination.

SECTION 21. IC 3-8-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except as provided in subsection (f), if a political party has filed a statement with the election division (or any of its predecessors) that the device selected by the political party be used to designate the candidates of the political party on the ballot for all elections throughout the state, the device must be used until:

(1) the device is changed in accordance with party rules; and

(2) a statement concerning the use of the new device is filed with the election division.

(b) Except as provided in subsection (c), the device may be any appropriate symbol.

(c) A political party or an independent candidate may not use as a device:

(1) a symbol that has previously been filed by a political party or candidate with the election division (or any of its predecessors);

(2) the coat of arms or seal of the state or of the United States;

(3) the national or state flag; or

(4) any other emblem common to the people.

(d) Not later than noon, August 20, before each election:

(1) the state chairman of each political party whose candidates are to be certified under this section; or

(2) an individual filing a petition of nomination for candidates to be certified under this section;

shall file with the election division a camera-ready copy of the device under which the candidates of the political party or the petitioner are to be listed so that ballots may be prepared using the best possible reproduction of the device.

(e) This subsection applies to a candidate or political party whose name or device is to be printed only on ballots prepared by a county election board. Not later than noon, August 20, the chairman of the political party or the petitioner of nomination shall file a camera-ready copy of the device under which the candidates of the political party or the petitioner are to be listed with the county election board of each county in which the name of the candidate or party will be placed on the ballot. **The county election board shall provide the camera-ready copy of the device to the town election board of a town located wholly or partially within the county upon request by**

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the town election board.

(f) If a copy of the device is not filed in accordance with subsection ~~(c) or~~ (d) **or (e),** or unless a device is designated in accordance with section 26 or 27 of this chapter, the election division, ~~or~~ county election board, **or town election board** is not required to use any device to designate the list of candidates.

SECTION 22. IC 3-8-7-16, AS AMENDED BY P.L.66-2003, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) This section does not apply to the certification of nominees under IC 3-10-4-5.

(b) The election division shall certify the following to each county election board not later than noon ~~August 20~~ **seventy-four (74) days** before ~~an~~ **a general** election:

(1) The name and place of residence of each person nominated for election to:

(A) an office for which the electorate of the whole state may vote;

(B) the United States House of Representatives;

(C) a legislative office; or

(D) a local office for which a declaration of candidacy must be filed with the election division under IC 3-8-2.

(2) The name of each:

(A) justice of the supreme court;

(B) judge of the court of appeals; and

(C) judge of the tax court;

who is subject to a retention vote by the electorate and who has filed a statement under IC 33-2.1-2-6 indicating that the justice or judge wishes to have the question of the justice's or judge's retention placed on the ballot.

(c) Subject to compliance with section 11 of this chapter, the election division shall designate the device under which the list of candidates of each political party will be printed and the order in which the political party ticket will be arranged under IC 3-10-4-2 and IC 3-11-2-6.

SECTION 23. IC 3-9-4-14, AS AMENDED BY P.L.176-1999, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The election division and each county election board shall do all of the following:

(1) Ascertain whether candidates, committees, or other persons have:

(A) failed to file statements of organization or reports; or

(B) filed defective statements of organization or reports.

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(2) Give the following notices:

(A) To delinquents to file a statement of organization or a report immediately upon receipt of the notice. A delinquency notice **for a report** must be given not later than thirty (30) days after the date the report was required to be filed. The election division or a county election board may, but is not required to, give delinquency notices at other times.

(B) To persons filing defective reports to make a supplemental statement or report correcting all defects not later than noon five (5) calendar days after receipt of the notice.

(3) Make available for public inspection a list of delinquents and persons who have failed to file the required supplemental statement or report. The election division and each county election board shall post a list of delinquents in a public place at or near the entrance of the commission's or board's respective offices.

(b) The election division shall mail:

(1) to each candidate required to file a campaign finance report with the election division; and

(2) twenty-one (21) days before the campaign finance reports are due;

the proper campaign finance report forms and a notice that states the date the campaign finance reports are due. The election division is required to mail notices and forms only to candidates for state offices and legislative offices. A county election board may, but is not required to, implement this subsection for candidates for local offices.

(c) Notwithstanding any notice given to a delinquent under subsection (a) or (b), the delinquent remains liable for a civil penalty in the full amount permitted under this chapter for failing to file a campaign finance report or statement of organization not later than the date and time prescribed under this article.

SECTION 24. IC 3-9-4-16, AS AMENDED BY P.L.66-2003, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:

(1) Fails to file with the election division a report in the manner required under IC 3-9-5.

(2) Fails to file a statement of organization required under IC 3-9-1.

(3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before

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the money or other property has passed through the hands of the treasurer of the committee.

(4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions on the committee's behalf.

(5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.

(6) Makes a contribution in the name of another person.

(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.

(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.

(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

(11) Violates IC 3-9-2-12.

(12) Fails to designate a contribution as required by IC 3-9-2-5(c).

(13) Violates IC 3-9-3-5.

(14) Serves as a treasurer of a committee in violation of any of the following:

(A) IC 3-9-1-13(1).

(B) IC 3-9-1-13(2).

(C) IC 3-9-1-18.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars ($10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars ($100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the commission shall assess a civil penalty. The penalty is fifty dollars ($50) for each day the report or statement is late, with the afternoon of the final date for filing the report or statement being

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calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars ($1,000) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the commission determines that a person is subject to a civil penalty under subsection (a), the commission may assess a civil penalty of not more than one thousand dollars ($1,000), plus any investigative costs incurred and documented by the election division.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the commission determines that a person is subject to a civil penalty under subsection (a)(5), the commission may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the election division.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the commission determines that a candidate or the candidate's committee has violated IC 3-9-2-12, the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

(1) Two (2) times the amount of any contributions received.

(2) One thousand dollars ($1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the commission determines that a corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

(1) Two (2) times the amount of the contributions undesignated.

(2) One thousand dollars ($1,000).

(h) This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has violated IC 3-9-3-5, the commission may assess a civil penalty of not more than five hundred dollars ($500), plus any investigative costs incurred and documented by the election division.

(i) **This subsection applies to a person who is subject to a civil penalty under subsection (a)(14). If the commission determines, by unanimous vote of the entire membership of the commission, that**

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a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(14), the commission may assess a civil penalty of not more than five hundred dollars ($500), plus any investigative costs incurred and documented by the election division.

(j) All civil penalties collected under this section shall be deposited with the treasurer of state in the campaign finance enforcement account.

~~(j)~~ **(k)** Proceedings of the commission under this section are subject to IC 4-21.5.

SECTION 25. IC 3-9-4-17, AS AMENDED BY P.L.66-2003, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17. (a) In addition to any other penalty imposed, a person who does any of the following is subject to a civil penalty under this section:

(1) Fails to file with a county election board a report in the manner required under IC 3-9-5.

(2) Fails to file a statement of organization required under IC 3-9-1.

(3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.

(4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions in the committee's behalf.

(5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.

(6) Makes a contribution in the name of another person.

(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.

(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.

(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

(11) Fails to designate a contribution as required by IC 3-9-2-5(c).

(12) Violates IC 3-9-3-5.

(13) Serves as a treasurer of a committee in violation of any of the following:

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(A) IC 3-9-1-13(1).
(B) IC 3-9-1-13(2).
(C) IC 3-9-1-18.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the county election board determines that a person failed to file the report or a statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the county election board may assess a civil penalty. The penalty is ten dollars ($10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars ($100) plus any investigative costs incurred and documented by the board. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the county election board determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the board shall assess a civil penalty. The penalty is fifty dollars ($50) for each day the report is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars ($1,000) plus any investigative costs incurred and documented by the board. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the county election board determines that a person is subject to a civil penalty under subsection (a), the board may assess a civil penalty of not more than one thousand dollars ($1,000), plus any investigative costs incurred and documented by the board.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the county election board determines that a person is subject to a civil penalty under subsection (a)(5), the board may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the board.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the county election board determines that a corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the board shall assess a civil penalty equal to the greater of the following, plus any

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investigative costs incurred and documented by the board:

(1) Two (2) times the amount of the contributions undesignated.

(2) One thousand dollars ($1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the county election board determines, by unanimous vote of the entire membership of the board, that a person has violated IC 3-9-3-5, the board may assess a civil penalty of not more than five hundred dollars ($500), plus any investigative costs incurred and documented by the board.

(h) **This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the county election board determines, by unanimous vote of the entire membership of the board, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(13), the board may assess a civil penalty of not more than five hundred dollars ($500), plus any investigative costs incurred and documented by the board.**

(i) All civil penalties collected under this section shall be deposited with the county treasurer to be deposited by the county treasurer in a separate account to be known as the campaign finance enforcement account. The funds in the account are available, with the approval of the county fiscal body, to augment and supplement the funds appropriated for the administration of this article.

~~(i)~~ **(j)** Money in the campaign finance enforcement account does not revert to the county general fund at the end of a county fiscal year.

~~(j)~~ **(k)** Proceedings of the county election board under this section are subject to IC 4-21.5.

