



March 30, 2005

**ENGROSSED  
HOUSE BILL No. 1407**

DIGEST OF HB 1407 (Updated March 28, 2005 12:33 pm - DI 102)

**Citations Affected:** IC 3-5; IC 3-6; IC 3-8; IC 3-10; IC 3-11; IC 3-11.5; IC 3-12; IC 3-14; noncode.

**Synopsis:** Voting systems. Makes changes regarding the certification process for voting systems and establishes a uniform date for the expiration of voting system certifications. Allows a voting system vendor to market a voting system that has not been certified by the Indiana election commission if the vendor files an application for approval of the voting system before conducting a demonstration of the equipment in the state and all product information concerning the voting system displays a prominent and easily readable label indicating that the voting system as marketed has not been approved for use in Indiana. Establishes a voting systems technical oversight program. Requires county election boards to perform public tests of electronic voting systems before election day. Allows a county election board to conduct tests concerning the operation of an electronic voting system before the system is delivered to the polls in addition to the tests the precinct election board is required to perform before the polls open. Requires precinct election boards to document certain information  
(Continued next page)

**Effective:** Upon passage; July 1, 2005.

**Richardson, Mahern, Thomas**

(SENATE SPONSORS — LAWSON C, BREAUX)

January 13, 2005, read first time and referred to Committee on Elections and Apportionment.

February 8, 2005, amended, reported — Do Pass.

February 14, 2005, read second time, ordered engrossed. Engrossed.

February 15, 2005, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 24, 2005, read first time and referred to Committee on Elections and Civic Affairs.

March 29, 2005, amended, reported favorably — Do Pass.

EH 1407—LS 7361/DI 75+



**C  
O  
P  
Y**

Digest Continued

concerning optical scan tabulation systems before the polls open. Establishes civil penalties for violations of statutes concerning the use of voting systems in Indiana elections. Removes a requirement that the inspector of a precinct using an electronic voting system read the vote totals aloud and requires the inspector to announce that printouts of the vote totals from the system are available for inspection. Requires a county that uses a punch card voting system to enter into a contract, not later than July 1, 2005, for a voting system certified for use in Indiana elections for delivery not later than January 1, 2006, and allows the secretary of state to purchase a voting system for the county if the county does not act. Permits a voting system previously certified for use in Indiana to continue to be used after the certification expires if the voting system complies with the requirements of HAVA. Repeals obsolete references to voting machines, punch card voting systems and paper ballots formerly printed by the election division. Repeals obsolete statutes relating to voting machines.

**C  
o  
p  
y**



March 30, 2005

First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1407

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

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

- 1 SECTION 1. IC 3-5-2-3 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2005]: Sec. 3. "Ballot" means:  
3 (1) the paper ballot prepared, printed, and supplied for use at an  
4 election;  
5 (2) the ballot label prepared, printed, and supplied for use on the  
6 front of ~~a voting machine~~ or an electronic voting system; or  
7 (3) the ballot card prepared, printed, and supplied for use in a  
8 ballot card voting system.  
9 SECTION 2. IC 3-5-2-4 IS AMENDED TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2005]: Sec. 4. "Ballot card" refers to ~~either a~~  
11 ~~punch card ballot~~ or an optical scan ballot.  
12 SECTION 3. IC 3-5-2-4.5 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. "Ballot card voting  
14 system" refers to ~~either a punch card voting system~~ or an optical scan  
15 voting system.  
16 SECTION 4. IC 3-5-2-5 IS AMENDED TO READ AS FOLLOWS  
17 [EFFECTIVE JULY 1, 2005]: Sec. 5. "Ballot label" means:  
18 (1) the printed strip or sheet of cardboard or paper, supplied for

EH 1407—LS 7361/DI 75+



C  
o  
p  
y

1 use on ~~a voting machine or an~~ electronic voting system, that  
 2 contains the names of the candidates and the public questions on  
 3 the ballot; or  
 4 (2) the ~~booklet, pamphlet, or other~~ material, supplied for use with  
 5 a ballot card voting system, that contains those names and  
 6 questions.

7 SECTION 5. IC 3-5-2-31 IS AMENDED TO READ AS FOLLOWS  
 8 [EFFECTIVE JULY 1, 2005]: Sec. 31. "Marking device" means:

- 9 (1) ~~an apparatus in which paper ballots or ballot cards are inserted~~  
 10 ~~and used in connection with a punch apparatus for the piercing of~~  
 11 ~~ballots by the voter;~~
- 12 (2) ~~(1)~~ a pencil for marking a paper ballot or ballot card; or
- 13 (3) ~~(2)~~ an approved touch-sensitive device that automatically  
 14 registers a vote on an electronic voting system.

15 SECTION 6. IC 3-5-2-48.5 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 48.5. "Testing  
 17 authority" means an independent test authority ~~as described in: or~~  
 18 **independent laboratory:**

- 19 (1) ~~as described in the~~ Voting System Standards issued by the  
 20 Federal Election Commission on April 30, 2002; or
- 21 (2) ~~other more recent voting systems standards adopted by the~~  
 22 ~~commission under IC 3-11-15-13;~~
- 23 (3) **accredited under Section 231 of HAVA (42 U.S.C. 15371).**

24 SECTION 7. IC 3-5-2-52 IS AMENDED TO READ AS FOLLOWS  
 25 [EFFECTIVE JULY 1, 2005]: Sec. 52. "Voting method" means the use  
 26 of:

- 27 (1) paper ballots;
- 28 (2) ~~voting machines;~~
- 29 (3) ~~(2)~~ ballot card voting systems;
- 30 (4) ~~(3)~~ electronic voting systems; or
- 31 (5) ~~(4)~~ any combination of these;

32 to register votes in a precinct.

33 SECTION 8. IC 3-6-4.2-12 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. The election  
 35 division shall do the following:

- 36 (1) ~~Prepare and distribute paper ballots for the election or~~  
 37 ~~retention of persons to federal and state offices and for public~~  
 38 ~~questions in compliance with this title.~~
- 39 (2) ~~(1)~~ Maintain complete and uniform descriptions and maps of  
 40 all precincts in Indiana.
- 41 (3) ~~(2)~~ Promptly update the information required by subdivision  
 42 (2) ~~(1)~~ after each precinct establishment order is filed with the

C  
O  
P  
Y



1 commission under IC 3-11-1.5.  
 2 ~~(4)~~ (3) Issue media watcher cards under IC 3-6-10-6.  
 3 ~~(5)~~ (4) Prepare and transfer to the department of state revenue  
 4 voter registration affidavits for inclusion in state adjusted gross  
 5 income tax booklets under IC 6-8.1-3-19.  
 6 ~~(6) After December 31, 2003;~~ (5) Serve in accordance with 42  
 7 U.S.C. 1973ff-1(b) as the office in Indiana responsible for  
 8 providing information regarding voter registration procedures and  
 9 absentee ballot procedures to absent uniformed services voters  
 10 and overseas voters.  
 11 ~~(7)~~ (6) As required by 42 U.S.C. 1973ff-1(c), submit a report to  
 12 the federal Election Assistance Commission not later than ninety  
 13 (90) days after each general election setting forth the combined  
 14 number of absentee ballots:  
 15 (A) transmitted to absent uniformed services voters and  
 16 overseas voters for the election; and  
 17 (B) returned by absent uniformed services voters and overseas  
 18 voters and cast in the election.  
 19 ~~(8)~~ (7) Implement the state plan in accordance with the  
 20 requirements of HAVA (42 U.S.C. 15401 through 15406) and this  
 21 title, and appoint members of the committee established under 42  
 22 U.S.C. 15405.  
 23 ~~(9)~~ (8) Submit reports required under 42 U.S.C. 15408 to the  
 24 federal Election Assistance Commission concerning the use of  
 25 federal funds under Title II, Subtitle D, Part I of HAVA.  
 26 SECTION 9. IC 3-6-5-14 IS AMENDED TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) Each county election board,  
 28 in addition to duties otherwise prescribed by law, shall do the  
 29 following:  
 30 (1) Adopt and amend a written plan to implement NVRA within  
 31 the county.  
 32 (2) Conduct all elections and administer the election laws within  
 33 the county, except as provided in IC 3-8-5 and IC 3-10-7 for town  
 34 conventions and municipal elections in certain small towns.  
 35 (3) Prepare all ballots. ~~except those prepared by the election~~  
 36 ~~division.~~  
 37 (4) Distribute all ballots and pasters to all of the precincts in the  
 38 county.  
 39 (b) This subsection does not apply to pasters to be attached to  
 40 ballots during the final three (3) days before an election. Not later than  
 41 the Monday before distributing ballots, pasters, and voting systems to  
 42 the precincts in the county, the county election board shall notify the

C  
o  
p  
y



1 county chairman of each major political party and, upon request, the  
 2 chairman of any other bona fide political party in the county, that  
 3 sample ballots and pasters are available for inspection.

4 SECTION 10. IC 3-6-6-34 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 34. (a) In a precinct  
 6 where the voting is by any voting method except entirely by paper  
 7 ballot, the poll clerks of the precinct shall perform all the duties  
 8 connected with voting by ~~voting machine~~; ballot card voting system or  
 9 electronic voting system, and the assistant poll clerks shall perform all  
 10 the duties connected with voting by paper ballot. It is necessary for  
 11 only the two (2) assistant poll clerks to place their initials on the back  
 12 of the paper ballots.

13 (b) The poll clerks shall tally the vote cast by paper ballot, and they  
 14 alone shall sign the election certificates and returns. However, the  
 15 precinct election board may call upon the assistant poll clerks to assist  
 16 the poll clerks in any of their duties.

17 SECTION 11. IC 3-6-8-4 IS AMENDED TO READ AS FOLLOWS  
 18 [EFFECTIVE JULY 1, 2005]: Sec. 4. A watcher appointed under this  
 19 chapter is entitled to:

- 20 (1) enter the polls at least thirty (30) minutes before the opening  
 21 of the polls and remain there throughout election day until all  
 22 tabulations have been completed;  
 23 (2) inspect the paper ballot boxes, ~~voting machines~~; ballot card  
 24 voting system, or electronic voting system before votes have been  
 25 cast;  
 26 (3) inspect the work being done by any precinct election officer;  
 27 (4) enter, leave, and reenter the polls at any time on election day;  
 28 (5) witness the calling and recording of the votes ~~the reading of~~  
 29 ~~the totals from the voting machines~~; and any other proceedings of  
 30 the precinct election officers in the performance of official duties;  
 31 (6) receive a summary of the vote prepared under IC 3-12-2-15,  
 32 ~~IC 3-12-2.5-4~~, IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed  
 33 by the precinct election board, providing:  
 34 (A) the names of all candidates of the political party whose  
 35 primary election is being observed by the watcher and the  
 36 number of votes cast for each candidate;  
 37 (B) the names of all candidates at a general, municipal, or  
 38 special election and the number of votes cast for each  
 39 candidate; or  
 40 (C) the vote cast for or against a public question;  
 41 (7) accompany the inspector and judge in delivering the  
 42 tabulation and election returns to the county election board by the

C  
O  
P  
Y



1 most direct route;  
 2 (8) be present when the inspector takes a receipt for the tabulation  
 3 and election returns delivered to the county election board; and  
 4 (9) call upon the election sheriffs to make arrests.  
 5 SECTION 12. IC 3-6-9-13 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. A watcher  
 7 appointed under this chapter is entitled to do the following:  
 8 (1) Enter the polls at least thirty (30) minutes before the opening  
 9 of the polls and remain there throughout election day until all  
 10 tabulations have been completed.  
 11 (2) Inspect the paper ballot boxes, ~~voting machines~~, ballot card  
 12 voting system, or electronic voting system before votes have been  
 13 cast.  
 14 (3) Inspect the work being done by any precinct election officer.  
 15 (4) Enter, leave, and reenter the polls at any time on election day.  
 16 (5) Witness the calling and recording of the votes ~~the reading of~~  
 17 ~~the totals from the voting machines~~, and any other proceedings of  
 18 the precinct election officers in the performance of official duties.  
 19 (6) Receive a summary of the vote prepared under IC 3-12-2-15,  
 20 ~~IC 3-12-2.5-4~~, IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed  
 21 by the precinct election board, providing:  
 22 (A) the names of all candidates of the political party whose  
 23 primary election is being observed by the watcher and the  
 24 number of votes cast for each candidate if the watcher is  
 25 appointed under section 1(a)(1) of this chapter; or  
 26 (B) the names of all candidates at a school board election and  
 27 the number of votes cast for each candidate if the watcher is  
 28 appointed under section 1(a)(2) of this chapter.  
 29 (7) Accompany the inspector and the judge in delivering the  
 30 tabulation and the election returns to the county election board by  
 31 the most direct route.  
 32 (8) Be present when the inspector takes a receipt for the  
 33 tabulation and the election returns delivered to the county election  
 34 board.  
 35 (9) Call upon the election sheriffs to make arrests.  
 36 SECTION 13. IC 3-6-10-5.5 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.5. A watcher  
 38 appointed under this chapter is entitled to do the following:  
 39 (1) Enter the polls at least thirty (30) minutes before the opening  
 40 of the polls and remain there throughout election day until all  
 41 tabulations have been completed.  
 42 (2) Inspect the paper ballot boxes, ~~voting machines~~, ballot card

C  
o  
p  
y



- 1 voting system, or electronic voting system before votes have been
- 2 cast.
- 3 (3) Inspect the work being done by any precinct election officer.
- 4 (4) Enter, leave, and reenter the polls at any time on election day.
- 5 (5) Witness the calling and recording of the votes ~~the reading of~~
- 6 ~~the totals from the voting machines~~, and any other proceedings of
- 7 the precinct election officers in the performance of official duties.
- 8 (6) Receive a summary of the vote prepared under IC 3-12-2-15,
- 9 ~~IC 3-12-2.5-4~~, IC 3-12-3-2, IC 3-12-3-11, or IC 3-12-3.5-3, signed
- 10 by the precinct election board, providing the names of all
- 11 candidates and the number of votes cast for each candidate and
- 12 the votes cast for or against a public question.
- 13 (7) Accompany the inspector and the judge in delivering the
- 14 tabulation and the election returns to the county election board by
- 15 the most direct route.
- 16 (8) Be present when the inspector takes a receipt for the
- 17 tabulation and the election returns delivered to the county election
- 18 board.