SECTION 26. IC 3-9-5-9, AS AMENDED BY P.L.199-2001, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) Except as provided in subsections (b) and (c), in a year in which a candidate is not a candidate for election to an office to which this article applies or does not seek nomination at a caucus or state convention for election to an office to which this article applies, the treasurer of the candidate's committee shall file only the report required by section 10 of this chapter.

(b) This subsection applies to a candidate who holds one (1) office and is a candidate for a different office (or has filed a statement of organization for an exploratory committee without indicating that the individual is a candidate for a specific office). The treasurer of the candidate's committee for the office the candidate holds shall file the following reports:

(1) If the committee spends, transfers in, or transfers out at least

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ten thousand dollars ($10,000) from January 1 until twenty-five (25) days before the primary election, the treasurer shall file a pre-primary report under section 6 of this chapter.

(2) If the committee spends, transfers in, or transfers out at least ten thousand dollars ($10,000) from twenty-five (25) days before the primary election until twenty-five (25) days before the general election, the treasurer shall file a pre-general election report under section 6 of this chapter.

(3) The report required under section 10 of this chapter.

(c) This subsection applies to a candidate who is required to file a pre-primary report or pre-convention report under section 6 of this chapter and who:

(1) is defeated at the primary election or convention; or

(2) withdraws or is disqualified as a candidate before the general election.

The treasurer of a candidate's committee described by this subsection is not required to file a pre-general election report under section 6 of this chapter but shall file the report required by section 10 of this chapter.

(d) This subsection applies to a candidate for election to a city office or a town office. If a municipal primary is not conducted in the municipality by one (1) or more parties authorized to conduct a primary, the candidate must file a report in accordance with the schedule set forth in section 6 of this chapter as if the primary were conducted. If a municipal election is not conducted in the municipality, the candidate must file a report in accordance with section 6 of this chapter as if the municipal election were conducted.

SECTION 27. IC 3-10-1-31, AS AMENDED BY P.L.209-2003, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) The inspector of each precinct shall deliver the bags required by section 30(a) and 30(c) of this chapter in good condition, together with poll lists, tally sheets, and other forms, to the circuit court clerk when making returns.

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

(1) an order issued under IC 3-12-6-19 or IC 3-12-11-16; or

(2) 42 U.S.C. 1973;

requires the continued preservation of the ballots or other material.

(c) This subsection applies before January 1, 2006. Upon delivery

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of the poll lists, the ~~the~~ county voter registration office may unseal the envelopes containing the poll lists. For ~~the~~ purposes of

~~(1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;~~

~~(2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;~~

~~(3) adding the registration of a voter under IC 3-7-48-8; or~~

~~(4) recording that a voter subject to IC 3-7-33-4.5 submitted the documentation~~

updating registration records to include information set forth on the lists required under 42 U.S.C. 15843 and IC 3-11-8 or IC 3-11-10, the county voter registration office may inspect the poll lists and update the registration record of the county **at any time after the registration period resumes under IC 3-7-13-10.** The county voter registration office shall use the poll lists to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the registration record. Upon completion of the inspection, the poll list shall be resealed and preserved with the ballots and other materials for the time period prescribed by subsection (b).

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

~~(1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46; or~~

~~(2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;~~

updating registration records to include information set forth on the lists, the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's current voter identification number if the voter's voter identification number is not included in the registration record. Upon completion of the inspection, the poll list shall be resealed and preserved with the ballots and other materials for the time period prescribed by subsection (b).

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

SECTION 28. IC 3-10-4-5, AS AMENDED BY P.L.66-2003, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2004]: Sec. 5. (a) This subsection applies to a major political party and to a political party subject to IC 3-8-4-10. The state chairman of each political party shall certify to the election division the names of the nominees of the party for President and Vice President of the United States and the state of which each nominee is a resident.

(b) If candidates for presidential electors are nominated by petitioners instead of by a convention of a major political party or a party subject to IC 3-8-4-10, the petitioners shall certify with the list of names of electors:

(1) the names of their nominees for President and Vice President of the United States;

(2) the state of which each nominee is a resident; and

(3) the name of the political party of the nominees, or that the nominees are an independent ticket.

(c) This subsection applies to a political party described in subsection (a) and to candidates nominated by petitioners under subsection (b). The names of:

(1) all candidates for presidential electors; and

(2) all nominees for President and Vice President of the United States;

shall be certified to the election division not later than noon on the second Tuesday in September before the general election. The election division shall certify to each county election board not later than noon on the ~~second~~ **next following** Thursday in September before the general election the names of the nominees for President and Vice President of the United States certified to the election division under this subsection.

(d) The names of all candidates for presidential electors for a write-in candidate shall be included on the declaration for candidacy filed by a write-in candidate for the office of President or Vice President of the United States filed under IC 3-8-2.

SECTION 29. IC 3-10-6-5, AS AMENDED BY P.L.122-2000, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. Except as otherwise provided in this chapter, a municipal election shall be held on the first Tuesday after the first Monday in November ~~2003~~ **2007** and every four (4) years thereafter. At the election, public officials shall be elected to each municipal ~~and school board~~ office.

SECTION 30. IC 3-10-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. **Except as otherwise provided in this chapter,** the county election board, county executive, circuit court clerk, **voters,** and members of political parties in each

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county in which a municipal primary election or municipal election will be held have the rights and shall perform the duties and furnish the assistance that they are required to do for a primary and general election under IC 3-10-1 and IC 3-11-8.

SECTION 31. IC 3-10-7-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.5. (a) The county election board shall conduct a municipal election in a town ~~that has a population of less than five hundred (500)~~ unless the town legislative body adopts a resolution during the period:

(1) beginning January 1; and

(2) ending ~~April 1;~~ **August 8;**

before the municipal election to establish a town election board under this chapter to conduct the municipal election.

(b) The town clerk-treasurer must file a copy of the resolution with the circuit court clerk of the county having the greatest percentage of the population of the town ~~before May 1~~ **not later than noon August 21** after the resolution is adopted.

(c) A resolution adopted under this section expires December 31 after its adoption.

SECTION 32. IC 3-10-7-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 21. Except as otherwise provided in this chapter, a town election board conducting a municipal election under this chapter, the town executive, the town clerk-treasurer, **voters,** and members of political parties in each town in which a municipal election is conducted under this chapter have the same rights and powers, shall perform the same duties, and are subject to the same qualifications and penalties as a county election board that is conducting a general election, or the county executive, circuit court clerk, or member of a political party in a town in which a general election is conducted by the county election board.

SECTION 33. IC 3-10-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Except as provided in subsection (b) or (c), if a special election is held at a time other than the time of a general election, the election shall be held in accordance with this title. Each county election board and other local public official who is required to perform any duties in connection with a general election shall perform the same duties for the special election, subject to the same provisions and penalties as for a general election.

(b) If a special election is held:

(1) under a court order under IC 3-12-8; or

(2) for a local public question;

the county election board may provide that several precincts may vote

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in the special election at the same polling place, if the county election board finds by unanimous vote of the entire membership of the board that the consolidation of polling places will not result in undue inconvenience to voters.

(c) If a special election is held:

(1) under a court order under IC 3-12-8 for a school board office; or

(2) for a local public question;

the county election board may by unanimous vote of the entire membership of the board adopt a resolution to provide that each precinct election board will include only one (1) inspector and one (1) judge, and that only one (1) sheriff and one (1) poll clerk may be nominated as precinct election officers. **If the board has adopted a resolution under subsection (b), a resolution adopted under this subsection may also provide for more than one (1) precinct to be served by the same precinct election board.** A resolution adopted under this subsection may not be rescinded by the county election board and expires the day after the special election is conducted.

(d) The following procedures apply if a county election board adopts a resolution under subsection (c):

(1) The inspector shall be nominated by the county chairman entitled to nominate an inspector under IC 3-6-6-8.

(2) The judge shall act as a clerk whenever this title requires that two (2) clerks perform a duty.

(3) The poll clerk shall act as a judge whenever this title requires that two (2) judges perform a duty.

SECTION 34. IC 3-10-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) If the special election occurs during the period when registration is open under IC 3-7-13, the registration period continues through the twenty-ninth day before the special election occurs and resumes on the ~~first day of the month following the month in which the special election is conducted.~~ **date specified by IC 3-7-13-10(d).**

(b) The election board conducting the special election shall provide poll lists for use at the precincts that include the names of voters in the precinct who:

(1) have registered through the twenty-ninth day before the special election is to be conducted; or

(2) are absent uniformed services voters or overseas voters registered under IC 3-7-36.

(c) This subsection applies when a special election is ordered by a court under IC 3-12-8-17 or the state recount commission under

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IC 3-12-11-18. A candidate may not be placed on the special election ballot unless the candidate was on the ballot or was a declared write-in candidate for the office at the general election preceding the special election.

(d) The restrictions on the sale of alcoholic beverages set forth in IC 7.1-5-10-1 apply in each precinct in which the special election is conducted.