19 SECTION 14. IC 3-8-4-8 IS AMENDED TO READ AS FOLLOWS  
 20 [EFFECTIVE JULY 1, 2005]: Sec. 8. Candidates shall be nominated  
 21 or elected at a state convention by using ~~voting machines~~, ballot card  
 22 systems or electronic voting systems. However, if there is no contest for  
 23 an office, the nomination or election may be by motion and  
 24 acclamation.

25 SECTION 15. IC 3-8-4-9 IS AMENDED TO READ AS FOLLOWS  
 26 [EFFECTIVE JULY 1, 2005]: Sec. 9. The state chairman of the  
 27 political party holding a state convention shall appoint an inspector and  
 28 two (2) poll clerks to attend each voting ~~machine~~ or system at the  
 29 convention. Each candidate may have one (1) watcher at each voting  
 30 ~~machine~~ or system to check the voting ~~machine~~ or system before and  
 31 after each ballot and to check the work of any election officer. The  
 32 inspector and poll clerks:

- 33 (1) shall take an oath to perform their duties faithfully and to the
- 34 best of their abilities before anyone entitled to administer an oath;
- 35 (2) must be qualified in relationship to candidates in the same
- 36 manner as precinct election officers under IC 3-6-6-7; and
- 37 (3) are subject to the same penalties as precinct election officers.

38 SECTION 16. IC 3-10-1-12 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. Each county  
 40 election board shall prepare and distribute separate primary paper  
 41 ballots for each political party participating in a primary election equal  
 42 in number to one hundred percent (100%) of the number of votes cast

C  
O  
P  
Y



1 by the party in each precinct at the last general election. If ~~voting~~  
2 ~~machines~~, ballot card voting systems or electronic voting systems are  
3 used, the board shall determine the number of emergency paper ballots  
4 to be printed and furnished to the precincts.

5 SECTION 17. IC 3-10-1-18 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) Except as  
7 provided by subsection (b), the names of all candidates for each office  
8 who have qualified under IC 3-8 shall be arranged in alphabetical order  
9 by surnames under the designation of the office.

10 (b) This subsection applies to a county having a population of more  
11 than four hundred thousand (400,000) but less than seven hundred  
12 thousand (700,000). The names of all candidates for each office who  
13 have qualified under IC 3-8, except for a school board office, precinct  
14 committeeman, or state convention delegate, shall be arranged in  
15 random order by surnames under the designation of the office. The  
16 random order shall be determined using a lottery. The lottery held in  
17 accordance with this subsection shall be conducted in public by the  
18 county election board. The lottery shall be held not later than fifteen  
19 (15) days following the last day for a declaration of candidacy under  
20 IC 3-8-2-4. All candidates whose names are to be arranged by way of  
21 the lottery shall be notified at least five (5) days prior to the lottery of  
22 the time and place at which the lottery is to be held. Each candidate  
23 may have one (1) designated watcher, and each county political party  
24 may have one (1) designated watcher who shall be allowed to observe  
25 the lottery procedure.

26 (c) For paper ballots, the left margin of the ballot for each political  
27 party must show the name of the uppermost candidate printed to the  
28 right of the number 1, the next candidate number 2, the next candidate  
29 number 3, and so on, consecutively to the end of the ballot as  
30 prescribed in section 19 of this chapter. The same order shall be  
31 followed for the printing of ballot labels and their placement on the  
32 ~~voting machine~~ or electronic voting system and for the printing of  
33 ballot cards.

34 (d) This subsection applies to a county having a population of more  
35 than four hundred thousand (400,000) but less than seven hundred  
36 thousand (700,000). If there is insufficient room on a row to list each  
37 candidate of a political party, a second or subsequent row may be  
38 utilized. However, a second or subsequent row may not be utilized  
39 unless the first row, and all preceding rows, have been filled.

40 SECTION 18. IC 3-10-1-19 IS AMENDED TO READ AS  
41 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. (a) The ballot for  
42 a primary election shall be printed in substantially the following form

C  
o  
p  
y



1 for all the offices for which candidates have qualified under IC 3-8:

2 OFFICIAL PRIMARY BALLOT

3 \_\_\_\_\_ Party

4 To vote for a person make a voting mark (X or ✓) on or in the box  
5 before the person's name in the proper column.

6 Vote for one only

7 Representative in Congress

8  (1) AB \_\_\_\_\_

9  (2) CD \_\_\_\_\_

10  (3) EF \_\_\_\_\_

11  (4) GH \_\_\_\_\_

12 (b) The offices with candidates for nomination shall be placed on  
13 the primary election ballot in the following order:

14 (1) Federal and state offices:

15 (A) President of the United States.

16 (B) United States Senator.

17 (C) Governor.

18 (D) United States Representative.

19 (2) Legislative offices:

20 (A) State senator.

21 (B) State representative.

22 (3) Circuit offices and county judicial offices:

23 (A) Judge of the circuit court, and unless otherwise specified  
24 under IC 33, with each division separate if there is more than  
25 one (1) judge of the circuit court.

26 (B) Judge of the superior court, and unless otherwise specified  
27 under IC 33, with each division separate if there is more than  
28 one (1) judge of the superior court.

29 (C) Judge of the probate court.

30 (D) Judge of the county court, with each division separate, as  
31 required by IC 33-30-3-3.

32 (E) Prosecuting attorney.

33 (F) ~~Clerk of the~~ Circuit court clerk.

34 (4) County offices:

35 (A) County auditor.

36 (B) County recorder.

37 (C) County treasurer.

38 (D) County sheriff.

39 (E) County coroner.

40 (F) County surveyor.

41 (G) County assessor.

42 (H) County commissioner.

C  
o  
p  
y



- 1 (I) County council member.
- 2 (5) Township offices:
- 3 (A) Township assessor.
- 4 (B) Township trustee.
- 5 (C) Township board member.
- 6 (D) Judge of the small claims court.
- 7 (E) Constable of the small claims court.
- 8 (6) City offices:
- 9 (A) Mayor.
- 10 (B) Clerk or clerk-treasurer.
- 11 (C) Judge of the city court.
- 12 (D) City-county council member or common council member.
- 13 (7) Town offices:
- 14 (A) Clerk-treasurer.
- 15 (B) Judge of the town court.
- 16 (C) Town council member.
- 17 (c) The political party offices with candidates for election shall be
- 18 placed on the primary election ballot in the following order after the
- 19 offices described in subsection (b):
- 20 (1) Precinct committeeman.
- 21 (2) State convention delegate.
- 22 (d) The following offices and public questions shall be placed on the
- 23 primary election ballot in the following order after the offices described
- 24 in subsection (c):
- 25 (1) School board offices to be elected at the primary election.
- 26 (2) Other local offices to be elected at the primary election.
- 27 (3) Local public questions.
- 28 (e) The offices and public questions described in subsection (d)
- 29 shall be placed in a separate column on the ballot if voting is by paper
- 30 ballot, ballot card voting system, or electronic voting system. ~~or in a~~
- 31 ~~separate column of ballot labels if voting is by voting machine.~~
- 32 (f) A public question shall be placed on the primary election ballot
- 33 in the following form:
- 34 (The explanatory text for the public question,
- 35 if required by law.)
- 36 "Shall (insert public question)?"
- 37  YES
- 38  NO
- 39 SECTION 19. IC 3-10-1-23 IS AMENDED TO READ AS
- 40 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. In a primary
- 41 election in a county having a city, ~~voting machines~~, ballot card voting
- 42 systems and electronic voting systems shall be employed as available

COPY



1 and adaptable and shall be supplemented by paper ballots as necessary.  
2 However, this section does not require the purchase of ~~voting~~  
3 ~~machines~~, ballot card voting systems or electronic voting systems for  
4 a primary election.

5 SECTION 20. IC 3-10-1-27 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. If ~~voting machines~~  
7 ~~or~~ electronic voting systems are used in a precinct, one (1) of the poll  
8 clerks shall give a printed political party identification card to a voter  
9 after the voter signs the poll list. Before entering the ~~voting machine or~~  
10 voting booth, the voter must give the party identification card to a  
11 judge, and the judge shall set or have the ~~voting machine or~~ electronic  
12 voting system set to allow the voter to vote only for the candidates of  
13 the voter's party. After the ~~machine or~~ system is set, the voter may  
14 register a vote upon it within the time provided under

- 15 (1) ~~IC 3-11-12-29.5, for a voting machine; or~~
- 16 (2) IC 3-11-14-26. for an ~~electronic voting system.~~

17 SECTION 21. IC 3-10-1-28 IS AMENDED TO READ AS  
18 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. After setting the  
19 ~~voting machine or~~ electronic voting system, the judge shall  
20 immediately deposit the political party identification card in a sealed  
21 container provided for that purpose. After the polls have closed, all  
22 party identification cards shall be counted and compared with the total  
23 number of votes cast in the election. All party identification cards must  
24 be of durable quality and the same color irrespective of the party that  
25 is designated.

26 SECTION 22. IC 3-10-4-1 IS AMENDED TO READ AS  
27 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The names of the  
28 candidates of:

- 29 (1) a political party;
- 30 (2) a group of petitioners under IC 3-8-6; or
- 31 (3) a write-in candidate for the office of President or Vice  
32 President of the United States under ~~IC 3-8-2-1.5; IC 3-8-2-2.5;~~  
33 for electors of President and Vice President of the United States may  
34 not be placed on the ballot.

35 (b) The names of the nominees for President and Vice President of  
36 the United States of each political party or group of petitioners shall be  
37 placed:

- 38 (1) in one (1) column on the ballot if paper ballots or a ballot card  
39 voting system is used; ~~or~~
- 40 (2) ~~on one (1) ballot label in one (1) column or row if voting~~  
41 ~~machines are used; or~~
- 42 (3) ~~(2)~~ (2) in a separate column on the ballot label if an electronic

C  
o  
p  
y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

voting system is used.  
(c) The name of each write-in candidate for the office of President or Vice President of the United States shall be placed as provided under IC 3-11-2-6.

SECTION 23. IC 3-10-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) If paper ballots or a ballot card voting system is used, a single square shall be printed in front of a bracket enclosing the names of the nominees for President and Vice President of the United States on the left margin of each separate column of the ballot, immediately opposite the names of the nominees.

(b) The device named and list of nominees of the political party whose nominee received the highest number of votes in that county for secretary of state at the last election shall be placed in the first column on the left side of the ballot if paper ballots or a ballot card voting system is used or, if ~~voting machines~~ or an electronic voting system is used, in the first column or row. The political party whose nominee received the second highest number of votes in that county for secretary of state at the last election shall be placed in the second column or row. Other political parties shall be placed on the ballot in the same order.

(c) If a political party or an independent ticket did not have a candidate for secretary of state in the last election, the party or ticket shall be placed on the ballot after the parties described in subsection (b). If more than one (1) political party or independent ticket that has qualified to be on the ballot did not have a candidate for secretary of state in the last election, each party or independent ticket shall be listed on the ballot in the order in which the party or independent ticket filed a petition of nomination under IC 3-8-6-12.

SECTION 24. IC 3-10-7-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. Upon request of a town election board, the county election board of each county in which the town is located shall furnish any available equipment that is necessary for a municipal election, including ~~voting machines~~, ballot card voting systems and electronic voting systems. The town shall pay the expense of moving the equipment to and from the polls and for any loss of or damage to the equipment.

SECTION 25. IC 3-11-1.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. If a county executive adopts the use of ~~voting machines~~, ballot card voting systems or electronic voting systems in a county in which ~~voting machines~~, ballot card voting systems or electronic voting systems have not been

C  
o  
p  
y



1 previously used, the county executive may establish precincts after  
2 primary election day and before August 1 by combining two (2) or more  
3 precincts into one (1) precinct.

4 SECTION 26. IC 3-11-2-7 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The following  
6 statement shall be printed in underlined print at the extreme top of a  
7 ballot to be used in an election covered by this title: ~~(or in the voting~~  
8 ~~instructions for a voting machine)~~: "It is a crime to falsify this ballot or  
9 to violate Indiana election laws."

10 SECTION 27. IC 3-11-2-8 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. All written or printed  
12 instructions must be at the top of the ballot ~~(or above the ballot labels~~  
13 ~~on a voting machine)~~ immediately below the statement required by  
14 section 7 of this chapter. No other instructions or writing may appear  
15 at any other place on the ballot, including the ballot for federal and  
16 state offices, except as specified by this title. The instructions must be  
17 in English and any other language that the board considers necessary,  
18 clear, concise, and written so that a voter will not be confused about the  
19 effect of the voter's voting mark and vote.

20 SECTION 28. IC 3-11-2-10 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) The name or  
22 title of the political party or independent ticket described in section 6  
23 of this chapter shall be placed at the top of the ballot. The device of the  
24 political party or independent ticket shall be placed immediately under  
25 the name of the political party or independent ticket. The instructions  
26 for voting a straight party ticket shall be placed to the right of the  
27 device, or if the ballot is part of a direct recording electronic voting  
28 system:

- 29 (1) the instructions for voting a straight party ticket; and
- 30 (2) the statement concerning presidential electors required under  
31 IC 3-10-4-3;

32 may be posted in any location within the voting booth that permits the  
33 voter to easily read the instructions instead of on the ballot face.

34 (b) The instructions for voting a straight party ticket must conform  
35 as nearly as possible to the following: "To vote a straight (insert  
36 political party name) ticket for all (political party name) candidates on  
37 this ballot, make a voting mark on or in this circle and do not make any  
38 other marks on this ballot. If you wish to vote for a candidate seeking  
39 a nonpartisan office or on a public question, you must make another  
40 voting mark on the appropriate place on this ballot."

41 (c) If the ballot contains an independent ticket described in section  
42 6 of this chapter and at least one (1) other independent candidate, the

C  
o  
p  
y



1 ballot must also contain a statement that reads substantially as follows:  
2 "A vote cast for an independent ticket will only be counted for the  
3 candidates for President and Vice President or governor and lieutenant  
4 governor comprising that independent ticket. This vote will NOT be  
5 counted for any OTHER independent candidate appearing on the  
6 ballot."

7 (d) The ballot must also contain a statement that reads substantially  
8 as follows: "A write-in vote will NOT be counted unless the vote is for  
9 a DECLARED write-in candidate. To vote for a write-in candidate, you  
10 must make a voting mark on or in the square to the left of the name you  
11 have written in or your vote will not be counted."

12 (e) Except for variations in ballot arrangement permitted for ~~voting~~  
13 ~~machines under IC 3-11-12-7~~, ballot card voting systems under  
14 IC 3-11-13-11 or electronic voting systems under IC 3-11-14-7, the list  
15 of candidates of the political party shall be placed immediately under  
16 the instructions for voting a straight party ticket. The names of the  
17 candidates shall be placed three-fourths (3/4) of an inch apart from  
18 center to center of the name. The name of each candidate must have,  
19 immediately on its left, a square three-eighths (3/8) of an inch on each  
20 side.

21 (f) The election division or the circuit court clerk may authorize the  
22 printing of ballots containing a ballot variation code to ensure that the  
23 proper version of a ballot is used within a precinct.

24 SECTION 29. IC 3-11-2-12.9 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12.9. (a) School board  
26 offices to be elected at the general election shall be placed on the  
27 general election ballot after the offices described in section 12 of this  
28 chapter.

29 (b) School board offices shall be placed in a separate column on the  
30 ballot or ballot label if voting is by paper ballot, ballot card voting  
31 system, or electronic voting system. ~~or in a separate column of ballot~~  
32 ~~labels if voting is by voting machine.~~

33 (c) This subsection applies to voting done by paper ballot or a ballot  
34 card voting system. If the ballot contains a candidate for a school board  
35 office, the ballot must also contain a statement that reads substantially  
36 as follows:

37 "To vote for a candidate for this office, make a voting mark on or  
38 in the square to the left of the candidate's name."

39 SECTION 30. IC 3-11-2-13 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) The following  
41 offices and public questions shall be placed on the general election  
42 ballot in the following order after the offices described in section 12.9

C  
o  
p  
y



1 of this chapter:

- 2 (1) Retention of a justice of the supreme court.
- 3 (2) Retention of a judge of the court of appeals.
- 4 (3) Retention of the judge of the tax court.
- 5 (4) Ratification of a state constitutional amendment.

6 (b) Whenever more than one (1) justice of the supreme court is  
7 subject to retention, the name of each justice must appear on the ballot  
8 in alphabetical order. However, if the justice serving as chief justice is  
9 subject to retention, the chief justice's name must appear first.

10 (c) Whenever more than one (1) judge of the court of appeals is  
11 subject to retention, the name of each judge must appear on the ballot  
12 in alphabetical order. However, if the judge serving as chief judge is  
13 subject to retention, the chief judge's name must appear first.

14 (d) These offices and public questions shall be placed in a separate  
15 column on the ballot or ballot label if voting is by paper ballot, ballot  
16 card voting system, or electronic voting system. ~~or in a separate column~~  
17 ~~of ballot labels if voting is by voting machine.~~

18 SECTION 31. IC 3-11-2-14 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The following  
20 offices and public questions shall be placed on the general election  
21 ballot in the following order after the offices and public questions  
22 described in section 13 of this chapter:

- 23 (1) Retention of a local judge.
- 24 (2) Local nonpartisan judicial offices.
- 25 (3) Local public questions.

26 (b) These offices and public questions shall be placed in a separate  
27 column on the ballot or ballot label if voting is by paper ballot, ballot  
28 card voting system, or electronic voting system. ~~or in a separate column~~  
29 ~~of ballot labels if voting is by voting machine.~~

30 (c) If the ballot contains a candidate for a local nonpartisan judicial  
31 office, the ballot must also contain a statement that reads substantially  
32 as follows: "To vote for a candidate for this office, make a voting mark  
33 on or in the square to the left of the candidate's name."

34 (d) If more than one (1) local public question concerning the  
35 retention of a local judge is to be placed on a ballot, the public  
36 questions shall be placed on the ballot:

- 37 (1) in alphabetical order according to the surname of the local  
38 judge; and
- 39 (2) identifying the court (including division or room) in which the  
40 judge serves.

41 SECTION 32. IC 3-11-3-2 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The election

C  
o  
p  
y



1 division shall have printed and shall distribute to the circuit court clerk  
2 of each county at each general election the following:

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

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

11 (3) The number of provisional ballots for state offices (and  
12 provisional ballots for electors for President of the United States  
13 in presidential election years) that the election division considers  
14 necessary.

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

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

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

21 SECTION 33. IC 3-11-3-3 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. ~~(a)~~ If, in the  
23 judgment of a county election board, the number of voters in a precinct  
24 of the county where a voting ~~machine system~~ is used for voting is so  
25 large that the ~~machine voting system~~ in use will not be sufficient to  
26 register the vote of all the voters in the precinct, the board may use  
27 paper ballots in addition to the ~~machine voting system~~. The voting by  
28 paper ballot is subject to all the restrictions prescribed by this article.

29 ~~(b) The county election board shall then notify the election division~~  
30 ~~of the board's determination and of the estimated number of state and~~  
31 ~~presidential ballots that will be required in the precinct.~~

32 SECTION 34. IC 3-11-3-11 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. The county election  
34 board shall deliver the following to each inspector or the inspector's  
35 representative:

36 ~~(1) The sealed package of paper ballots, provisional ballots,~~  
37 ~~sample ballots, and any other supplies provided for the inspector's~~  
38 ~~precinct by the election division:~~

39 ~~(2) (1) The local sample ballots, the ballot labels, if any, and all~~  
40 ~~poll lists, registration lists, and other supplies considered~~  
41 ~~necessary to conduct the election in the inspector's precinct.~~

42 ~~(3) (2) The local ballots printed under the direction of the county~~

C  
o  
p  
y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

election board as follows:

(A) The number of ballots equal to one hundred percent (100%) of the number of voters in the inspector's precinct, according to the poll list.

(B) In those precincts where ~~voting machines~~, ballot card systems or electronic voting systems are to be used, the number of paper ballots that will be required for emergency purposes only.

(C) Provisional ballots in the number considered necessary by the county election board.

~~(4)~~ (3) Twenty (20) ink pens suitable for printing the names of write-in candidates on the ballot or ballot envelope.

~~(5)~~ (4) Copies of the voter's bill of rights for posting as required by 42 U.S.C. 15482.

~~(6)~~ (5) Copies of the instructions for a provisional voter required by 42 U.S.C. 15482. The county election board shall provide at least the number of copies of the instructions as the number of provisional ballots provided under ~~subdivision (3)~~: **subdivision (2)**.

SECTION 35. IC 3-11-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The ~~total~~ ballots delivered to the inspector of each precinct under section 11 of this chapter shall be placed in a strong and stout paper envelope or bag, which shall then be tightly closed, fastened securely, and attested by the initials of the circuit court clerk or the clerk's designee in the presence of the inspector or the inspector's representative. The inspector shall sign a receipt for the ballots. The ballot packages may not be opened until:

- (1) they have been delivered to the precinct election board to which they are directed; and
- (2) the precinct election board is fully organized and ready for the reception of votes.

(b) The ~~total~~ provisional ballots delivered to the inspector of each precinct under section 11 of this chapter shall be placed in a strong and stout paper envelope or bag, separate from the bag described in subsection (a), which shall then be tightly closed, fastened securely, and attested by the initials of the circuit court clerk or the clerk's designee in the presence of the inspector or the inspector's representative. The inspector shall sign a receipt for the provisional ballots. The provisional ballot packages may not be opened until:

- (1) they have been delivered to the precinct election board to which they are directed; and

C  
o  
p  
y



1 (2) the precinct election board is fully organized and ready to  
2 receive votes.

3 SECTION 36. IC 3-11-3-22 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) Each county  
5 election board shall have printed in at least 14 point type on cards in  
6 English, braille, and any other language that the board considers  
7 necessary, the following:

8 (1) Instructions for the guidance of voters in preparing their  
9 ballots.

10 (2) Instructions explaining the procedure for write-in voting.

11 (3) Write-in voting notice cards that must be posted in each  
12 precinct that utilizes a ~~voting machine~~ or ballot card voting  
13 system that does not permit write-in voting. The notice cards must  
14 direct voters who want to cast write-in votes to request a write-in  
15 ballot from an election official.

16 (b) The board shall furnish the number of cards it determines to be  
17 adequate for each precinct to the inspector at the same time the board  
18 delivers the ballots for the precinct and shall furnish a magnifier upon  
19 request to a voter who requests a magnifier to read the cards.

20 SECTION 37. IC 3-11-3-35 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35. (a) This section  
22 applies to a county having a population of more than four hundred  
23 thousand (400,000), but less than seven hundred thousand (700,000).

24 (b) In each precinct where voting is by ~~voting machine~~ or electronic  
25 voting system, the county election board shall provide the following to  
26 be used if a ~~voting machine~~ or an electronic voting system  
27 malfunctions:

28 (1) The following number of paper ballots:

29 (A) Not less than ten (10) if the number of registered voters in  
30 the precinct is not more than three hundred (300).

31 (B) Not less than twenty-five (25) if the number of registered  
32 voters in the precinct is more than three hundred (300).

33 (2) The necessary supplies and equipment as required by  
34 IC 3-11-11.

35 (c) Upon notice that a ~~voting machine~~ or an electronic voting system  
36 is out of order or fails to work, the precinct election board shall make  
37 the paper ballots provided under subsection (b) available to voters. The  
38 precinct election board shall contact the county election board to obtain  
39 additional ballots.

40 (d) Upon notice that a ~~voting machine~~ or an electronic voting system  
41 is out of order or fails to work, the county election board shall deliver  
42 additional necessary supplies to any precinct in the county, including

C  
o  
p  
y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

additional paper ballots.

SECTION 38. IC 3-11-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The legislative body of a county may establish a cumulative fund under IC 6-1.1-41 to provide funds for the purchase of ~~voting machines~~, ballot card voting systems or electronic voting systems.

SECTION 39. IC 3-11-6.5-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. (a) When approving applications for reimbursement for voting systems under this chapter, the budget agency shall give priority to approving applications to replace a punch card voting system or voting machine system.

**(b) This section expires January 1, 2006.**

SECTION 40. IC 3-11-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. ~~(a)~~ The commission must approve a ballot card voting system before it may be used in an election.

~~(b) After June 30, 2001, the commission may not approve a punch card voting system for use in an election.~~

SECTION 41. IC 3-11-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A ballot card voting system must permit a voter to vote either:

- (1) a straight party ticket for all of the candidates of a political party by a single mark ~~or punch~~ on each ballot card;
- (2) a split ticket for the candidates of different political parties and for independent candidates; or
- (3) a straight party ticket and then split that ticket by casting individual votes for candidates of another political party or independent candidate.

SECTION 42. IC 3-11-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The commission shall:

- (1) require the vendor to have tests conducted concerning the suitability compliance of a ballot card voting system with HAVA and the standards set forth in this chapter and IC 3-11-15; and**
- (2) have the results of the tests evaluated by the person designated under IC 3-11-16;**

before determining whether to approve the **application for certification of a ballot card voting system.**

**(b) The tests required under this section must be performed by an independent laboratory accredited under Section 231 of HAVA (42 U.S.C. 15371). The vendor shall pay any testing expenses**

C  
o  
p  
y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

incurred under this section.

(c) Except as provided in subsection (d), a ballot card voting system may not be marketed, sold, leased, installed, or implemented in Indiana before the application for certification of the system is approved by the commission.

(d) This subsection applies to a ballot card voting system whose application for certification has been filed with the election division and has not been approved by the commission. Notwithstanding subsection (c), a vendor may market a ballot card system described by this subsection if:

- (1) the vendor files the application for certification with the election division before conducting any marketing of the system in Indiana; and
- (2) all of the vendor's product information has a prominent and easily readable label that states that the ballot card voting system has not been approved by the commission for use in Indiana elections.

(e) An approval of a ballot card voting system under this chapter expires on the date specified in section 19(a) of this chapter.

SECTION 43. IC 3-11-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) A vendor may apply for approval of a proposed improvement or change to a ballot card voting system shall be reported to the election division by:

- ~~(1) the vendor, if a vendor is involved in the proposed change; and~~
- ~~(2) the county election board, if a county is proposing the change;~~

**that is currently certified by the commission. Except as provided in subsection (b), a proposed improvement or change may not be marketed, sold, leased, installed, or implemented in Indiana before the application for the improvement or change is approved by the commission.**

(b) This subsection applies to a ballot card voting system whose application for a proposed improvement or change has been filed with the election division and has not been approved by the commission. Notwithstanding subsection (a), a vendor may market a ballot card voting system described by this subsection if:

- (1) the vendor files the application with the election division before conducting any marketing of the system in Indiana; and
- (2) all of the vendor's product information has a prominent and easily readable label that states that the proposed

C  
o  
p  
y



1 **improvement or change to the ballot card voting system has**  
2 **not been approved by the commission for use in Indiana**  
3 **elections.**

4 ~~(b)~~ **(c) An application for approval of an** improvement  
5 or change must be in the form prescribed by the commission.

6 **(d) The vendor applying for approval of an improvement or a**  
7 **change must have the improvement or change to the voting system**  
8 **tested by an independent laboratory accredited under Section 231**  
9 **of HAVA (42 U.S.C. 15371). The vendor shall pay any testing**  
10 **expenses incurred under this subsection.**

11 ~~(c)~~ **(e) The election division (or a competent the person**  
12 **designated by the commission to act on behalf of the election division**  
13 **under IC 3-11-16) shall review the proposed improvement or change**  
14 **to the voting system and report the results of the review to the**  
15 **commission. The commission shall determine, within a reasonable**  
16 **period of time, whether the improvement or change impairs the**  
17 **accuracy, efficiency, capacity, or ability to meet the requirements of**  
18 **this chapter or the standards adopted by the commission under section**  
19 **2 of this chapter. The review must indicate:**

20 **(1) whether the proposed improvement or change has been**  
21 **approved by an independent laboratory accredited under**  
22 **Section 231 of HAVA (42 U.S.C. 15371); and**

23 **(2) whether the proposed improvement or change would**  
24 **comply with HAVA and the standards set forth in this chapter**  
25 **and IC 3-11-15.**

26 ~~(d)~~ **(f) After the commission has approved the application for an**  
27 **improvement or change to a ballot card voting system, the**  
28 **improvement or change may be marketed, sold, leased, installed, or**  
29 **implemented in Indiana.**

30 **(g) An approval of an application under this section expires on**  
31 **the date specified under section 19(a) of this chapter.**

32 SECTION 44. IC 3-11-7-16 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. The  
34 commission may not approve the **marketing, sale, lease, installation,**  
35 **or implementation** of a ballot card voting system by a vendor if the  
36 commission finds that the system fails to meet all statutory  
37 requirements.