SECTION 35. IC 3-11-1.5-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 33. **(a)** If the boundaries of a municipality are extended before

~~(1) thirty (30) days before~~ a municipal primary election or

~~(2) thirty (30) days before~~ a municipal election,

and the territory within those boundaries has not been included in precincts wholly within the municipality, the voters within the extended boundaries may vote, if otherwise qualified, in the municipal primary election or municipal election.

(b) The voters may vote in the precinct in which they have their residence as if the precinct had been established to include them in a precinct wholly within the municipality. These votes shall be counted and included in the canvass of the votes cast in the municipal primary election or municipal election.

SECTION 36. IC 3-11-2-12.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12.7. (a) This section applies to candidates for election to at-large seats on the fiscal or legislative body of a political subdivision.

(b) Candidates shall be listed in alphabetical order according to surname within each row or column on the ballot.

(c) In each row or column on the ballot in which the names of candidates appear, the ballot shall contain a statement reading substantially as follows above the name of the first candidate: "Vote for not more than (insert number of candidates to be elected) candidates of ANY party or ticket for this office.".

(d) If more than one (1) candidate for an at-large seat was nominated by the same petition of nomination, these candidates shall be listed in alphabetical order by surname within the same row or column on the ballot, with the position of the row or column being determined under section 6 of this chapter.

SECTION 37. IC 3-11-3-2, AS AMENDED BY P.L.126-2002, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The election division shall have printed and shall distribute to the circuit court clerk of each county at each general election the following:

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(1) If only paper ballots are used, the number of state paper ballots (and presidential ballots in a presidential election year) equal to one hundred percent (100%) of the number of voters in the county.

(2) If voting machines, ballot card voting systems, or electronic voting systems are used, only the number of presidential and state paper ballots that, in the election division's judgment, are necessary to meet an emergency.

(3) ~~After December 31, 2003,~~ The number of provisional ballots for state offices (and provisional ballots for **electors for** President of the United States in presidential election years) that the election division considers necessary.

(b) The paper ballots shall be wrapped in packages, plainly marked, and securely sealed.

(c) The provisional ballots shall be separately wrapped in packages from the other paper ballots, plainly marked, and securely sealed.

(d) The clerk shall give a receipt for the paper ballots and the provisional ballots.

SECTION 38. IC 3-11-4-1, AS AMENDED BY P.L.126-2002, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A voter who is otherwise qualified to vote in person is entitled to vote by absentee ballot. Except as otherwise provided in this article, a voter voting by absentee ballot must vote in the office of the circuit court clerk **(or board of elections and registration in a county subject to IC 3-6-5.2)** or at a satellite office established under IC 3-11-10-26.3.

(b) A county election board, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the board determines that the person has been hospitalized or suffered an injury following the final date and hour for applying for an absentee ballot that would prevent the person from voting in person at the polls.

(c) The commission, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the commission determines that an emergency prevents the person from voting in person at a polling place.

(d) The absentee ballots used in subsection (b) or (c) must be the same official absentee ballots as described in section 12 and 13 of this chapter. Taking into consideration the amount of time remaining before the election, the commission shall determine whether the absentee ballots are transmitted to and from the voter by mail or personally delivered. An absentee ballot that is personally delivered shall comply

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with the requirements in sections 19, 20, and 21 of this chapter.

SECTION 39. IC 3-11-4-3, AS AMENDED BY P.L.1-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (b) and section 6 of this chapter, an application for an absentee ballot must be received by the circuit court clerk (or, in a county subject to IC 3-6-5.2, the director of the board of elections and registration) not earlier than ninety (90) days before election day nor later than the following:

(1) Noon on election day if the voter registers to vote under IC 3-7-36-14.

(2) Noon on the day before election day if the voter completes the application in the office of the circuit court clerk **or is an absent uniformed services voter or overseas voter who requests that the ballot be transmitted by fax under section 6(h) of this chapter.**

(3) Noon on the day before election day if:

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

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

(4) Midnight on the eighth day before election day if the application:

(A) is a mailed application; or

(B) was transmitted by fax;

from other voters.

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

SECTION 40. IC 3-11-4-18, AS AMENDED BY P.L.209-2003, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 18. (a) If a voter satisfies any of the following, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address

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stated in the application:

(1) The voter will be absent from the county on election day.

(2) The voter will be absent from the precinct of the voter's residence on election day because of service as:

(A) a precinct election officer under IC 3-6-6;

(B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;

(C) a challenger or pollbook holder under IC 3-6-7; or

(D) a person employed by an election board to administer the election for which the absentee ballot is requested.

(3) The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury.

(4) The voter is a voter with disabilities.

(5) The voter is an elderly voter.

(6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury.

(7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.

(8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

(b) ~~This subsection applies after December 31, 2003.~~ If the county election board mails an absentee ballot to a voter required to file additional documentation with the county voter registration office before voting by absentee ballot under this chapter, the board shall include a notice to the voter in the envelope mailed to the voter under section 20 of this chapter. The notice must inform the voter that the voter must file the additional documentation required under IC 3-7-33-4.5 with the county voter registration office not later than noon on election day for the absentee ballot to be counted **as an absentee ballot, and that, if the documentation required under IC 3-7-33-4.5 is filed after noon and before 6 p.m. on election day, the ballot will be processed as a provisional ballot.** The commission shall prescribe the form of this notice under IC 3-5-4-8.

(c) The ballot shall be mailed:

(1) on the day of the receipt of the voter's application; or

(2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;

whichever is later.

(d) In addition to the ballot mailed under subsection (c), the county election board shall mail a special absentee ballot for overseas voters.

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

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(1) must be mailed:

(A) on the day of the receipt of the voter's application; or

(B) not more than five (5) days after the **latest** date ~~of~~ **for** delivery of the ballots under section 13(b) of this chapter **applicable to that election;**

whichever is later; and

(2) may not be mailed after the absentee ballots described by section 13(a) of this chapter have been delivered to the circuit court clerk or the clerk's authorized deputy.

(f) This subsection applies after December 31, 2005. As required by 42 U.S.C. 15481, an election board must establish a voter education program (specific to a paper ballot or optical scan ballot card provided as an absentee ballot under this chapter) to notify a voter of the effect of casting multiple ballots for a single office.

(g) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is mailed under this section, the mailing must include:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 41. IC 3-11-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter who:

(1) is a voter with disabilities; or

(2) is unable to read or write English;

may request assistance in voting before entering the voting booth and designate a person (other than the voter's employer, an officer of the voter's union, or an agent of the voter's employer or union) to assist the voter in voting at an election, as required by 42 U.S.C. 1973aa-6.

(b) This subsection does not apply to a person designated by a voter described by subsection (a) who is voting absentee before two (2) members of the absentee voter board. The person designated must execute a sworn affidavit on a form provided by the precinct election board ~~or absentee voter board~~ stating that, to the best of the designated person's knowledge, the voter:

(1) is a voter with disabilities or is unable to read or write English; and

(2) has requested the designated person to assist the voter in voting under this section.

(c) The person designated may then accompany the voter into the voting booth and assist the voter in marking the voter's paper ballot or ballot card or in registering the voter's vote on the voting machine or

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electronic voting system.

SECTION 42. IC 3-11-10-16, AS AMENDED BY P.L.209-2003, SECTION 143, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) If the inspector finds under section 15 of this chapter that:

(1) the affidavit is properly executed;

(2) the signatures correspond;

(3) the absentee voter is a qualified voter of the precinct;

(4) the absentee voter is registered and ~~after December 31, 2003,~~ is not required to file additional information with the county voter registration office under IC 3-7-33-4.5;

(5) the absentee voter has not voted in person at the election; and

(6) in case of a primary election, if the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political party with which the absentee voter intends to affiliate;

then the inspector shall open the envelope containing the absentee ballots so as not to deface or destroy the affidavit and take out each ballot enclosed without unfolding or permitting a ballot to be unfolded or examined.

(b) The inspector shall then hand the ballots to the judges who shall deposit the ballots in the proper ballot box and enter the absentee voter's name on the poll list, as if the absentee voter had been present and voted in person. **The judges shall mark the poll list to indicate that the voter has voted by absentee ballot.** If the voter has registered and voted under IC 3-7-36-14, the inspector shall attach to the poll list the circuit court clerk's certification that the voter has registered.

(c) If an absentee ballot is opened under this section in a precinct using voting machines, the precinct election board shall prepare certificates and memoranda under IC 3-12-2-6 that distinguish the votes cast by absentee ballots from votes cast on voting machines.

SECTION 43. IC 3-11-10-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. The vote of an absentee voter may be challenged at the polls for the reason that the absentee voter is not a legal voter of the precinct where the ballot is being cast. The ~~precinct election board may hear and determine a~~ challenge under this section ~~as though the ballot was cast by the voter in person.~~ **regarding the absentee ballot must be determined using the procedures for counting a provisional ballot under IC 3-11.7.**

SECTION 44. IC 3-11-10-26, AS AMENDED BY P.L.209-2003, SECTION 147, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) As an alternative to

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voting by mail, a voter is entitled to cast an absentee ballot before an absentee voter board:

(1) in the office of the circuit court clerk **(or board of elections and registration in a county subject to IC 3-6-5.2);** or

(2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must sign an application on the form prescribed by the commission under IC 3-11-4-5.1 before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than twenty-nine (29) days nor later than noon on the day before election day.