38 SECTION 45. IC 3-11-7-17 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) The election  
40 division (or a ~~competent the~~ person designated by the commission to  
41 act on behalf of the election division **under IC 3-11-16)** may  
42 periodically examine a ballot card voting system that the commission

C  
o  
p  
y



1 has previously approved to determine if **whether** the system is still in  
2 compliance with all statutory requirements **and whether the voting**  
3 **system in use in a county has the same hardware, firmware, and**  
4 **software as the version of the voting system that was certified by**  
5 **the commission.**

6 (b) If the election division or competent person finds that a system  
7 ~~examined under~~ **does not comply with** subsection (a), fails to meet all  
8 requirements and standards, and the commission concurs in these  
9 findings, the commission may by unanimous vote of all of the members  
10 of the commission, rescind the commission's approval of the voting  
11 system.

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

- 15 (1) recommend that use of the system be discontinued; and
- 16 (2) prohibit the system from being **installed, implemented,**  
17 **leased, marketed, used, permitted to be used,** or sold for use in  
18 Indiana in an election conducted under this title.

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

- 21 (1) March 25, 1992; or
- 22 (2) a revision of IC 3-11-15 enacted after July 1, 1997, that  
23 imposes additional standards that did not apply to the voting  
24 system at the time of the system's initial certification:

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

29 (e) If the independent testing authority determines that a voting  
30 system tested under subsection (d) does not comply with this article,  
31 the commission may, by unanimous consent of its entire membership,  
32 prohibit the system from being leased, marketed, or sold for use in  
33 Indiana in an election conducted under this title.

34 SECTION 46. IC 3-11-7-18 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) The  
36 commission may require a county executive to **shall** file a copy of all  
37 contracts, leases, or purchase orders, including modifications, for the  
38 sale or lease of voting equipment, systems, or software with the  
39 election division.

40 (b) The election division may advise or instruct county officials on  
41 the content of the documents listed in subsection (a) **must be filed not**  
42 **later than thirty (30) days after the date of approval of the**

C  
o  
p  
y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

**contract, lease, or purchase order by the county executive.**

SECTION 47. IC 3-11-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) Except as provided in subsection (g), the approval of a ballot card voting system under this chapter expires ~~five (5) years after the date the commission approves the system.~~ **October 1 of the year following the year in which presidential electors are elected under IC 3-10-2-3.**

(b) The vendor of a voting system approved under this chapter may request that the approval be renewed by filing an application with the election division.

(c) The application described in subsection (b) must identify all counties that are currently using the voting system. Before ~~considering the application for renewal,~~ **the commission considers** the application for renewal, the election division shall give notice ~~by regular United States mail~~ of the application to the circuit court clerk of each county listed in the application.

(d) When the commission considers the application, the commission shall request comments regarding the renewal of the application from any interested person. **Before acting on the application for renewal, the commission must receive a report from the person designated under IC 3-11-16 indicating that the hardware, firmware, and software included in the application for renewal of the voting system is identical to the version of the voting system previously certified by the commission.**

~~(e) The commission may, by unanimous consent of its entire membership, order the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.~~

~~(f)~~ **(e) After receiving the report under subsection (d) and receiving comments from interested persons,** the commission shall approve an application for renewal under this section if the commission finds that the voting system:

- (1) complies with the standards prescribed under this chapter;
- (2) has worked effectively where the system has been used; and
- (3) has been adequately supported by the vendor of the system.

~~(g)~~ **(f) This subsection does not apply to the marketing of a voting system performed in compliance with section 12(d) or 15(b) of this chapter.** If the commission finds that a vendor has marketed, sold, leased, installed, implemented, or permitted the use of a voting system in Indiana that:

- (1) has not been certified by the commission for use in Indiana; or
- (2) includes hardware, firmware, or software in a version that has

C  
o  
p  
y



1 not been approved for use in Indiana;  
2 the commission may revoke the approval granted under this section and  
3 prohibit the vendor from marketing, leasing, or selling any voting  
4 system in Indiana for a specific period not to exceed five (5) years.

5 ~~(h)~~ **(g)** A vendor subject to subsection ~~(g)~~ **(f)** may continue to  
6 provide support during the period specified in subsection ~~(g)~~ **(f)** to a  
7 county that has acquired a voting system from the vendor after the  
8 vendor certifies that the voting system to be supported by the vendor  
9 only includes hardware, firmware, and software approved for use in  
10 Indiana.

11 SECTION 48. IC 3-11-7.5-2 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A person ~~owning~~  
13 ~~or interested in an electronic voting system~~ may request the election  
14 division (or a competent person designated by the commission to act on  
15 behalf of the election division) to examine the ~~submit an application~~  
16 ~~for approval of an electronic voting system and report on its~~  
17 ~~accuracy, efficiency, and capacity.~~ **in the form prescribed by the**  
18 **commission.**

19 SECTION 49. IC 3-11-7.5-4 IS AMENDED TO READ AS  
20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a) The**  
21 **commission shall:**

22 **(1) require the vendor to have tests conducted concerning the**  
23 **compliance of an electronic voting system with HAVA and the**  
24 **standards set forth in this chapter and IC 3-11-15; and**

25 **(2) have the results of the tests evaluated by the person**  
26 **designated under IC 3-11-16;**

27 **before determining whether to approve the application for**  
28 **certification of an electronic voting system.**

29 **(b) The tests required under this section must be performed by**  
30 **an independent laboratory accredited under Section 231 of HAVA**  
31 **(42 U.S.C. 15371). The vendor shall pay any testing expenses under**  
32 **this section.**

33 **(c) If the commission finds that an electronic voting system**  
34 **complies with this article, the commission may approve the system.**  
35 **The approved system then may be adopted for use at an election.**

36 **(d) Except as provided in subsection (e), an electronic voting**  
37 **system may not be marketed, sold, leased, installed, or**  
38 **implemented in Indiana before the application for certification of**  
39 **the system is approved by the commission.**

40 **(e) This subsection applies to an electronic voting system whose**  
41 **application for certification has been filed with the election division**  
42 **and has not been approved by the commission. Notwithstanding**

C  
O  
P  
Y



1 subsection (d), a vendor may market an electronic voting system  
2 described by this subsection if:

3 (1) the vendor files the application with the election division  
4 before conducting any marketing of the system in Indiana;  
5 and

6 (2) all of the vendor's product information has a prominent  
7 and easily readable label that states that the electronic voting  
8 system has not been approved by the commission for use in  
9 Indiana elections.

10 (f) An approval of an electronic voting system under this  
11 chapter expires on the date specified by section 28(a) of this  
12 chapter.

13 SECTION 50. IC 3-11-7.5-5 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A **vendor**  
15 **may apply for approval of a** proposed improvement or change to an  
16 electronic voting system ~~shall be reported to the election division by:~~

17 ~~(1) the vendor, if a vendor is involved in the proposed change;~~  
18 and

19 ~~(2) the county election board, if a county is proposing the change;~~  
20 **that is currently certified by the commission. Except as provided**  
21 **in subsection (b),** a proposed improvement or change may not be  
22 marketed, sold, leased, installed, or implemented in Indiana before the  
23 **application for the** improvement or change is approved by the  
24 commission.

25 (b) **This subsection applies to an electronic voting system whose**  
26 **application for a proposed improvement or change has been filed**  
27 **with the election division and has not been approved by the**  
28 **commission. Notwithstanding subsection (a), a vendor may market**  
29 **an electronic voting system described by this subsection if:**

30 (1) the vendor files the application with the election division  
31 before conducting any marketing of the system in Indiana;  
32 and

33 (2) all of the vendor's product information has a prominent  
34 and easily readable label that states that the proposed  
35 improvement or change to the electronic voting system has  
36 not been approved by the commission for use in Indiana  
37 elections.

38 ~~(b) A report of (c) An application for approval of an~~ improvement  
39 ~~or a change must be in the form prescribed by the commission.~~

40 (d) **The vendor applying for approval of an improvement or a**  
41 **change must have the improvement or change to the voting system**  
42 **tested by an independent laboratory accredited under Section 231**

C  
O  
P  
Y



1 of HAVA (42 U.S.C. 15371). The vendor shall pay any testing  
2 expenses incurred under this subsection.

3 ~~(c)~~ (e) The election division (or a ~~competent~~ the person designated  
4 by the commission to act on behalf of the election division under  
5 IC 3-11-16) shall review the improvement or change to the voting  
6 system and report the results of the review to the commission. ~~The~~  
7 commission shall determine within a reasonable period of time whether  
8 the improvement or change impairs the accuracy, efficiency, capacity,  
9 or ability to meet the requirements of this article. **The review must**  
10 **indicate:**

11 (1) whether the proposed improvement or change has been  
12 approved by an independent laboratory accredited under  
13 Section 231 of HAVA (42 U.S.C. 15371); and

14 (2) whether the proposed improvement or change would  
15 comply with HAVA and the standards set forth in this chapter  
16 and IC 3-11-15.

17 ~~(d)~~ (f) After the commission has examined and approved the  
18 application for an improvement or change to an electronic voting  
19 system, the improvement or change may be marketed, sold, leased,  
20 installed, or implemented in Indiana.

21 (g) **An approval of an application under this section expires on**  
22 **the date specified by section 28(a) of this chapter.**

23 SECTION 51. IC 3-11-7.5-7 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The commission  
25 may not approve **the marketing, sale, lease, installation, or**  
26 **implementation of** an electronic voting system unless the system  
27 meets the specifications in sections 8 through 19 of this chapter and in  
28 IC 3-11-15.

29 SECTION 52. IC 3-11-7.5-21 IS AMENDED TO READ AS  
30 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. A county  
31 executive may ~~adopt and~~ purchase, or procure, **lease, install,**  
32 **implement, or authorize the use of** an electronic voting system only  
33 after the system has been approved by the commission.

34 SECTION 53. IC 3-11-7.5-26 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) The election  
36 division (or a ~~competent~~ the person designated by the commission to  
37 act on behalf of the election division under IC 3-11-16) may  
38 periodically examine an electronic voting system that the commission  
39 has previously approved to determine if **whether** that system is still in  
40 compliance with all statutory requirements **and whether the voting**  
41 **system in use in a county has the same hardware, firmware, and**  
42 **software as the version of the voting system that was certified by**

C  
o  
p  
y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

**the commission.**

(b) If the election division or competent person finds that a system examined under ~~does not comply with~~ subsection (a), ~~fails to meet all~~ requirements and standards, and the commission concurs in these findings, the commission may by ~~unanimous vote of all of the members of the commission~~, rescind the commission's approval of the voting system.

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

- (1) recommend that use of the system be discontinued; and
- (2) prohibit the system from being ~~installed, implemented,~~ leased, marketed, **used, permitted to be used**, or sold for use in Indiana in an election conducted under this title.

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

- (1) ~~March 25, 1992~~; or
- (2) a revision of IC 3-11-15 enacted after July 1, 1997, that imposes additional standards that did not apply to the voting system at the time of the system's initial certification.

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

(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with this article, the commission may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title:

SECTION 54. IC 3-11-7.5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) The ~~commission may require~~ a county executive ~~to shall~~ file a copy of all contracts, leases, or purchase orders, including modifications, for the sale or lease of voting equipment, systems, or software with the election division.

(b) The election division may advise or instruct county officials on ~~the content of the~~ documents listed in subsection (a) **must be filed not later than thirty (30) days after the date of approval of the contract, lease, or purchase order by the county executive.**

SECTION 55. IC 3-11-7.5-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) Except as provided in subsection (g), the approval of an electronic voting system

C  
o  
p  
y



1 under this chapter expires ~~five (5) years after the date the commission~~  
 2 ~~approves the system.~~ **October 1 of the year following the year in**  
 3 **which presidential electors are elected under IC 3-10-2-3.**

4 (b) The vendor of a voting system approved under this chapter may  
 5 request that the approval be renewed by filing an application with the  
 6 election division.

7 (c) The application described in subsection (b) must identify all  
 8 counties that are currently using the voting system. Before the  
 9 commission considers the application for renewal, the election division  
 10 shall give notice ~~by regular United States mail~~ of the application to the  
 11 circuit court clerk of each county listed in the application.

12 (d) When the commission considers the application, the election  
 13 division shall request comments regarding the renewal of the  
 14 application from any interested person. **Before acting on the**  
 15 **application for renewal, the commission must receive a report from**  
 16 **the person designated under IC 3-11-16 indicating that the**  
 17 **hardware, firmware, and software included in the application for**  
 18 **renewal of the voting system is identical to the version of the voting**  
 19 **system previously certified by the commission.**

20 (e) ~~The commission may, by unanimous consent of the~~  
 21 ~~commission's entire membership, order the voting system to be tested~~  
 22 ~~by an independent authority designated by the commission. The vendor~~  
 23 ~~shall pay any testing expenses under this subsection.~~

24 (f) ~~(e)~~ **After receiving the report under subsection (d) and**  
 25 **comments from interested persons,** the commission shall approve an  
 26 application for renewal under this section if the commission finds that  
 27 the voting system:

- 28 (1) complies with the standards prescribed under this chapter;  
 29 (2) has worked effectively where the system has been used; and  
 30 (3) has been adequately supported by the vendor of the system.

31 ~~(g)~~ **(f) This subsection does not apply to the marketing of a**  
 32 **voting system performed in compliance with section 4(e) or 5(b) of**  
 33 **this chapter.** If the commission finds that a vendor has marketed, sold,  
 34 leased, installed, implemented, or permitted the use of a voting system  
 35 in Indiana that:

- 36 (1) has not been certified by the commission for use in Indiana; or  
 37 (2) includes hardware, firmware, or software in a version that has  
 38 not been approved for use in Indiana;

39 the commission may revoke the approval granted under this section and  
 40 prohibit the vendor from marketing, leasing, or selling any voting  
 41 system in Indiana for a specific period not to exceed five (5) years.

42 ~~(h)~~ **(g)** A vendor subject to ~~subsection (g)~~ **subsection (f)** may

C  
O  
P  
Y



1 continue to provide support during the period specified in ~~subsection~~  
2 ~~(g)~~ **subsection (f)** to a county that has acquired a voting system from  
3 the vendor after the vendor certifies that the voting system to be  
4 supported by the vendor only includes hardware, firmware, and  
5 software approved for use in Indiana.

6 SECTION 56. IC 3-11-8-7 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. In preparing the polls  
8 for an election, the county executive shall:

- 9 (1) have placed within the room a railing separating the part of the
- 10 room to be occupied by the precinct election board from that part
- 11 of the room to be occupied by the ~~voting machines~~; ballot card
- 12 voting systems, electronic voting systems, and the three (3) or
- 13 more booths or compartments for marking paper ballots,
- 14 whenever either or two (2) of these voting systems are used;
- 15 (2) ensure that the portion of the room set apart for the precinct
- 16 election board includes a door at which each voter appears for
- 17 challenge; and
- 18 (3) provide a chute with a railing, rope, or wire on each side,
- 19 beginning a distance equal to the length of the chute (as defined
- 20 in IC 3-5-2-10) away from and leading to the door for challenge
- 21 and to the room in which the election is held.

22 SECTION 57. IC 3-11-8-15 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) Only the  
24 following persons are permitted in the polls during an election:

- 25 (1) Members of a precinct election board.
- 26 (2) Poll clerks and assistant poll clerks.
- 27 (3) Election sheriffs.
- 28 (4) Deputy election commissioners.
- 29 (5) Pollbook holders.
- 30 (6) Watchers.
- 31 (7) Voters for the purposes of voting.
- 32 (8) Minor children accompanying voters as provided under
- 33 IC 3-11-11-8. ~~and IC 3-11-12-29.~~
- 34 (9) An assistant to a precinct election officer appointed under
- 35 IC 3-6-6-39.
- 36 (10) An individual authorized to assist a voter in accordance with
- 37 IC 3-11-9.
- 38 (11) A member of a county election board, acting on behalf of the
- 39 board.
- 40 (12) A mechanic authorized to act on behalf of a county election
- 41 board to repair a voting system (if the mechanic bears credentials
- 42 signed by each member of the board).

C  
o  
p  
y



1 (13) Either of the following who have been issued credentials  
2 signed by the members of the county election board:

3 (A) The county chairman of a political party.

4 (B) The county vice chairman of a political party.

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

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

14 SECTION 58. IC 3-11-9-2 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) A voter who:

16 (1) is a voter with disabilities; or

17 (2) is unable to read or write English;

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

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

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

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

32 (c) The person designated may then accompany the voter into the  
33 voting booth and assist the voter in marking the voter's paper ballot or  
34 ballot card or in registering the voter's vote on the ~~voting machine~~ or  
35 electronic voting system.

36 SECTION 59. IC 3-11-9-3 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The following  
38 individuals shall assist a voter described by section 2 of this chapter  
39 who requests assistance in voting before entering the voting booth but  
40 does not wish to designate a person under that section.

41 (1) The two (2) judges if the voter is voting at a precinct.

42 (2) Two (2) members of the absentee voter board if the voter is

C  
o  
p  
y



1 voting absentee.

2 (b) This subsection does not apply to a person designated by a voter  
3 described by subsection (a) who is voting absentee before two (2)  
4 members of the absentee voter board. The individuals described in  
5 subsection (a) shall execute a sworn affidavit on a form provided by the  
6 precinct election board stating that, to the best of the individuals'  
7 knowledge, the voter:

- 8 (1) is a voter with disabilities or is unable to read or write English;
- 9 (2) has requested assistance in voting; and
- 10 (3) does not wish to designate a person to assist the voter in  
11 voting under section 2 of this chapter.

12 (c) The two (2) individuals described in subsection (a) shall then  
13 accompany the voter into the voting booth to assist the voter in marking  
14 the voter's paper ballot or ballot card or in registering the voter's vote  
15 on the ~~voting machine~~ or electronic voting system.

16 SECTION 60. IC 3-11-10-16 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) If the inspector  
18 finds under section 15 of this chapter that:

- 19 (1) the affidavit is properly executed;
- 20 (2) the signatures correspond;
- 21 (3) the absentee voter is a qualified voter of the precinct;
- 22 (4) the absentee voter is registered and is not required to file  
23 additional information with the county voter registration office  
24 under IC 3-7-33-4.5;
- 25 (5) the absentee voter has not voted in person at the election; and
- 26 (6) in case of a primary election, if the absentee voter has not  
27 previously voted, the absentee voter has executed the proper  
28 declaration relative to age and qualifications and the political  
29 party with which the absentee voter intends to affiliate;

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

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

41 (c) ~~If an absentee ballot is opened under this section in a precinct  
42 using voting machines, the precinct election board shall prepare~~

C  
O  
P  
Y



1 certificates and memoranda under IC 3-12-2-6 that distinguish the  
2 votes cast by absentee ballots from votes cast on voting machines.

3 SECTION 61. IC 3-11-13-6 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Before an  
5 election at which a ballot card voting system is used, a county election  
6 board shall:

- 7 (1) have the marking devices prepared for the election;
- 8 (2) have the marking devices put in order, set and adjusted, and  
9 made ready for voting when delivered to the precincts; and
- 10 (3) provide the precinct election officers with marking devices, a  
11 demonstration marking device, ~~(except in precincts using optical~~  
12 ~~scan ballots);~~ ballot cards, ballot boxes, ballot labels, and other  
13 records and supplies as required.

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

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

23 SECTION 62. IC 3-11-13-14 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. In partisan  
25 elections, the ballot labels must include a voting square or position  
26 where a voter may by one (1) mark ~~or punch~~ on each card record a  
27 straight party or an independent ticket vote for all the candidates of one  
28 (1) political party or the independent ticket, except for offices for which  
29 the voter has voted individually for a candidate. If the voter records a  
30 vote for the two (2) candidates comprising an independent ticket, the  
31 vote must not count for any other independent candidate on the ballot.

32 SECTION 63. IC 3-11-13-18 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. ~~(a) This subsection~~  
34 ~~does not apply to an optical scan voting system and expires January 1,~~  
35 ~~2006. Each ballot card provided under section 17 of this chapter must~~  
36 ~~have two (2) attached perforated stubs on which is printed the same~~  
37 ~~serial number. The top stub shall be bound or stapled in the package of~~  
38 ~~ballot cards retained by the precinct election officers. The following~~  
39 ~~information must be printed on the second stub:~~

- 40 (1) ~~The name of the political subdivision holding the election;~~
- 41 (2) ~~The designation of the election;~~
- 42 (3) ~~The date of the election;~~

C  
o  
p  
y



1           ~~(4)~~ The instructions to the voters.

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

3           ~~(b)~~ **(a)** The county election board in a county using a ballot card

4 voting system shall provide ballot cards to the precinct election board

5 that permit voters to cast write-in votes for each officer to be voted for

6 at that election.

7           ~~(c)~~ **(b)** The ballot cards provided under ~~subsection (b)~~ **subsection**

8 **(a)** must be:

9           (1) designed to be folded; or

10           (2) accompanied by a secrecy envelope;

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

12           ~~(d)~~ **(c)** This subsection is enacted to comply with 42 U.S.C. 15481

13 by establishing uniform and nondiscriminatory standards to define

14 what constitutes a vote on an optical scan voting system. Except as

15 provided in subsection ~~(c)~~; **(d)**, a write-in vote shall be cast by printing

16 the name of the candidate and the title of the office in the space

17 provided for write-in votes on a ballot card or secrecy envelope.

18           ~~(e)~~ **(d)** Space for write-in voting for an office is not required if there

19 are no declared write-in candidates for that office. However,

20 procedures must be implemented to permit write-in voting for

21 candidates for federal offices.

22           SECTION 64. IC 3-11-13-24 IS AMENDED TO READ AS

23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. The test required

24 by section 22 of this chapter must:

25           ~~(1)~~ include the visual inspection of the voting devices for the

26 correct alignment of the card stock and the templates for proper

27 punching;

28           ~~(2)~~ **(1)** be conducted by processing a preaudited group of ballot

29 cards punched or marked so as to record a predetermined number

30 of valid votes for each candidate and on each public question; and

31           ~~(3)~~ **(2)** include for each office one (1) or more ballot cards that

32 have votes in excess of the number allowed by law in order to test

33 the ability of the automatic tabulating machines to reject the

34 votes.

35           SECTION 65. IC 3-11-13-26 IS AMENDED TO READ AS

36 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. After completion

37 of the count, the tabulating machines shall be sealed ~~in the same~~

38 ~~manner as voting machines under IC 3-12-2.5-6.~~ **as provided in**

39 **IC 3-12-3-10.** The ballot cards and all other election materials shall be

40 sealed, retained, and disposed of as provided for paper ballots.

41           SECTION 66. IC 3-11-13-27 IS AMENDED TO READ AS

42 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) After the

C  
o  
p  
y



1 delivery of a ballot card voting system to a precinct, the precinct  
2 election board may meet at the polls on the same day and open the  
3 package containing the sample ballot cards, to determine whether the  
4 system is ready for use in accordance with section 16 of this chapter.  
5 If a ballot card voting system is not in compliance with that section, the  
6 board shall immediately label, set and adjust, and place the system in  
7 order or have it done.

8 (b) While acting under subsection (a), the precinct election board  
9 may restrict access to parts of the room where marking devices and  
10 other election material are being handled to safeguard this material.

11 (c) On the morning of election day, the precinct election officers  
12 shall meet at the polls at least one (1) hour before the time for opening  
13 the polls. The inspector then shall have:

- 14 (1) the chute erected;
- 15 (2) the sample ballots and instruction cards posted; and
- 16 (3) everything put in readiness for the commencement of voting
- 17 at the opening of the polls.

18 (d) Before the opening of the polls, the precinct election officers  
19 shall **do the following:**

- 20 (1) Compare the ballot cards used in the marking device with the
- 21 sample ballots furnished and determine whether the names,
- 22 numbers, and letters are in agreement.
- 23 **(2) Determine that the system records that zero (0) votes have**
- 24 **been cast for each candidate and on each public question.**
- 25 **(3) Assure that the system is otherwise in perfect order.**

26 (e) The officers then shall certify that:

- 27 (1) the marking device and the sample ballots are in agreement;
- 28 **(2) the system records zero (0) votes cast; and**
- 29 **(3) the system appears to be in perfect order.**

30 Forms shall be provided for certification, and the certification shall be  
31 filed with the election returns.

32 SECTION 67. IC 3-11-13-28.5 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28.5. (a) Unless  
34 challenged, a voter may proceed to vote.

35 (b) This subsection does not apply to an optical scan voting system:  
36 After a voter has signed the poll list, the poll clerk holding the ballot  
37 card shall remove the top stub, as described in section 18 of this  
38 chapter, and deliver to the voter one (1) of each ballot card that the  
39 voter is entitled to vote at the election. The top stub (and any second  
40 stub declined by the voter under section 33 of this chapter) shall be  
41 retained by the precinct election board and returned to the election  
42 board following the close of the polls.

C  
o  
p  
y



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

5            ~~(d)~~ **(c)** This subsection applies after December 31, 2005, to an  
6 optical scan ballot card ballot tabulated at a central location. As  
7 provided by 42 U.S.C. 15481, when a voter receives an optical scan  
8 ballot card ballot, the board must also provide the voter with:

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

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

13            SECTION 68. IC 3-11-13-28.7 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28.7. (a) The two (2)  
15 poll clerks of each precinct shall place their initials in ink on the  
16 secrecy envelope of a ballot card (or on the fold-over part of a ballot  
17 card described in ~~section 18(c)(1)~~ **section 18(b)(1)** of this chapter) at  
18 the time the card is issued to a voter. The initials must be in the poll  
19 clerk's ordinary handwriting or printing and without a distinguishing  
20 mark of any kind.

21            (b) This subsection is enacted to comply with 42 U.S.C. 15481 by  
22 establishing uniform and nondiscriminatory standards to define what  
23 constitutes a vote on an optical scan voting system. A write-in vote cast  
24 on a secrecy envelope or fold-over envelope:

25            (1) is not valid unless:

26                    (A) the secrecy envelope is initialed by both poll clerks; and

27                    (B) the vote includes both the name of the write-in candidate  
28 and the office for which the write-in vote is cast; and

29            (2) makes the secrecy envelope or fold-over envelope a ballot for  
30 purposes of this title.

31            SECTION 69. IC 3-11-13-29 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. (a) In addition to  
33 the instructions printed on the ballot card or ballot labels, instructions  
34 to voters shall be posted in each voting booth or placed on the marking  
35 device. Each voter shall be instructed by both judges, on request, on  
36 how to operate the voting device before the voter enters the voting  
37 booth.

38            (b) The instructions posted in the voting booth or placed on the  
39 marking device must state the following:

40            (1) That the voter should examine the ballot card to determine if  
41 it contains the initials of the poll clerks in ink on the back of the  
42 card.

C  
o  
p  
y



1 (2) That the voter should not make an unnecessary mark ~~or punch~~  
2 on the ballot card because the mark ~~or punch~~ may void the card.  
3 (3) That the voter should examine the ballot card to determine if  
4 the card has any mark (other than the initials of the poll clerks)  
5 before voting.  
6 (4) That the voter should return the ballot card to the poll clerks  
7 and request another ballot card if:  
8 (A) the poll clerks' initials have not been properly placed on  
9 the card;  
10 (B) the card has a mark (other than the initials of the poll  
11 clerks) before the voter places a voting mark on the ballot; or  
12 (C) the voter has improperly marked ~~or punched~~ the card.  
13 (5) That the voter should examine the ballot card after voting to  
14 determine that all marks ~~or punches~~ made on the card to indicate  
15 the voter's selections have been completely marked. ~~or punched~~.  
16 (c) This subsection applies after December 31, 2005. As provided  
17 by 42 U.S.C. 15481, a voter casting an optical scan ballot card under  
18 this section must be:  
19 (1) permitted to verify in a private and an independent manner the  
20 votes selected by the voter before the ballot is cast and counted;  
21 (2) provided the opportunity to change the ballot or correct any  
22 error in a private and independent manner before the ballot is cast  
23 and counted, including the opportunity to receive a replacement  
24 ballot if the voter is otherwise unable to change or correct the  
25 ballot; and  
26 (3) notified before the ballot is cast regarding the effect of casting  
27 multiple votes for the office and provided an opportunity to  
28 correct the ballot before the ballot is cast and counted.  
29 SECTION 70. IC 3-11-13-30 IS AMENDED TO READ AS  
30 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 30. When a voter is  
31 handed a ballot card, the voter shall be instructed to:  
32 (1) use only the marking device provided for ~~punching, slotting,~~  
33 ~~or~~ marking the cards and that the voter is not to mark a card in  
34 any other way;  
35 (2) be certain that the initials of the poll clerks appear on the  
36 voter's card and that if the initials are not on the card it will not be  
37 counted, except as provided by IC 3-12-1-12; and  
38 (3) place the voter's card in an envelope after the voter has voted  
39 or to fold the card in a manner so that no card is exposed upon  
40 which a choice is indicated.  
41 SECTION 71. IC 3-11-13-31.7 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31.7. (a) This section

COPY



1 is enacted to comply with 42 U.S.C. 15481 by establishing uniform and  
2 nondiscriminatory standards to define what constitutes a vote on an  
3 optical scan voting system.