(d) **An absent uniformed services voter who is eligible to vote by absentee ballot in the circuit court clerk's office under IC 3-7-36-14 may vote before the board not earlier than twenty-nine (29) days before the election and not later than noon on election day. If a voter described by this subsection wishes to cast an absentee ballot during the period beginning at noon on the day before election day and ending at noon on election day, the county election board or absentee voter board may receive and process the ballot at a location designated by resolution of the county election board.**

(e) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

~~(e)~~ **(f)** Notwithstanding subsection ~~(d),~~ **(e),** in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

~~(f)~~ **(g)** This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

(1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;

(2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and

(3) notified before the ballot is cast regarding the effect of casting

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multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

~~(g)~~ **(h)** As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 45. IC 3-11-10-26.2, AS ADDED BY P.L.69-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26.2. (a) A:

(1) county election board; or

(2) board of elections and registration;

of a county subject to IC 3-11.5 may adopt a resolution to authorize the circuit court clerk to use an electronic voting system for voting by absentee ballot in the office of the circuit court clerk **or board of elections and registration.**

(b) A resolution adopted under this section must be adopted by the unanimous vote of the board's entire membership.

(c) A resolution adopted under this section must provide procedures to **do the following:**

(1) Secure absentee votes cast on an electronic voting system that provide protection comparable to the protection provided to absentee votes cast by paper ballot.

(2) Compare the signature on an absentee ballot application with the applicant's signature on the applicant's voter registration application.

(3) Ensure that an invalid ballot (as determined under IC 3-11.5) is not counted.

(d) A resolution adopted under this section may contain other provisions the board considers useful.

(e) If a resolution is adopted under this section, the circuit court clerk may use as many electronic voting machines for recording absentee votes as the clerk considers necessary, subject to the resolution adopted by the board.

(f) Notwithstanding any other law, an absentee ballot voted on an electronic voting system under this section is not required to bear the seal, signature, and initials prescribed by section 27 of this chapter.

(g) If a resolution is adopted under this section, the procedure for casting an absentee ballot on an electronic voting system must, except as provided in this section, be substantially the same as the procedure for casting an absentee ballot in the office of the circuit court clerk

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under section 26 of this chapter.

SECTION 46. IC 3-11-10-28, AS AMENDED BY P.L.209-2003, SECTION 148, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) A voter voting before an absentee voter board shall mark the voter's ballot in the presence of the board, but not in such a manner that either of the members of the board can see for whom the voter voted, unless the voter requests the help of the board in marking a ballot under IC 3-11-9.

(b) The voter shall then, in the presence of the board, place the ballot in an envelope furnished by the county election board.

(c) The circuit court clerk shall provide, to the extent practicable, the same degree of privacy to absentee voters voting at the office of the circuit court clerk as provided to voters at the polls on election day.

(d) This subsection applies to a voter required to present additional information under IC 3-7-33-4.5. If the voter does not present the required additional information before receiving the absentee ballot, the absentee ballot shall be processed ~~as a provisional ballot under IC 3-11.7.~~ **in accordance with section 4.5(d) of this chapter.**

(e) Upon accepting the completed absentee ballot from the voter, the board shall provide the voter with a notice:

(1) listing the documentation the voter may submit to the county voter registration office to comply with IC 3-7-33-4.5; and

(2) stating the address and hours of the county voter registration office.

SECTION 47. IC 3-11-10-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. (a) Not later than noon ten (10) days before absentee voting begins under section 26 of this chapter, each county election board shall notify the county chairmen of the two (2) political parties that have appointed members on the county election board of the number of absentee voter boards to be appointed under section 36 of this chapter.

(b) The county chairmen shall make written recommendations for the appointments to the county election board not later than noon three (3) days before absentee voting begins under section 26 of this chapter. The county election board shall make the appointments as recommended. If a county chairman fails to make any recommendations, then the county election board may appoint any voters of the county **who comply with section 36 of this chapter.**

SECTION 48. IC 3-11-13-23, AS AMENDED BY P.L.26-2000, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) The two (2) appointed members of the county election board shall observe the test required by section 22 of

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this chapter and certify the test as meeting the requirements of section 22 of this chapter.

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

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

SECTION 49. IC 3-11.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this article, "central location for counting absentee ballots" refers to a location for counting absentee ballots that a county election board ~~in a pilot county~~ must establish under ~~IC 3-11.5-1-3.~~ **this article.**

SECTION 50. IC 3-11.5-4-13, AS AMENDED BY P.L.1-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) If the absentee ballot counters find under section 11 of this chapter that any of the following applies, the ballots shall be rejected:

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

(A) the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-27;

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

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

(2) The signatures do not correspond or there is no signature.

(3) The absentee voter is not a qualified voter in the precinct.

(4) The absentee voter has voted in person at the election.

(5) The absentee voter has not registered.

(6) The ballot is open or has been opened and resealed. This subdivision does not permit an absentee ballot transmitted by fax to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax.

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

(8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate.

(9) The ballot has been challenged and not supported.

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

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

(2) on an absentee ballot security envelope that corresponds with the voter's signature:

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

(B) on the absentee ballot application.

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

(1) The absentee voter board under section 22 of this chapter.

(2) A member of the voter's household.

(3) An individual serving as attorney in fact for the voter.

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

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

~~(c)~~ **(f)** The absentee ballot counters or county election board shall issue a certificate to a voter whose ballot has been rejected under this section if the voter appears in person before the board not later than 5 p.m. on election day. The certificate must state that the voter's absentee ballot has been rejected and that the voter may vote in person under section 21 of this chapter if otherwise qualified to vote.

SECTION 51. IC 3-11.5-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The vote of an absentee voter may be challenged at the polls for the reason that the absentee voter is not a legal voter of the precinct where the ballot is being cast.

(b) Before the inspector prepares to mark the poll list to indicate that an absentee ballot cast by the voter has been received by the county election board according to a certificate delivered to the polls under section 1 or section 8 of this chapter, the inspector shall notify the challengers and the pollbook holders that the inspector is about to mark the poll list under this section. The inspector shall provide the challengers and pollbook holders with the name and address of each voter listed in the certificate so that the voter may be challenged under this article.

(c) The ~~precinct election board may hear and determine a~~ challenge under this section ~~as though the ballot was cast by the voter in person.~~

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must be determined using the procedures for counting a provisional ballot under IC 3-11.7.

SECTION 52. IC 3-11.5-4-23, AS AMENDED BY P.L.38-1999, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) Not later than noon ten (10) days before absentee voting begins under IC 3-11-10-26, each county election board shall notify the county chairmen of the two (2) political parties that have appointed members on the county election board of the number of:

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

to be appointed under section 22 of this chapter.

(b) The county chairmen shall make written recommendations for the appointments to the county election board not later than noon three (3) days before absentee voting begins under IC 3-11-10-26. The county election board shall make the appointments as recommended.

(c) If a county chairman fails to make any recommendations, then the county election board may appoint any voters of the county **who comply with section 22 of this chapter.**

SECTION 53. IC 3-11.7-1-5, AS AMENDED BY P.L.209-2003, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) Provisional ballots for:

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

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

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

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

(d) The provisional ballots that are prepared and printed under this section shall be delivered to the circuit court clerk or the clerk's authorized deputy not later than forty-five (45) days before a general election or twenty-nine (29) days before a special election. The provisional ballots shall be delivered in the same manner that other

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official ballots are delivered.

(e) This subsection applies to the printing of provisional ballots for a general election in which the names of the nominees for President and Vice President of the United States are to be printed on the ballot. The provisional ballots that are prepared and printed under this section must be delivered to the circuit court clerk or the clerk's authorized deputy not later than thirty-eight (38) days before the general election.

SECTION 54. IC 3-11.7-1-6, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) All provisional ballots other than those described in section 5 of this chapter shall be prepared and printed under the direction of each county election board.

(b) After completing the estimate required by section 4 of this chapter, the county election board shall immediately prepare the ballots and have the ballots printed.

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

(d) The provisional ballots that are prepared and printed under this section shall be delivered to the circuit court clerk not later than:

(1) forty-five (45) days before a general, primary, or municipal election; or

(2) thirty-two (32) days before a special election.

(e) This subsection applies to the printing of provisional ballots for a general election in which the names of the nominees for President and Vice President of the United States are to be printed on the ballot. The provisional ballots that are prepared and printed under this section must be delivered to the circuit court clerk or the clerk's authorized deputy not later than thirty-eight (38) days before the general election.

SECTION 55. IC 3-11.7-3-2, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. An otherwise qualified person is eligible to serve as a counter unless the person:

(1) is unable to read, write, and speak the English language;

(2) has any property bet or wagered on the result of the election;

(3) is a candidate to be voted for at the election **in any part of the county,** except as an unopposed candidate for precinct committeeman or state convention delegate; or

(4) is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece

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of a candidate or declared write-in candidate to be voted for at the election **in any part of the county,** except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption.