4 (b) After receiving ballot cards, a voter shall, without leaving the  
5 room, go alone into one (1) of the booths or compartments that is  
6 unoccupied and indicate:

7 (1) the candidates for whom the voter desires to vote by ~~punching~~  
8 ~~a hole in~~ or marking the squares immediately beside the  
9 candidates' names; and

10 (2) the voter's preference on each public question by ~~punching a~~  
11 ~~hole in~~ or marking the square beside the word "yes" or "no" under  
12 the question.

13 (c) If an election is a general or municipal election and a voter  
14 desires to vote for all the candidates of one (1) political party or group  
15 of petitioners, the voter may ~~punch a hole in~~ or mark the circle  
16 enclosing the device and beside the name under which the candidates  
17 of the party or group of petitioners are printed. The voter's vote shall  
18 then be counted for all the candidates under that name. However, if the  
19 voter ~~punches a hole in~~ or marks the circle of an independent ticket  
20 comprised of two (2) candidates, the vote shall not be counted for any  
21 other independent candidate on the ballot.

22 SECTION 72. IC 3-11-13-33 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. (a) After a voter has  
24 marked a ballot card, the voter shall place it inside the envelope  
25 provided for this purpose or fold the envelope described in section  
26 18(c)(1) of this chapter and return the ballot card to the judge.

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

31 ~~(e)~~ (b) The judge shall offer to return the envelope with the ballot  
32 card inside to the voter. The voter shall:

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

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

42 ~~(e)~~ (d) After a voter's ballot cards have been deposited in the ballot

C  
o  
p  
y



1 box, the poll clerks shall make a voting mark after the voter's name on  
2 the poll list.

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

7 SECTION 73. IC 3-11-13-35 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35. (a) If a voter spoils  
9 or defaces a ballot card or marks it erroneously, the voter shall return  
10 the card so as not to disclose any choices that the voter has made.

11 (b) This subsection does not apply to an optical scan ballot. A voter  
12 returning a ballot must comply with subsection (a) by folding the stub  
13 on the ballot card.

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

17 (1) immediately cancel the defective card by writing on the back  
18 of the card and stub the word "VOID" in ink or in indelible pencil;  
19 and

20 (2) without detaching any stub attached to the card, place the card  
21 in the container for voided ballots in a manner that does not  
22 expose the choices of the voter.

23 SECTION 74. IC 3-11-14-13 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) Before an  
25 electronic voting system is delivered to a precinct, the county election  
26 board shall have the system put in order, set and adjusted, and ready for  
27 use in voting. **As part of the system's preparation, the county  
28 election board may conduct any of the comparisons and  
29 determinations required under section 17 of the chapter. However,  
30 notwithstanding any action taken by the county election board,  
31 each precinct election board must also perform the comparisons  
32 and determinations required under section 17 of this chapter  
33 before the opening of the polls.** The board may employ one (1) or  
34 more competent persons to prepare systems in accordance with this  
35 section.

36 (b) While acting under subsection (a), the county election board  
37 may restrict access to parts of the room where voting systems and other  
38 election material are being handled to safeguard this material.

39 SECTION 75. IC 3-11-14-23 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. (a) This section is  
41 enacted to comply with 42 U.S.C. 15481 by establishing uniform and  
42 nondiscriminatory standards to define what constitutes a vote on an

C  
o  
p  
y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

electronic voting system.

(b) If a voter is not challenged by a member of the precinct election board, the voter may pass the railing to the side where an electronic voting system is and into the voting booth. There the voter shall register the voter's vote in secret by indicating:

- (1) the candidates for whom the voter desires to vote by touching a device on or in the squares immediately above the candidates' names;
- (2) if the voter intends to cast a write-in vote, a write-in vote by touching a device on or in the square immediately below the candidates' names and printing the name of the candidate in the window provided for write-in voting; and
- (3) the voter's preference on each public question by touching a device above the word "yes" or "no" under the question.

(c) If an election is a general or municipal election and a voter desires to vote for all the candidates of one (1) political party or group of petitioners, the voter may cast a straight party ticket by touching that party's device. The voter's vote shall then be counted for all the candidates under that name. However, if the voter casts a vote by touching the circle of an independent ticket comprised of two (2) candidates, the vote shall not be counted for any other independent candidate on the ballot.

(d) **This subsection applies after December 31, 2005.** As provided by 42 U.S.C. 15481, a voter casting a ballot on an electronic voting system must be:

- (1) permitted to verify in a private and an independent manner the votes selected by the voter before the ballot is cast and counted;
- (2) provided 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 multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

SECTION 76. IC 3-11-14.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

**Chapter 14.5. Public Tests of Electronic Voting Systems**

**Sec. 1. At least fourteen (14) days before election day, the county election board of each county planning to use an electronic voting system at the next election shall randomly select at least three (3)**

C  
O  
P  
Y



1 precincts within the county and test the voting system units to be  
2 used at those precincts on election day. Each voting system shall be  
3 tested to ascertain that the system will correctly count the votes  
4 cast for all candidates and on all public questions in that precinct.

5 Sec. 2. Public notice of the time and place shall be given at least  
6 forty-eight (48) hours before the test. The notice shall be published  
7 once in accordance with IC 5-3-1-4.

8 Sec. 3. The two (2) appointed members of the county election  
9 board shall observe the test required by this chapter and, if they so  
10 determine, shall certify the test as meeting the requirements of this  
11 chapter.

12 Sec. 4. The test must be open to representatives of political  
13 parties, candidates, the media, and the public.

14 Sec. 5. The test required by this chapter must include the  
15 following:

16 (1) The visual inspection of the voting system and ballot  
17 labels.

18 (2) The manual entry of a preaudited group of ballots marked  
19 so as to record a predetermined number of valid votes for  
20 each candidate and on each public question.

21 (3) At least one (1) ballot for each office that has votes in  
22 excess of the number allowed by law in order to test the  
23 ability of the electronic voting system to reject the overvotes.

24 Sec. 6. If an error is detected during the test required by section  
25 5 of this chapter, the cause of the error shall be determined and  
26 corrected, and an errorless count must be made before the use of  
27 the electronic voting system at the election is approved.

28 Sec. 7. After completion of the count, the voting system shall be  
29 sealed. The ballots used to conduct the test and all other election  
30 materials shall be sealed, retained, and disposed of as provided for  
31 paper ballots.

32 Sec. 8. Immediately following the completion of the voting  
33 system test under section 5 of this chapter, the county election  
34 board shall enter the vote totals from the voting systems tested  
35 under this chapter into the component of the voting system used by  
36 the county election board to tabulate election results under  
37 IC 3-12-3.5. The board shall determine whether this component of  
38 the voting system properly tabulates the votes cast in each of the  
39 precincts tested under this chapter.

40 Sec. 9. Not later than seven (7) days after conducting the tests  
41 required under this chapter, the county election board shall certify  
42 to the election division that the tests have been conducted in

C  
o  
p  
y



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

**conformity with this chapter.**

**Sec. 10. A copy of the certification of the tests conducted under this chapter shall be filed with the election returns.**

SECTION 77. IC 3-11-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The performance and test standards and fees under this chapter apply to ~~a~~ **an optical scan voting system or an electronic voting system procured after March 25, 1992; described in IC 3-11-7 or IC 3-11-7.5.**

SECTION 78. IC 3-11-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The commission shall not approve any system until the fee and the expenses incurred by the election division (or ~~a competent~~ **the person designated by the commission to act on behalf of the election division under IC 3-11-16**) in making the examination are paid by the person making the application.

SECTION 79. IC 3-11-15-13.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.3. (a) This section applies after December 31, 2005.

(b) To be approved by the commission for use in Indiana, a voting system must meet the Voting System Standards adopted by the Federal Election Commission on April 30, 2002.

(c) ~~The commission may adopt rules under IC 4-22-2 to require a voting system to meet standards more recent than standards described in subsection (b). If the commission adopts rules under this subsection, a voting system must meet the standards described in the rules instead of the standards described in subsection (b).~~

**(c) A county may continue to use an optical scan ballot card voting system or an electronic voting system whose approval or certification expired on or before October 1, 2005, if the voting system:**

**(1) was:**

**(A) approved by the commission for use in elections in Indiana before July 1, 2003; and**

**(B) purchased by the county before July 1, 2003; and**

**(2) otherwise complies with the applicable provisions of HAVA and this article.**

**However, a voting system vendor may not market, sell, lease, or install a voting system described in this subsection.**

(d) As provided by 42 U.S.C. 15481, to be used in an election in Indiana, a voting system must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access

**C  
O  
P  
Y**



1 and participation (including privacy and independence) as for other  
2 voters.

3 (e) As provided by 42 U.S.C. 15481, an election board conducting  
4 an election satisfies the requirements of subsection (d) if the election  
5 board provides at least one (1) electronic voting system or other voting  
6 system equipped for individuals with disabilities at each polling place.

7 **(f) If a voter who is otherwise qualified to cast a ballot in a**  
8 **precinct chooses to cast the voter's ballot on the voting system**  
9 **provided under subsection (e), the voter must be allowed to cast the**  
10 **voter's ballot on that voting system, whether or not the voter is an**  
11 **individual with disabilities.**

12 SECTION 80. IC 3-11-16 IS ADDED TO THE INDIANA CODE  
13 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
14 UPON PASSAGE]:

15 **Chapter 16. Voting System Technical Oversight Program**

16 **Sec. 1. As used in this chapter, "program" refers to the voting**  
17 **system technical oversight program established by section 2 of this**  
18 **chapter.**

19 **Sec. 2. The voting system technical oversight program is**  
20 **established.**

21 **Sec. 3. The secretary of state shall contract with a person or an**  
22 **entity to conduct the program for a term specified in the contract.**

23 **Sec. 4. The person or entity designated under this chapter to**  
24 **conduct the program shall do the following:**

25 **(1) Develop and propose procedures and standards for the**  
26 **certification, acquisition, functioning, training, and security**  
27 **for voting systems used to conduct elections in Indiana.**

28 **(2) Compile and maintain an inventory of all voting systems**  
29 **used to conduct elections in Indiana.**

30 **(3) Review reports concerning voting systems prepared by**  
31 **independent laboratories and submitted by applicants for**  
32 **voting system certification.**

33 **(4) Recommend to the commission whether an application for**  
34 **voting system certification should be approved and, if so,**  
35 **whether the approval should be subject to any restrictions or**  
36 **conditions to ensure compliance with Indiana law.**

37 **(5) Perform any additional testing of a voting system**  
38 **necessary to determine whether the voting system complies**  
39 **with state law.**

40 **(6) Each year perform random audits of voting systems used**  
41 **to conduct Indiana elections and prepare reports indicating**  
42 **whether the voting systems have been certified, programmed,**

**C**  
**O**  
**P**  
**Y**



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

- and used in compliance with Indiana law.
- (7) Review contracts, leases, purchase orders, and amendments to those documents concerning the acquisition or maintenance of voting systems.
- (8) Assist with the development of quantity purchase agreements and other contracts for the lease or purchase of voting systems.
- (9) Perform any other duties related to the approval or use of voting systems as provided in:
  - (A) state law; or
  - (B) the contract described in section 3 of this chapter.

SECTION 81. IC 3-11-17 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 17. Voting System Violations**

**Sec. 1. This chapter applies to a voting system vendor who sells, leases, installs, implements, or permits the use of a voting system in an election conducted in Indiana.**

**Sec. 2. In addition to any other penalty imposed, a vendor who knowingly, recklessly, or negligently sells, leases, installs, implements, or permits the use of a voting system in an election conducted in Indiana in violation of this title is subject to a civil penalty under this chapter.**

**Sec. 3. If the secretary of state determines that a vendor is subject to a civil penalty under section 2 of this chapter, the secretary of state may assess a civil penalty. The civil penalty assessed under this section may not exceed five hundred thousand dollars (\$500,000), plus any investigative costs incurred and documented by the secretary of state.**

**Sec. 4. The secretary of state is subject to IC 4-21.5 in imposing a civil penalty under this chapter.**

**Sec. 5. All civil penalties collected under this chapter shall be deposited with the treasurer of state in the voting system technical oversight program account established by section 6 of this chapter.**

**Sec. 6. (a) The voting system technical oversight program account is established with the state general fund to provide money for administering and enforcing IC 3-11-7, IC 3-11-7.5, IC 3-11-15, IC 11 3-11-16, and this chapter.**

**(b) The election division shall administer the account. With the approval of the budget agency, funds in the account are available to augment and supplement the funds appropriated to the election division for the purposes described in this section.**

C  
O  
P  
Y



1           **(c) The expenses of administering the account shall be paid from**  
 2 **the money in the account. The account consists of all civil penalties**  
 3 **collected under this chapter.**

4           SECTION 82. IC 3-11.5-4-24 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. (a) In addition to  
 6 the preparations described in IC 3-11-11-2, ~~IC 3-11-12-24~~,  
 7 IC 3-11-13-27, or IC 3-11-14-16, the inspector shall:

8           (1) mark the poll list; and

9           (2) attach the certificates of voters who have registered and voted  
 10 under IC 3-7-36-14 to the poll list;

11 in the presence of the poll clerks to indicate the voters of the precinct  
 12 whose absentee ballots have been received by the county election board  
 13 according to the certificate supplied under section 1 of this chapter.

14           (b) The poll clerks shall sign the statement printed on the certificate  
 15 supplied under section 1 of this chapter indicating that the inspector:

16           (1) marked the poll list; and

17           (2) attached the certificates described in subsection (a)(2);  
 18 under this section in the presence of both poll clerks.

19           (c) The inspector shall retain custody of the certificate supplied  
 20 under section 1 of this chapter until the certificate is returned under  
 21 section 9 of this chapter.

22           SECTION 83. IC 3-12-1-9.5 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9.5. (a) This section  
 24 applies to counting votes cast on ballot cards.

25           **(b) As used in this section, "chad" means the part of a ballot card**  
 26 **that indicates a vote on the card when entirely punched out by the**  
 27 **voter.**

28           **(c) A chad that has been pierced, but not entirely punched out of the**  
 29 **card, shall be counted as a vote for the indicated candidate or for the**  
 30 **indicated response to a public question.**

31           **(d) A chad that has been indented, but not in any way separated**  
 32 **from the remainder of the card, may not be counted as a vote for a**  
 33 **candidate or on a public question.**

34           **(e) Whenever:**

35           (1) a ballot card contains a numbered box indicating which chad  
 36 should be punched out by the voter to cast a vote for a candidate  
 37 or on a public question;

38           (2) the indicated chad has not been punched out; and

39           (3) a hole has been made in the card that touches any part of the  
 40 numbered box;

41 the hole shall be counted as a vote for the candidate or on the public  
 42 question as if the indicated chad had been punched out. However, if a

C  
o  
p  
y



1 hole has been made in the ballot that does not touch a numbered box  
 2 or punch out a chad; the hole may not be counted as a vote for a  
 3 candidate or on a public question:

4 (f) Whenever:

5 (1) a chad has been punched out of a ballot card;

6 (2) a numbered box indicates that another chad may be punched  
 7 out to cast a vote for:

8 (A) a different candidate for the same office as the candidate  
 9 for whom a vote was cast under subdivision (1); or

10 (B) a different response to the same public question on which  
 11 a vote was cast under subdivision (1); and

12 (3) a hole has been punched in the card that touches the numbered  
 13 box described in subdivision (2);

14 neither the chad described in subdivision (1) nor the hole described in  
 15 subdivision (3) may be counted as a vote for a candidate or on a public  
 16 question:

17 (g) (b) This subsection applies to a ballot card that:

18 (1) has been cast in a precinct whose votes are being recounted by  
 19 a local recount commission or the state recount commission;

20 (2) is damaged or defective so that it cannot properly be counted  
 21 by automated tabulating machines; and

22 (3) cannot be counted for the office subject to the recount due to  
 23 the damage or defect.

24 The ballot card shall be remade only if the conditions in subdivisions  
 25 (1) through (3) exist.

26 SECTION 84. IC 3-12-2-6 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) When all votes  
 28 have been counted, the precinct election board shall prepare a  
 29 certificate stating the number of votes that each candidate received for  
 30 each office and the number of votes cast on each public question. The  
 31 number of votes that each candidate and public question received shall  
 32 be written in words and numbers. The board shall also prepare a  
 33 memorandum of the total vote cast for each candidate and ensure that  
 34 each member of the board receives a copy of the memorandum.

35 (b) If:

36 (1) an absentee ballot has been cast in the precinct; and

37 (2) the precinct used voting machines;

38 the certificates and memoranda prepared under this section must  
 39 comply with IC 3-11-10-16(c).

40 SECTION 85. IC 3-12-3.5-2 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. After each  
 42 electronic voting system has been secured and the paper vote total

C  
o  
p  
y



1 printouts obtained, the inspector shall announce in a distinct tone of  
2 voice ~~the result of the vote as shown by that~~ the printouts are  
3 **available for inspection by the members of the precinct election**  
4 **board and any watchers present within the polls. The members and**  
5 **watchers are entitled to inspect and copy the printouts to document**  
6 **the votes cast for:**

- 7 (1) each candidate ~~in the order as their offices are arranged on~~  
8 each system; and
- 9 (2) each public question **on each system.**

10 SECTION 86. IC 3-12-4-15 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. A county election  
12 board may not reject the certificates, poll lists, or tally papers returned  
13 from a precinct election board:

- 14 (1) for lack of form or for not being strictly in accordance with the  
15 directions contained in this title if the certificates can be  
16 satisfactorily understood; or
- 17 (2) if the returns are certified by the precinct election board as  
18 required by IC 3-12-2-6, ~~IC 3-12-2.5-6,~~ IC 3-12-3-2, and  
19 IC 3-12-3.5-6 and returned by the inspector or one (1) of the  
20 judges of the board.

21 SECTION 87. IC 3-12-4-18 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. If ~~voting machines~~  
23 ~~or~~ electronic voting systems are used in a precinct, the county election  
24 board may request authorization from the state recount commission to  
25 inspect the registering counter or other ~~mechanical~~ recording device on  
26 any ~~voting machine or~~ electronic voting system showing the number of  
27 votes cast for any candidate or public question. If authorized by the  
28 state recount commission, the board may conduct an inspection either  
29 before it proceeds to count and tabulate the vote or within one (1) day  
30 after the count and tabulation are finished.

31 SECTION 88. IC 3-12-4-19 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. To inspect ~~a voting~~  
33 ~~machine or an~~ electronic voting system under section 18 of this  
34 chapter, the county election board may proceed to any place in the  
35 county where the ~~machine or~~ system is located, kept, or stored.  
36 However, the board shall make the inspection in the presence of an  
37 accredited representative of each of the major political parties of the  
38 county.

39 SECTION 89. IC 3-12-4-20 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. When making a  
41 inspection under section 18 of this chapter, a county election board  
42 shall compare the number of votes registered on the counter or other

C  
o  
p  
y



1 ~~mechanical~~ recording device on the ~~voting machines~~ or electronic  
 2 voting systems with the returns made by the precinct election board of  
 3 the precinct in which the ~~voting machine~~ or electronic voting system  
 4 was used.

5 SECTION 90. IC 3-12-4-21 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. If there is a  
 7 discrepancy between the number of votes registered on a ~~voting~~  
 8 ~~machine~~ or an electronic voting system and the returns made by the  
 9 precinct election board, the county election board shall correct the  
 10 returns made by the precinct election board so that the returns conform  
 11 to the vote registered on the ~~voting machine~~ or electronic voting  
 12 system. The corrected returns shall be considered the true and correct  
 13 returns of the number of votes cast for each candidate or on each public  
 14 question in the precinct.

15 SECTION 91. IC 3-12-4-22 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. If a nomination or  
 17 election is contested or a recount is conducted, the returns of each  
 18 precinct election board, as corrected by the county election board under  
 19 section 21 of this chapter, constitute prima facie evidence of the vote  
 20 cast for each candidate and on each public question to the same extent  
 21 as the tabulation and return of the vote in a precinct where ~~voting~~  
 22 ~~machines~~ or electronic voting systems are not used.

23 SECTION 92. IC 3-12-6-16 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) A recount  
 25 commission consists of three (3) persons.

26 (b) Two (2) members of the commission must be voters who:

- 27 (1) are members of different major political parties of the state;  
 28 and  
 29 (2) were qualified to vote at the election in a county in which the  
 30 election district for the office is located.

31 (c) This subsection applies to a recount commission conducting a  
 32 recount of an election in which only paper ballots were used. The third  
 33 member of the commission must be a person who:

- 34 (1) is a member of a major political party of the state; and  
 35 (2) was qualified to vote at the election in a county in which the  
 36 election district for the office is located.

37 (d) This subsection applies to a recount of an election in which a  
 38 voting method other than only paper ballots was used. The third  
 39 member of the commission must be a competent mechanic who is  
 40 familiar with the ~~voting machines~~, ballot card voting systems or  
 41 electronic voting systems used in that election. The mechanic is not  
 42 required to be qualified to vote at the election in a county in which the

C  
O  
P  
Y



1 election district for the office is located.

2 SECTION 93. IC 3-12-6-19 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 19. (a) A court ordering  
4 a recount under this chapter shall by order impound and provide for the  
5 protection of the following:

6 (1) All ballots ~~voting machines~~, and electronic voting systems  
7 used at the election for casting votes in the precincts.

8 (2) All tally sheets relating to the votes cast for nomination or  
9 election to the office.

10 (3) All poll lists of persons registered by the poll clerks as having  
11 voted for nomination or election to the office.

12 (b) An order issued by the state recount commission under  
13 IC 3-12-10 supersedes an order issued by a court under this section to  
14 the extent that the orders conflict. The state recount commission shall  
15 assist a court acting under this section to the extent that the ability of  
16 the state recount commission to preserve the integrity of election  
17 records or equipment is not hindered.

18 (c) An impoundment order issued under subsection (a) may not  
19 prevent a circuit court clerk or board of registration from copying  
20 election material other than ballots if the clerk or board copies the  
21 material under the supervision of a person designated by the court.

22 SECTION 94. IC 3-12-6-20 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. A court acting  
24 under section 19 of this chapter shall make the ballots, ~~voting~~  
25 ~~machines~~, electronic voting systems, tally sheets, and poll lists  
26 available to the recount commission appointed under this chapter.

27 SECTION 95. IC 3-12-8-2 IS AMENDED TO READ AS  
28 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. An election may be  
29 contested under section 1 of this chapter if a petitioner alleges that one  
30 (1) of the following circumstances existed:

31 (1) The contestee was ineligible.

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

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

38 (4) ~~A voting machine or~~ An electronic voting system  
39 malfunctioned, making it impossible to determine the candidate  
40 who received the highest number of votes.

41 (5) A deliberate act or series of actions occurred making it  
42 impossible to determine the candidate who received the highest

C  
o  
p  
y



1           number of votes cast in the election.

2           SECTION 96. IC 3-12-8-6 IS AMENDED TO READ AS

3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) A petition filed

4 under section 5 of this chapter must state the following:

5           (1) That the petitioner desires to contest the nomination or

6 election to an office.

7           (2) The name of each candidate as set forth on the ballot for the

8 election and address of each candidate as set forth in the records

9 of the county election board or election division.

10          (3) That the petitioner in good faith believes that one (1) or more

11 of the following occurred:

12           (A) The person declared nominated or elected does not comply

13 with a specific constitutional or statutory requirement set forth

14 in the petition that is applicable to a candidate for the office.

15           (B) A mistake was made in the printing or distribution of

16 ballots used in the election that makes it impossible to

17 determine which candidate received the highest number of

18 votes cast in the election.

19           (C) A mistake occurred in the programming of a ~~voting~~

20 ~~machine~~ or an electronic voting system, making it impossible

21 to determine the candidate who received the highest number

22 of votes.

23           (D) ~~A voting machine~~ or An electronic voting system

24 malfunctioned, making it impossible to determine the

25 candidate who received the highest number of votes.

26           (E) A deliberate act or series of actions occurred making it

27 impossible to determine the candidate who received the

28 highest number of votes cast in the election.

29          (b) A petition stating that the petitioner believes that it is impossible

30 to determine the candidate that received the highest number of votes

31 for one (1) of the reasons described in subsection (a)(3)(B), (a)(3)(C),

32 or (a)(3)(D) must identify each precinct in which:

33           (1) ballots:

34           (A) containing the printing mistake; or

35           (B) distributed by mistake;

36 were cast;

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

38 ~~or~~ an electronic voting system; or

39           (3) a ~~voting machine~~ or an electronic voting system

40 malfunctioned.

41          (c) A petition stating that the petitioner believes that an act or series

42 of actions described in subsection (a)(3)(E) occurred must identify each

C  
O  
P  
Y



1 precinct or other location in which the act or series of actions occurred  
2 to the extent known to the petitioner.

3 SECTION 97. IC 3-12-8-17 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) A contest shall  
5 be heard and determined by the court without a jury subject to the  
6 Indiana Rules of Trial Procedure.

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

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

- 13 (d) If the court finds that:
  - 14 (1) a mistake in the printing or distribution of the ballots used in
  - 15 the election;
  - 16 (2) a mistake in the programming of a ~~voting machine~~ or an
  - 17 electronic voting system;
  - 18 (3) a malfunction of a ~~voting machine~~ or an electronic voting
  - 19 system; or
  - 20 (4) the occurrence of a deliberate act or series of actions;

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

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

- 26 (1) ballots containing the printing mistake or distributed by
- 27 mistake were cast;
- 28 (2) a mistake occurred in the programming of a ~~voting machine~~
- 29 or an electronic voting system;
- 30 (3) a ~~voting machine~~ or an electronic voting system
- 31 malfunctioned; or
- 32 (4) the deliberate act or series of actions occurred.

33 SECTION 98. IC 3-12-11-3 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Each petition for  
35 a recount filed under section 2 of this chapter must state the following:

- 36 (1) The office for which the petitioner desires a recount.
- 37 (2) The precincts in which the petitioner desires a recount.
- 38 (3) That the individual is entitled to a recount under this chapter
- 39 and that the nomination or election to office at issue was voted
- 40 upon in the precincts specified.
- 41 (4) The name of the candidates as set forth on the ballot for the
- 42 election and address of the candidates as set forth in the records

C  
O  
P  
Y



1 of the election division.

2 (5) That the petitioner in good faith believes that the votes cast for

3 nomination or election to the office at the election in the precincts

4 were not correctly counted and returned.

5 (6) That the petitioner desires a recount of all of the votes cast for

6 nomination or election to the office in the precincts specified.

7 (b) Each petition for a contest filed under section 2 of this chapter

8 must state the following:

9 (1) The nomination or election to office that the petitioner

10 contests.

11 (2) That the individual is entitled to contest an election or a

12 nomination to office under this chapter.

13 (3) The name of the candidates as set forth on the ballot for the

14 election and address of each of the candidates as set forth in the

15 records of the election division.

16 (4) That the petitioner in good faith believes that one (1) or more

17 of the following occurred:

18 (A) The person declared nominated or elected does not comply

19 with a specific constitutional or statutory requirement set forth

20 in the petition that is applicable to a candidate for the office.

21 (B) A mistake was made in the printing or distribution of

22 ballots used in the election that makes it impossible to

23 determine which candidate received the highest number of

24 votes cast in the election.

25 (C) A mistake occurred in the programming of a ~~voting~~

26 ~~machine~~ or an electronic voting system, making it impossible

27 to determine the candidate who received the highest number

28 of votes.

29 (D) ~~A voting machine~~ or An electronic voting system

30 malfunctioned, making it impossible to determine the

31 candidate who received the highest number of votes.

32 (E) A deliberate act or series of actions occurred making it

33 impossible to determine the candidate who received the

34 highest number of votes cast in the election.