SECTION 56. IC 3-11.7-3-5, AS AMENDED BY P.L.209-2003, SECTION 175, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. If a county chairman fails to make any recommendations not later than the deadline specified under section 4 of this chapter, the county election board may appoint any voters of the county **who comply with section 2 of this chapter.**

SECTION 57. IC 3-11.7-5-1, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) After the close of the polls, provisional ballots shall be counted as provided in this chapter.

(b) **Notwithstanding IC 3-5-4-1.5 and any legal holiday observed under IC 1-1-9,** all provisional ballots must be counted by not later than noon on the Monday following the election.

SECTION 58. IC 3-12-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Each petitioner shall furnish a cash deposit or file 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).

(b) This subsection applies if, 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%) **of the total votes cast for all candidates for the nomination or office.** If the number of precincts to be recounted exceeds ten (10), the amount of the deposit or bond shall be increased by ten dollars ($10) for each precinct in excess of ten (10).

(c) This subsection applies if, 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%) **of the total votes cast for all candidates for the nomination or office.** If the number of precincts to be recounted exceeds ten (10), the amount of the deposit or bond shall be increased by one hundred dollars ($100) for each precinct in excess of ten (10).

(d) If a petition is joint, a joint bond may be furnished.

(e) The costs of a recount may include the following:

(1) Compensation of recount commissioners.

(2) Compensation of additional employees required to conduct the

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recount, including overtime payments to regular employees who are eligible to receive such payments.

(3) Postage and telephone charges directly related to the recount.

(f) The costs of a recount may not include the following:

(1) General administrative costs.

(2) Security.

(3) Allowances for meals or lodging.

(g) 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. 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.

(h) Any unexpended balance remaining in a deposit after payment of all costs of the recount and the refund, if a refund is made, shall be deposited in the county general fund.

SECTION 59. IC 3-12-8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) A contest shall be heard and determined by the court without a jury subject to the Indiana Rules of Trial Procedure.

(b) The court shall determine the issues raised by the petition and answer to the petition.

(c) After hearing and determining a petition alleging that a candidate is ineligible, the court shall declare as elected or nominated the qualified candidate who received the highest number of votes and render judgment accordingly.

(d) If the court finds that:

(1) a mistake in the printing or distribution of the ballots **used in the election;**

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

(3) a malfunction of a voting machine or an electronic voting system; **or**

(4) the occurrence of a deliberate act or series of actions;

makes it impossible to determine which candidate received the highest number of votes, the court shall order that a special election be conducted under IC 3-10-8.

(e) The special election shall be conducted in the precincts identified in the petition in which the court determines that:

(1) ballots containing the printing mistake or distributed by mistake were cast;

(2) a mistake occurred in the programming of a voting machine

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or an electronic voting system; ~~or~~

(3) a voting machine or an electronic voting system malfunctioned; **or**

(4) the deliberate act or series of actions occurred.

SECTION 60. IC 3-12-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The fiscal body of a political subdivision that receives notice under section 3 of this chapter shall resolve the tie vote by electing a person to fill the office ~~at its organizational meeting in January~~ **not later than December 31** following the election at which the tie vote occurred. The fiscal body shall select one (1) of the candidates who was involved in the tie vote to fill the office. **If a tie vote has occurred for the election of more than one (1) at-large seat on a legislative or fiscal body, the fiscal body shall select the number of individuals necessary to fill each of the at-large seats for which the tie vote occurred.** However, a member of a fiscal body who runs for reelection and is involved in a tie vote may not cast a vote under this section.

(b) The executive of the political subdivision (other than a town) may cast the deciding vote to break a tie vote in a fiscal body acting under this section. The clerk-treasurer of the town may cast the deciding vote to break a tie vote in a town fiscal body acting under this section.

SECTION 61. IC 3-12-10-12, AS AMENDED BY P.L.176-1999, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The expenses of a recount conducted by the state recount commission shall be paid from the state recount fund following the commission's determination of whether a full or partial refund of the cash deposit should be granted under IC 3-12-11-10.

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

(c) **Notwithstanding subsections (a) and (b), the expenses incurred by a party to a recount or contest for:**

(1) the appearance of an individual; or

(2) the copying or production of documents;

in response to a subpoena approved by the state recount commission shall be borne by that party and are not subject to reimbursement under this chapter.

(d) A person (other than a party to a recount or contest) who claims reimbursement of expenses described by subsection (a) or (b) must submit a claim to the state recount commission not later than noon sixty (60) days after the commission adopts a final order concerning the

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recount or contest. If the commission approves the claim, the treasurer of state shall issue a warrant to the person in accordance with IC 5-13-5.

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

SECTION 62. IC 3-12-11-10, AS AMENDED BY P.L.176-1999, SECTION 109, 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 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%) **of the total votes cast for all candidates for the nomination or office.**

(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%) **of the total votes cast for all candidates for the nomination or office.**

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%) **of the total votes cast for the nomination or office.**

(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%) **of the total votes cast for the nomination or office.**

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

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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 been satisfied shall be deposited in the state recount fund.

SECTION 63. IC 3-12-11-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) When a recount is completed by the state recount commission or its designee, the commission shall:

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

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

(3) file its certificate with the election division.

(b) When a contest proceeding in which a candidate is alleged to be ineligible is completed by the state recount commission or its designee, the commission shall make a final determination concerning the eligibility of the candidate for nomination or election to the office.

(c) If the state recount commission or its designee determines that:

(1) a mistake was made in the printing or distribution of ballots **used in the election;**

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

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

(4) a deliberate act or series of actions occurred;

that makes it impossible to determine which candidate received the highest number of votes cast, the commission shall order that a special

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election be conducted under IC 3-10-8.

(d) The special election ordered under subsection (c) shall be held in the precincts identified in the petition in which the commission determines that: ~~ballots:~~

(1) **ballots** containing the printing mistake or ~~(2)~~ distributed by mistake were cast;

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

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

(4) a deliberate act or series of actions occurred.

SECTION 64. IC 3-12-11-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19.5. As required under 3 U.S.C. 5, any recount or contest proceeding concerning the election of presidential electors must be concluded not later than six (6) days before the ~~third Tuesday in December following the general election at which the electors were elected.~~ **time fixed by federal law for the meeting of the electors.**

SECTION 65. IC 3-13-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. The selection of a person as a candidate under this chapter is not effective unless:

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

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

(B) **not later than** when the certificate is filed; and

(2) the candidate has complied with any requirement under IC 3-8-1-33 to file a statement of economic interests.

SECTION 66. IC 3-13-7-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. (a) This section does not apply to a school board office.**

(b) This section applies to a vacancy in an elected office in a political subdivision:

(1) in which each candidate is required by statute to be placed on the ballot as a nonpartisan candidate for the office; and

(2) for which this article does not otherwise provide a method for filling.

(c) The vacancy shall be filled as follows:

(1) The remaining members of the body shall fill the vacancy by a majority of the votes of the remaining members of the body.

(2) If there are no remaining members of the body, the county

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executive of the county containing the greatest percentage of the population of the political subdivision shall fill the vacancy in the manner provided by section 2 of this chapter.

SECTION 67. IC 3-13-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. **(a)** A vacancy in the office of township trustee:

(1) not covered by section 1 of this chapter; **or**

(2) covered by section 1 of this chapter, but that exists after the thirtieth day after the vacancy occurs;

shall be filled by the board of commissioners of the county at a regular or special meeting.

(b) The county auditor shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:

(1) be in writing;

(2) state the purpose of the meeting;

(3) state the date, time, and place of the meeting; and

(4) be sent by first class mail to each commissioner at least ten (10) days before the meeting.

SECTION 68. IC 3-13-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. **(a)** A vacancy on the township board of a township:

(1) not covered by section 1 of this chapter; **or**

(2) covered by section 1 of this chapter, but that exists after the thirtieth day after the vacancy occurs;

shall be filled by the board of commissioners of the county at a regular or special meeting.

(b) The county auditor shall give notice of the meeting, which shall be held within thirty (30) days after the vacancy occurs. The notice must:

(1) be in writing;

(2) state the purpose of the meeting;

(3) state the date, time, and place of the meeting; and

(4) be sent by first class mail to each commissioner at least ten (10) days before the meeting.

SECTION 69. IC 3-13-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. **(a) This section does not apply to the office of a judge.**

(b) Subject to sections 13 through 17 of this chapter, the chief deputy employee of the office that is vacant assumes the duties of that office for the period of time between when a vacancy occurs and when the office is filled under this chapter in a **circuit,** county, city, ~~or~~ town,

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~~office,~~ or ~~in the office of~~ township ~~trustee.~~ **office.**

SECTION 70. IC 3-13-11-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. **(a) This section does not apply to the office of a judge.**

(b) In accordance with section 12 of this chapter, if a chief deputy employee does not exist in a **circuit or** county office, or the chief deputy employee declines or is ineligible to serve, the board of county commissioners shall appoint, as soon as is reasonably possible, a person to assume the duties of the office until the office is filled under this chapter.

(c) If a circuit contains more than one (1) county, the boards of county commissioners of the counties shall meet in joint session at the county seat of the county that contains the greatest percentage of population of the circuit to appoint an individual under this section.

SECTION 71. IC 3-13-11-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. **(a) This section does not apply to the office of a judge or a township board member.**

(b) In accordance with section 12 of this chapter, if a chief deputy employee does not exist in ~~the~~ **a township** office ~~of township trustee,~~ or the chief deputy employee declines or is ineligible to serve, the chairman of the township board assumes the duties of the township ~~trustee~~ **office** until the office is filled under this chapter.

SECTION 72. IC 3-14-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A person not authorized by this title who recklessly:

(1) enters the polls;

(2) enters within the railing leading from the challenge window or door to the entrance of the polls without having been passed by the challengers or having been sworn in; or

(3) remains within the polls or within ~~fifty (50) feet of the entrance to~~ the ~~polls~~ **chute** in violation of IC 3-11-8-15 or IC 3-11-8-16;

commits a Class A misdemeanor.

SECTION 73. IC 4-2-6-8, AS AMENDED BY P.L.44-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The following persons shall file a written financial disclosure statement:

(1) The governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, and state superintendent of public instruction.

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(2) Any candidate for one (1) of the offices in subdivision (1) who is not the holder of one (1) of those offices.

(3) Any person who is the appointing authority of an agency.

(4) The director of each division of the department of administration.

(5) Any purchasing agent within the procurement division of the department of administration.

(6) An employee required to do so by rule adopted by the commission.

(b) The statement shall be filed with the commission as follows:

(1) Not later than February 1 of every year, in the case of the state officers and employees enumerated in subsection (a).

(2) **If the individual has not previously filed under subdivision (1) during the present calendar year and is filing as a candidate for a state office listed in subsection (a)(1),** before filing a declaration of candidacy under IC 3-8-2 **or IC 3-8-4-11,** petition of nomination under IC 3-8-6, or declaration of intent to be a write-in candidate under IC 3-8-2-2.5, or before a certificate of nomination is filed under IC 3-8-7-8, in the case of a candidate for one (1) of the state offices **(unless the statement has already been filed when required under IC 3-8-4-11).**

(3) Not later than sixty (60) days after employment or taking office, unless the previous employment or office required the filing of a statement under this section.

(4) Not later than thirty (30) days after leaving employment or office, unless the subsequent employment or office requires the filing of a statement under this section.

The statement must be made under affirmation.

(c) The statement shall set forth the following information for the preceding calendar year or, in the case of a state officer or employee who leaves office or employment, the period since a previous statement was filed:

(1) The name and address of any person known:

(A) to have a business relationship with the agency of the state officer or employee or the office sought by the candidate; and

(B) from whom the state officer, candidate, or the employee, or that individual's spouse or unemancipated children received a gift or gifts having a total fair market value in excess of one hundred dollars ($100).

(2) The location of all real property in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children has an equitable or legal interest either

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amounting to five thousand dollars ($5,000) or more or comprising ten percent (10%) of the state officer's, candidate's, or the employee's net worth or the net worth of that individual's spouse or unemancipated children. An individual's primary personal residence need not be listed, unless it also serves as income property.

(3) The names and the nature of the business of the employers of the state officer, candidate, or the employee and that individual's spouse.

(4) The following information about any sole proprietorship owned or professional practice operated by the state officer, candidate, or the employee or that individual's spouse:

(A) The name of the sole proprietorship or professional practice.

(B) The nature of the business.

(C) Whether any clients are known to have had a business relationship with the agency of the state officer or employee or the office sought by the candidate.

(D) The name of any client or customer from whom the state officer, candidate, employee, or that individual's spouse received more than thirty-three percent (33%) of the state officer's, candidate's, employee's, or that individual's spouse's nonstate income in a year.

(5) The name of any partnership of which the state officer, candidate, or the employee or that individual's spouse is a member and the nature of the partnership's business.

(6) The name of any corporation (other than a church) of which the state officer, candidate, or the employee or that individual's spouse is an officer or a director and the nature of the corporation's business.

(7) The name of any corporation in which the state officer, candidate, or the employee or that individual's spouse or unemancipated children own stock or stock options having a fair market value in excess of ten thousand dollars ($10,000). A time or demand deposit in a financial institution or insurance policy need not be listed.

(8) The name and address of the most recent former employer.

(9) Additional information that the person making the disclosure chooses to include.

Any such state officer, candidate, or employee may file an amended statement upon discovery of additional information required to be reported.

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(d) A person who:

(1) fails to file a statement required by rule or this section in a timely manner; or

(2) files a deficient statement;

upon a majority vote of the commission, is subject to a civil penalty at a rate of not more than ten dollars ($10) for each day the statement remains delinquent or deficient. The maximum penalty under this subsection is one thousand dollars ($1,000).

(e) A person who intentionally or knowingly files a false statement commits a Class A infraction.

SECTION 74. IC 20-4-8-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) Members of the metropolitan board of education shall be elected by the registered voters of the metropolitan school district at the primary elections held biennially in the state commencing with the next primary election which is held more than sixty (60) days after the creation of the metropolitan school district as provided ~~herein.~~ **in this chapter.** Nominations for each member of the board of education shall be made by a petition signed by the nominee and by ten (10) registered voters residing in the same board member district as the nominee. Such petition shall be filed not earlier than the date on which a petition of nomination may first be filed under IC 3-8-6-10 and not later than noon on the last date provided by IC 3-8-2-4 for the filing of a declaration of candidacy for the primary election with the clerk of the circuit court in each county in which such metropolitan school district is located.

(b) Nominees for school board members shall be listed on the primary election ballot in the form prescribed by IC 3-10-1-19, by board member districts without party designation. Such ballot shall state ~~thereon~~ the number of board members to be voted upon and the maximum number which may be elected from each board member district in compliance with section 15 of this chapter. No ballot shall be valid where more than such maximum number are voted upon from any such board member district. The election boards in the various precincts and in the county or counties serving at each primary election shall conduct the election for school board members. Each registered voter may vote in such school board election without otherwise voting in the primary election.

(c) Voting and tabulation of votes shall be conducted in the same manner as voting and tabulation in primary elections are conducted, and the candidates having the greatest number of votes shall be elected. If more than the maximum number which may be elected from any board member district as provided in section 15 of this chapter are

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among those having the greatest number of votes, the lowest of those candidates from such board member district in excess of such maximum number shall be eliminated in determining the candidates who are elected. In the event of a tie vote for any of said candidates, the judge of the circuit court in the county where the majority of the registered voters of the metropolitan school district reside shall select one (1) of said candidates who shall be declared and certified elected.

(d) If at any time after the first board member election there shall occur a vacancy on the board for any reason including ~~but not limited to~~ the failure of the sufficient number of petitions for candidates being filed, and whether the vacating member was elected or appointed, the remaining members of the metropolitan board of education, whether or not a majority of the board, shall by a majority vote fill such vacancy by appointing a person from the board member district from which the person who vacated the board membership was elected, or if such person was appointed, the board member district from which the last elected predecessor of such person was elected. In the event of a tie vote among the remaining members of the board or their failure to act within thirty (30) days after any such vacancy occurs, it shall be the duty of the judge of the circuit court in the county where the majority of registered voters of the metropolitan school district reside to make such appointment. A successor to such appointive board member shall be elected at the next primary election which is held more than sixty (60) days after any elected board member vacates membership on the board; or at the primary election held immediately prior to the end of the term for which such vacating member was elected, whichever is sooner. Unless such successor takes office at the end of the term of such vacating member, the member shall serve only for the balance of such term. In any election of a successor board member to fill a vacancy for a two (2) year balance of a term, nominating petitions for school board membership candidacy need not be filed for or with reference to the vacancy. **However, as required by IC 3-11-2-14.5, candidates for at-large seats shall be distinguished on the ballot from candidates for district seats. If there is more than one (1) at-large seat on the ballot due to this vacancy,** the elected candidate who receives the lowest number of votes at the election at which such successor is elected shall serve for such two (2) year term.

(e) At the first primary election wherein members of the metropolitan board of education shall be elected under this section, a simple majority of the elected candidates, consisting of those elected candidates who receive the highest number of votes, shall be elected for four (4) year terms and the balance of the elected candidates,

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consisting of those who received the lowest number of votes, shall be elected for two (2) year terms. All candidates for membership on the metropolitan board of education shall be voted upon by the voters of the entire district, shall be elected for four (4) year terms after the first election and shall take office and assume their duties July 1 following their election.

SECTION 75. IC 36-2-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) To be eligible for election to the executive, a person must meet the qualifications prescribed by IC 3-8-1-21.

(b) A member of the executive must reside within:

(1) the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and

(2) the district from which the member was elected.

(c) If the person does not remain a resident of the county and district after taking office, the person forfeits the office. The county fiscal body shall declare the office vacant whenever a member of the executive forfeits office under this subsection.

(d) In a county having a population of:

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

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

one (1) member of the executive shall be elected by the voters of each of the three (3) single-member districts established under section 4(b) or 4(c) of this chapter. In other counties, all three (3) members of the executive shall be elected by the voters of the whole county.

~~(e) A member of the executive who wants to resign must send written notice to the president of the county fiscal body. The fiscal body shall then declare the member's office vacant.~~

SECTION 76. IC 36-2-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A deputy appointed under this chapter may be required to give a bond, in accordance with IC 5-4-1, for the proper discharge of ~~his~~ **the deputy's** duties. ~~as a deputy.~~

(b) **If required under IC 5-4-1-1,** a deputy appointed under this chapter shall take the oath required of the officer who appointed ~~him.~~ **the deputy.**

SECTION 77. IC 36-4-3-5, AS AMENDED BY P.L.173-2003, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) If the owners of land located outside of but contiguous to a municipality want to have territory containing that land

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annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:

(A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; or

(B) the owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes; and

(2) requesting an ordinance annexing the area described in the petition.

(b) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town).".

(c) Except as provided in section 5.1 of this chapter, if the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection (a), the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

(d) **Except as provided in subsection (e),** the court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

(1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;

(2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;

(3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and

(4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

(e) **This subsection applies to an annexation of territory if at least fifty percent (50%) of the external boundaries of the territory (without considering any part of the territory's boundary that is contiguous to a county boundary) are contiguous to the boundaries of the annexing municipality. The court shall hear and determine**

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the petition without a jury and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

(1) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;

(2) the population density of the territory sought to be annexed is at least three (3) persons per acre; and

(3) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all the factors described in subdivisions (1) through (3), the court shall deny the petition and dismiss the proceeding.

(f) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

SECTION 78. IC 36-4-3-11, AS AMENDED BY P.L.173-2003, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) Except as provided in section 5.1(i) of this chapter and subsection (d), whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by:

(1) at least:

(A) sixty-five percent (65%) of the owners of land in the annexed territory; or

(B) fifty-one percent (51%) of the owners of land in the annexed territory, if the annexing municipality is in a county contiguous to a county containing a consolidated city; or

(2) the owners of more than:

(A) seventy-five percent (75%) in assessed valuation of the land in the annexed territory; **or**

(B) sixty percent (60%) in assessed valuation of the land in the annexed territory, if the annexing municipality is in a county contiguous to a county containing a consolidated city.

The remonstrance must be filed within ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter, must be accompanied by a copy of that ordinance, and must state the reason why the annexation should not take place.

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(b) On receipt of the remonstrance, the court shall determine whether the remonstrance has the necessary signatures. In determining the total number of landowners of the annexed territory and whether signers of the remonstrance are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(c) If the court determines that the remonstrance is sufficient, it shall fix a time, within sixty (60) days of its determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

(d) If an annexation is initiated by property owners under section 5.1 of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

SECTION 79. IC 36-4-3-13, AS AMENDED BY P.L.173-2003, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) Except as provided in subsections (e) and (g), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

(1) The requirements of either subsection (b) or (c).

(2) The requirements of subsection (d).

(b) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality.

(2) One (1) of the following:

(A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.

(B) Sixty percent (60%) of the territory is subdivided.

(C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality.

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(2) That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

(1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.

(2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.

(3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

(e) At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

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(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) ~~One (1) of the following opposes~~ **A sufficient number of landowners oppose** the annexation **as follows:**

(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed ~~(ii)~~ **oppose the annexation or** the owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed **oppose the annexation.**

(ii) If the annexing municipality is located in a county contiguous to a county containing a consolidated city, at least fifty-one percent (51%) of the owners of land in the territory proposed to be annexed oppose the annexation or the owners of more than sixty percent (60%) in assessed valuation of the land in the territory proposed to be annexed oppose the annexation.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

(1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or

(2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) This subsection applies only to cities located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within

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the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) One (1) of the following opposes the annexation:

(i) A majority of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(h) The most recent:

(1) federal decennial census;

(2) federal special census;

(3) special tabulation; or

(4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

SECTION 80. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Elections and Civic Affairs, to which was referred Senate Bill No. 72, 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 2, delete lines 3 through 29.

Page 4, delete lines 11 through 38.

Page 7, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 16. IC 3-7-30-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As provided in 42 U.S.C. 1973gg-3(c), the fact that an applicant declined to register at a license branch **or** at a voter registration agency ~~or by mail~~ is confidential.".

Page 15, delete lines 2 through 42.

Delete page 16.

Page 17, delete line 1.

Page 24, line 22, delete ".".

Page 24, line 22, after "of the county" insert "**at any time after the registration period resumes under IC 3-7-13-10.**".

Page 25, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 30. IC 3-10-4-5, AS AMENDED BY P.L.66-2003, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) This subsection applies to a major political party and to a political party subject to IC 3-8-4-10. The state chairman of each political party shall certify to the election division the names of the nominees of the party for President and Vice President of the United States and the state of which each nominee is a resident.

(b) If candidates for presidential electors are nominated by petitioners instead of by a convention of a major political party or a party subject to IC 3-8-4-10, the petitioners shall certify with the list of names of electors:

(1) the names of their nominees for President and Vice President of the United States;

(2) the state of which each nominee is a resident; and

(3) the name of the political party of the nominees, or that the nominees are an independent ticket.

(c) This subsection applies to a political party described in subsection (a) and to candidates nominated by petitioners under subsection (b). The names of:

(1) all candidates for presidential electors; and

(2) all nominees for President and Vice President of the United

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States;

shall be certified to the election division not later than noon on the second Tuesday in September before the general election. The election division shall certify to each county election board not later than noon on the ~~second~~ **next following** Thursday in September before the general election the names of the nominees for President and Vice President of the United States certified to the election division under this subsection.

(d) The names of all candidates for presidential electors for a write-in candidate shall be included on the declaration for candidacy filed by a write-in candidate for the office of President or Vice President of the United States filed under IC 3-8-2.".

Page 25, delete lines 22 through 36.

Page 27, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 37. IC 3-10-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) If the special election occurs during the period when registration is open under IC 3-7-13, the registration period continues through the twenty-ninth day before the special election occurs and resumes on the ~~first day of the month following the month in which the special election is conducted.~~ **date specified by IC 3-7-13-10(d).**

(b) The election board conducting the special election shall provide poll lists for use at the precincts that include the names of voters in the precinct who:

(1) have registered through the twenty-ninth day before the special election is to be conducted; or

(2) are absent uniformed services voters or overseas voters registered under IC 3-7-36.

(c) This subsection applies when a special election is ordered by a court under IC 3-12-8-17 or the state recount commission under IC 3-12-11-18. A candidate may not be placed on the special election ballot unless the candidate was on the ballot or was a declared write-in candidate for the office at the general election preceding the special election.

(d) The restrictions on the sale of alcoholic beverages set forth in IC 7.1-5-10-1 apply in each precinct in which the special election is conducted.".

Page 29, line 24, delete "6(g)" and insert "**6(h)**".

Page 30, line 39, delete ".".

Page 30, line 39, after "counted" insert "**as an absentee ballot, and that, if the documentation required under IC 3-7-33-4.5 is filed after noon and before 6 p.m. on election day, the ballot will be**

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processed as a provisional ballot.".

Page 31, delete lines 28 through 42.

Page 32, delete lines 1 through 16.

Page 33, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 47. IC 3-11-10-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. The vote of an absentee voter may be challenged at the polls for the reason that the absentee voter is not a legal voter of the precinct where the ballot is being cast. The ~~precinct election board may hear and determine a~~ challenge under this section ~~as though the ballot was cast by the voter in person.~~ **regarding the absentee ballot must be determined using the procedures for counting a provisional ballot under IC 3-11.7.**".

Page 36, delete lines 12 through 38.

Page 37, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 53. IC 3-11-13-23, AS AMENDED BY P.L.26-2000, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) The two (2) appointed members of the county election board shall observe the test required by section 22 of this chapter and certify the test as meeting the requirements of section 22 of this chapter.

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

(c) The test must be open to representatives of political parties, candidates, the media, and the public.".

Page 38, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 56. IC 3-11.5-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The vote of an absentee voter may be challenged at the polls for the reason that the absentee voter is not a legal voter of the precinct where the ballot is being cast.

(b) Before the inspector prepares to mark the poll list to indicate that an absentee ballot cast by the voter has been received by the county election board according to a certificate delivered to the polls under section 1 or section 8 of this chapter, the inspector shall notify the challengers and the pollbook holders that the inspector is about to mark the poll list under this section. The inspector shall provide the challengers and pollbook holders with the name and address of each voter listed in the certificate so that the voter may be challenged under this article.

(c) The ~~precinct election board may hear and determine a~~ challenge under this section ~~as though the ballot was cast by the voter in person.~~

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must be determined using the procedures for counting a provisional ballot under IC 3-11.7.".

Page 39, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 59. IC 3-11.7-1-5, AS AMENDED BY P.L.209-2003, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) Provisional ballots for:

(1) Electors for President and Vice President of the United States;

(2) United States Senator;

(3) United States Representative;

(4) all state offices; and

(5) the ratification or rejection of a public question to be voted for by the electorate of the entire state or for the retention of a judge of the Indiana supreme court or the Indiana court of appeals;

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

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

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

(d) The provisional ballots that are prepared and printed under this section shall be delivered to the circuit court clerk or the clerk's authorized deputy not later than forty-five (45) days before a general election or twenty-nine (29) days before a special election. The provisional ballots shall be delivered in the same manner that other official ballots are delivered.

(e) This subsection applies to the printing of provisional ballots for a general election in which the names of the nominees for President and Vice President of the United States are to be printed on the ballot. The provisional ballots that are prepared and printed under this section must be delivered to the circuit court clerk or the clerk's authorized deputy not later than thirty-eight (38) days before the general election.

SECTION 60. IC 3-11.7-1-6, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) All provisional ballots other than those described in section 5 of this chapter shall be prepared and printed under the direction of each county election board.

(b) After completing the estimate required by section 4 of this chapter, the county election board shall immediately prepare the ballots and have the ballots printed.

(c) Ballots prepared by the county election board under this section

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must provide space for the voter to cast a write-in ballot.

(d) The provisional ballots that are prepared and printed under this section shall be delivered to the circuit court clerk not later than:

(1) forty-five (45) days before a general, primary, or municipal election; or

(2) thirty-two (32) days before a special election.

(e) This subsection applies to the printing of provisional ballots for a general election in which the names of the nominees for President and Vice President of the United States are to be printed on the ballot. The provisional ballots that are prepared and printed under this section must be delivered to the circuit court clerk or the clerk's authorized deputy not later than thirty-eight (38) days before the general election.

SECTION 61. IC 3-11.7-3-2, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. An otherwise qualified person is eligible to serve as a counter unless the person:

(1) is unable to read, write, and speak the English language;

(2) has any property bet or wagered on the result of the election;

(3) is a candidate to be voted for at the election **in any part of the county,** except as an unopposed candidate for precinct committeeman or state convention delegate; or

(4) is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted for at the election **in any part of the county,** except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption.

SECTION 62. IC 3-11.7-3-5, AS AMENDED BY P.L.209-2003, SECTION 175, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. If a county chairman fails to make any recommendations not later than the deadline specified under section 4 of this chapter, the county election board may appoint any voters of the county **who comply with section 2 of this chapter.**".

Page 41, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 66. IC 3-12-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The fiscal body of a political subdivision that receives notice under section 3 of this chapter shall resolve the tie vote by electing a person to fill the office ~~at its organizational meeting in January~~ **not later than December 31**

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following the election at which the tie vote occurred. The fiscal body shall select one (1) of the candidates who was involved in the tie vote to fill the office. **If a tie vote has occurred for the election of more than one (1) at-large seat on a legislative or fiscal body, the fiscal body shall select the number of individuals necessary to fill each of the at-large seats for which the tie vote occurred.** However, a member of a fiscal body who runs for reelection and is involved in a tie vote may not cast a vote under this section.

(b) The executive of the political subdivision (other than a town) may cast the deciding vote to break a tie vote in a fiscal body acting under this section. The clerk-treasurer of the town may cast the deciding vote to break a tie vote in a town fiscal body acting under this section.".

Page 44, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 70. IC 3-12-11-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19.5. As required under 3 U.S.C. 5, any recount or contest proceeding concerning the election of presidential electors must be concluded not later than six (6) days before the ~~third Tuesday in December following the general election at which the electors were elected.~~ **time fixed by federal law for the meeting of the electors.**".

Page 46, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 78. IC 3-14-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A person not authorized by this title who recklessly:

(1) enters the polls;

(2) enters within the railing leading from the challenge window or door to the entrance of the polls without having been passed by the challengers or having been sworn in; or

(3) remains within the polls or within ~~fifty (50) feet of the entrance to~~ the ~~polls~~ **chute** in violation of IC 3-11-8-15 or IC 3-11-8-16;

commits a Class A misdemeanor.".

Page 50, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 81. IC 36-2-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) To be eligible for election to the executive, a person must meet the qualifications prescribed by IC 3-8-1-21.

(b) A member of the executive must reside within:

(1) the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and

(2) the district from which the member was elected.

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(c) If the person does not remain a resident of the county and district after taking office, the person forfeits the office. The county fiscal body shall declare the office vacant whenever a member of the executive forfeits office under this subsection.

(d) In a county having a population of:

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

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

one (1) member of the executive shall be elected by the voters of each of the three (3) single-member districts established under section 4(b) or 4(c) of this chapter. In other counties, all three (3) members of the executive shall be elected by the voters of the whole county.

~~(c) A member of the executive who wants to resign must send written notice to the president of the county fiscal body. The fiscal body shall then declare the member's office vacant.~~".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 72 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 7, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred Senate Bill 72, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 28, line 33, delete "." and insert "**.**".

Page 36, delete lines 3 through 31.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 72 as printed January 14, 2004.)

MAHERN, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 72 be amended to read as follows:

Page 43, delete lines 38 through 40, begin a new paragraph and insert:

"**(c) The vacancy shall be filled as follows:**

(1) The remaining members of the body shall fill the vacancy by a majority of the votes of the remaining members of the body.

(2) If there are no remaining members of the body, the county executive of the county containing the greatest percentage of the population of the political subdivision shall fill the vacancy in the manner provided by section 2 of this chapter.".

(Reference is to ESB 72 as printed February 13, 2004.)

THOMPSON

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 72 be amended to read as follows:

Page 50, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 77. IC 36-4-3-5, AS AMENDED BY P.L.173-2003, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:

(A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; or

(B) the owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes; and

(2) requesting an ordinance annexing the area described in the petition.

(b) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town).".

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(c) Except as provided in section 5.1 of this chapter, if the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection (a), the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

(d) **Except as provided in subsection (e),** the court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

(1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;

(2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;

(3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and

(4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

(e) **This subsection applies to an annexation of territory if at least fifty percent (50%) of the external boundaries of the territory (without considering any part of the territory's boundary that is contiguous to a county boundary) are contiguous to the boundaries of the annexing municipality. The court shall hear and determine the petition without a jury and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:**

(1) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;

(2) the population density of the territory sought to be annexed is at least three (3) persons per acre; and

(3) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all the factors described in subdivisions (1) through (3), the court shall deny the petition and dismiss the proceeding.

(f) This subsection does not apply to a town that has abolished town

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legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

SECTION 2. IC 36-4-3-11, AS AMENDED BY P.L.173-2003, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) Except as provided in section 5.1(i) of this chapter and subsection (d), whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by:

(1) at least:

(A) sixty-five percent (65%) of the owners of land in the annexed territory; or

(B) fifty-one percent (51%) of the owners of land in the annexed territory, if the annexing municipality is in a county contiguous to a county containing a consolidated city; or

(2) the owners of more than:

(A) seventy-five percent (75%) in assessed valuation of the land in the annexed territory; **or**

(B) sixty percent (60%) in assessed valuation of the land in the annexed territory, if the annexing municipality is in a county contiguous to a county containing a consolidated city.

The remonstrance must be filed within ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter, must be accompanied by a copy of that ordinance, and must state the reason why the annexation should not take place.

(b) On receipt of the remonstrance, the court shall determine whether the remonstrance has the necessary signatures. In determining the total number of landowners of the annexed territory and whether signers of the remonstrance are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(c) If the court determines that the remonstrance is sufficient, it shall fix a time, within sixty (60) days of its determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

(d) If an annexation is initiated by property owners under section 5.1

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of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

SECTION 3. IC 36-4-3-13, AS AMENDED BY P.L.173-2003, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) Except as provided in subsections (e) and (g), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

(1) The requirements of either subsection (b) or (c).

(2) The requirements of subsection (d).

(b) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality.

(2) One (1) of the following:

(A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.

(B) Sixty percent (60%) of the territory is subdivided.

(C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality.

(2) That the territory sought to be annexed is needed and can be used by the municipality for its development in the reasonably near future.

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

(1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.

(2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to

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be used.

(3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

(e) At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) ~~One (1) of the following opposes~~ **A sufficient number of landowners oppose** the annexation **as follows:**

(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed ~~(ii)~~ **oppose the annexation or** the owners of more than seventy-five percent

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(75%) in assessed valuation of the land in the territory proposed to be annexed **oppose the annexation.**

(ii) If the annexing municipality is located in a county contiguous to a county containing a consolidated city, at least fifty-one percent (51%) of the owners of land in the territory proposed to be annexed oppose the annexation or the owners of more than sixty percent (60%) in assessed valuation of the land in the territory proposed to be annexed oppose the annexation.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

(1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or

(2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) This subsection applies only to cities located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) One (1) of the following opposes the annexation:

(i) A majority of the owners of land in the territory proposed

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to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(h) The most recent:

(1) federal decennial census;

(2) federal special census;

(3) special tabulation; or

(4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 72 as printed February 13, 2004.)

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