35 (c) A petition stating that the petitioner believes that a mistake

36 described in subsection (b)(4)(B), (b)(4)(C), or (b)(4)(D) has occurred

37 must identify each precinct in which:

38 (1) ballots:

39 (A) containing the printing mistake; or

40 (B) distributed by mistake;

41 were cast;

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

COPY



1           or an electronic voting system; or  
2           (3) a ~~voting machine~~ or an electronic voting system  
3           malfunctioned.  
4           (d) A petition stating that the petitioner believes that an act or series  
5 of actions described in subsection (b)(4)(E) occurred must identify  
6 each precinct or other location in which the act or series of actions  
7 occurred to the extent known to the petitioner.  
8           SECTION 99. IC 3-12-11-16 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) Except as  
10 provided in subsection (b), the state recount commission may by order  
11 impound and provide for the protection of the following:  
12           (1) All ballots ~~voting machines~~; and electronic voting systems  
13 used at the election for casting votes in the precincts.  
14           (2) All tally sheets relating to the votes cast for the office.  
15           (3) All poll lists of persons registered by the poll clerks as having  
16 voted for the office.  
17           (b) In a recount of an election for a legislative office, the state  
18 recount commission shall by order impound and provide for the  
19 protection of the following:  
20           (1) All ballots ~~voting machines~~; and electronic voting systems  
21 used at the election for casting votes in all of the precincts within  
22 the legislative district.  
23           (2) All tally sheets relating to the votes cast for the office.  
24           (3) All poll lists of persons registered by the poll clerks as having  
25 voted for the office.  
26           SECTION 100. IC 3-12-11-18 IS AMENDED TO READ AS  
27 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) When a recount  
28 is completed by the state recount commission or its designee, the  
29 commission shall:  
30           (1) make and sign a certificate showing the total number of votes  
31 received in the precincts by each candidate for nomination or  
32 election to the office;  
33           (2) state in its certificate the candidate who received the highest  
34 number of votes in the precincts for nomination or election to the  
35 office and by what plurality; and  
36           (3) file its certificate with the election division.  
37           (b) When a contest proceeding in which a candidate is alleged to be  
38 ineligible is completed by the state recount commission or its designee,  
39 the commission shall make a final determination concerning the  
40 eligibility of the candidate for nomination or election to the office.  
41           (c) If the state recount commission or its designee determines that:  
42           (1) a mistake was made in the printing or distribution of ballots

C  
O  
P  
Y



1 used in the election;

2 (2) a mistake was made in the programming of a ~~voting machine~~

3 ~~or~~ an electronic voting system;

4 (3) a ~~voting machine~~ ~~or~~ an electronic voting system

5 malfunctioned; or

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

7 that makes it impossible to determine which candidate received the

8 highest number of votes cast, the commission shall order that a special

9 election be conducted under IC 3-10-8.

10 (d) The special election ordered under subsection (c) shall be held

11 in the precincts identified in the petition in which the commission

12 determines that:

13 (1) ballots containing the printing mistake or distributed by

14 mistake were cast;

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

16 ~~or~~ an electronic voting system;

17 (3) a ~~voting machine~~ ~~or~~ an electronic voting system

18 malfunctioned; or

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

20 SECTION 101. IC 3-12-12-11 IS AMENDED TO READ AS

21 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A recount

22 commission consists of three (3) persons.

23 (b) Two (2) members of the commission must be voters who:

24 (1) are members of different major political parties of the state;

25 and

26 (2) were qualified to vote at the election in a county in which the

27 election district that voted on the public question is located.

28 (c) This subsection applies to a recount commission conducting a

29 recount of an election in which only paper ballots were used. The third

30 member of the commission must be a person who:

31 (1) is a member of a major political party of the state; and

32 (2) was qualified to vote at the election in a county in which the

33 election district that voted on the public question is located.

34 (d) This subsection applies to a recount of an election in which a

35 voting method other than only paper ballots was used. The third

36 member of the commission must be a competent mechanic who is

37 familiar with the ~~voting machines~~, ballot card voting systems or

38 electronic voting systems used in that election. The mechanic is not

39 required to be qualified to vote at the election in a county in which the

40 election district that voted on the public question is located.

41 SECTION 102. IC 3-12-12-14 IS AMENDED TO READ AS

42 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) A court ordering

C  
O  
P  
Y



1 a recount under this chapter shall by order impound and provide for the  
2 protection of the following:

3 (1) All ballots ~~voting machines~~; and electronic voting systems  
4 used at the election for casting votes in the precincts.

5 (2) All tally sheets relating to the votes cast on the public  
6 question.

7 (3) All poll lists of persons registered by the poll clerks as having  
8 voted on the public question.

9 (b) An order issued by the state recount commission under  
10 IC 3-12-10 supersedes an order issued by a court under this section to  
11 the extent that the orders conflict. The state recount commission shall  
12 assist a court acting under this section to the extent that the ability of  
13 the state recount commission to preserve the integrity of election  
14 records or equipment is not hindered.

15 (c) An impoundment order issued under subsection (a) may not  
16 prevent a circuit court clerk or board of registration from copying  
17 election material other than ballots if the clerk or board copies the  
18 material under the supervision of a person designated by the court.

19 SECTION 103. IC 3-12-12-16 IS AMENDED TO READ AS  
20 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. A court acting  
21 under section 14 of this chapter shall make the ballots, ~~voting~~  
22 ~~machines~~; electronic voting systems, tally sheets, and poll lists  
23 available to the recount commission appointed under this chapter.

24 SECTION 104. IC 3-14-2-18 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. A voter who  
26 knowingly:

27 (1) does anything to enable any other person to see or know for  
28 what ticket, candidates, or public questions the voter has voted;  
29 ~~on a voting machine~~; or

30 (2) moves into a position, or does any other thing, to enable the  
31 voter to see or know for what ticket, candidates, or public  
32 questions any other voter votes; ~~on a voting machine~~;

33 commits a Class D felony.

34 SECTION 105. IC 3-14-2-29 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. A person who  
36 knowingly inspects ~~a voting machine~~ ~~or an~~ electronic voting system  
37 under IC 3-12-4-18 without obtaining authorization from the state  
38 recount commission to conduct the inspection commits a Class D  
39 felony.

40 SECTION 106. IC 3-14-3-3 IS AMENDED TO READ AS  
41 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. A person who  
42 knowingly:

C  
o  
p  
y



- 1 (1) interferes with a watcher;
- 2 (2) prevents a watcher from performing the watcher's duties;
- 3 (3) otherwise violates:
- 4 (A) IC 3-6-8-3;
- 5 (B) IC 3-6-8-4;
- 6 (C) IC 3-6-8-5;
- 7 (D) IC 3-6-8-6;
- 8 (E) IC 3-6-9; or
- 9 (F) IC 3-6-10; or
- 10 (4) violates ~~IC 3-11-12-21(e)~~ or IC 3-11-13-44(d);
- 11 commits a Class D felony.

12 SECTION 107. IC 3-14-3-5 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. A precinct election  
 14 officer who, with the intent to cause or permit a ~~voting machine~~; ballot  
 15 card voting system or ~~an~~ electronic voting system to fail to correctly  
 16 register all votes cast, tampers with or disarranges the ~~machine~~ or  
 17 system or any part of it commits a Class D felony.

18 SECTION 108. IC 3-14-3-6 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. A precinct election  
 20 officer who permits a ~~voting machine~~; ballot card voting system or ~~an~~  
 21 electronic voting system to be used for voting at an election, with  
 22 knowledge of the fact that the ~~machine~~ or system is not in order or not  
 23 perfectly set and adjusted so that it will correctly register all votes cast,  
 24 commits a Class D felony.

25 SECTION 109. IC 3-14-3-7 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. An inspector or poll  
 27 clerk in a precinct who, for the purpose of:

- 28 (1) deceiving a voter;
- 29 (2) causing it to be doubtful for what ticket, candidate, or public  
 30 question a vote is cast; or
- 31 (3) causing it to appear that votes cast for one ticket, candidate, or  
 32 public question were cast for another ticket, candidate, or public  
 33 question;
- 34 removes, changes, or mutilates a ballot label on a voting ~~machine~~  
 35 **system** or any part thereof commits a Class D felony.

36 SECTION 110. IC 3-14-3-8 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. A person other than  
 38 a precinct election officer who knowingly, before or during an election:

- 39 (1) damages, disarranges, or tampers with a ~~voting machine~~;  
 40 ballot card system or ~~an~~ electronic voting system; or
- 41 (2) damages a ballot label placed or to be placed on the ~~machine~~;  
 42 electronic voting system, or any other appliance used in

COPY



1 connection with the ~~machine~~, ballot card voting system or  
2 electronic voting system;  
3 commits a Class D felony.

4 SECTION 111. IC 3-14-4-8 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. A member of a  
6 precinct election board, an absentee ballot counter appointed under  
7 IC 3-11.5-4-22, or a provisional ballot counter appointed under  
8 IC 3-11.7-3 who knowingly:

9 (1) opens or marks, by folding or otherwise, a ballot presented by  
10 a voter, except as provided by law; or

11 (2) tries to find out how the voter voted before the ballot is  
12 deposited in the ballot box or cast on a ~~voting machine~~, ballot  
13 card voting system or ~~an~~ electronic voting system or counted by  
14 the absentee ballot counter;

15 commits a Class D felony.

16 SECTION 112. IC 3-14-4-10 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. A person who  
18 knowingly violates:

19 (1) IC 3-11.5-5;

20 (2) IC 3-11.5-6;

21 (3) IC 3-12-2-1;

22 ~~(4) IC 3-12-2.5-9;~~

23 ~~(5) (4) IC 3-12-3-14;~~ or

24 ~~(6) (5) IC 3-12-3.5-7;~~

25 by providing any other person with information concerning the number  
26 of votes a candidate received for an office or cast to approve or reject  
27 a public question on absentee ballots counted under IC 3-11.5-5,  
28 IC 3-11.5-6, or IC 3-12 before the closing of the polls commits a Class  
29 D felony.

30 SECTION 113. THE FOLLOWING ARE REPEALED  
31 [EFFECTIVE UPON PASSAGE]: IC 3-5-2-21.5; IC 3-11-15-10;  
32 IC 3-11-15-11; IC 3-11-15-50; IC 3-11-15-51; IC 3-11-15-52;  
33 IC 3-11-15-53; IC 3-11-15-55; IC 3-11-15-56; IC 3-11-15-57;  
34 IC 3-11-15-58.

35 SECTION 114. THE FOLLOWING ARE REPEALED  
36 [EFFECTIVE JULY 1, 2005]: IC 3-5-2-41.5; IC 3-5-2-41.6;  
37 IC 3-5-2-50.6; IC 3-11-3-2; IC 3-11-3-6; IC 3-11-5; IC 3-11-7.5-20;  
38 IC 3-11-12; IC 3-11-13-20; IC 3-12-2.5.

39 SECTION 115. [EFFECTIVE UPON PASSAGE] (a) **The**  
40 **definitions set forth in IC 3-5-2 apply to this SECTION.**

41 (b) **To perform the duties set forth in IC 3-11-16, as added by**  
42 **this act, in establishing the voting system technical oversight**

C  
o  
p  
y



1 program, the secretary of state shall issue a request for proposals  
 2 to enter into the contract required under IC 3-11-16-3.  
 3 (c) Notwithstanding any other statute or rule:  
 4 (1) the secretary of state shall extend invitations to public and  
 5 private colleges and universities located within Indiana to  
 6 respond to the request for proposals not later than June 1,  
 7 2005; and  
 8 (2) the secretary of state and the person selected by the  
 9 secretary of state shall enter into the contract required under  
 10 IC 3-11-16-3 not later than July 1, 2005.  
 11 (d) This SECTION expires December 31, 2005.  
 12 SECTION 116. [EFFECTIVE UPON PASSAGE] (a) The  
 13 definitions set forth in IC 3-5-2 apply to this SECTION.  
 14 (b) This SECTION applies to a county:  
 15 (1) that used a punch card ballot voting system to conduct the  
 16 November 2, 2004, general election in any precinct in the  
 17 county; and  
 18 (2) whose county executive, before July 1, 2005, has not  
 19 entered into a contract that complies with this SECTION.  
 20 (c) To comply with this SECTION, a contract that a county  
 21 executive enters into must require a voting system vendor to  
 22 deliver, not later than December 31, 2005:  
 23 (1) an electronic voting system;  
 24 (2) an optical scan ballot voting system; or  
 25 (3) a combination of both systems;  
 26 certified for installation, marketing, and use in Indiana on the  
 27 effective date of the contract.  
 28 (d) If a county described in subsection (b) fails to enter into a  
 29 contract that complies with subsection (c) before July 1, 2005, the  
 30 secretary of state may enter into a quantity purchase agreement  
 31 with a voting system vendor for the purchase of:  
 32 (1) an electronic voting system;  
 33 (2) an optical scan ballot voting system; or  
 34 (3) a combination of both systems;  
 35 that is certified for installation, marketing, and use in Indiana on  
 36 the effective date of the contract.  
 37 (e) The agreement described in subsection (d) must require the  
 38 delivery of the voting system to each county described in this  
 39 SECTION before January 1, 2006, for use in all elections  
 40 conducted in the county after December 31, 2005.  
 41 (f) This SECTION expires December 31, 2006.  
 42 SECTION 117. An emergency is declared for this act.

C  
o  
p  
y



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1407, 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 27, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 57. IC 3-14-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. A voter who knowingly:

- (1) does anything to enable any other person to see or know for what ticket, candidates, or public questions the voter has voted; ~~on a voting machine;~~ or
- (2) moves into a position, or does any other thing, to enable the voter to see or know for what ticket, candidates, or public questions any other voter votes; ~~on a voting machine;~~

commits a Class D felony."

Page 28, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 62. IC 3-14-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. An inspector or poll clerk in a precinct who, for the purpose of:

- (1) deceiving a voter;
- (2) causing it to be doubtful for what ticket, candidate, or public question a vote is cast; or
- (3) causing it to appear that votes cast for one ticket, candidate, or public question were cast for another ticket, candidate, or public question;

removes, changes, or mutilates a ballot label ~~on a voting machine~~ or any part thereof commits a Class D felony."

Page 29, line 11, delete "; IC 3-14-2-18; IC 3-14-3-7." and insert ".".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1407 as introduced.)

THOMAS, Chair

Committee Vote: yeas 10, nays 0.

C  
O  
P  
Y



## COMMITTEE REPORT

Madam President: The Senate Committee on Elections and Civic Affairs, to which was referred House Bill No. 1407, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 2. IC 3-5-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. "Ballot card" refers to ~~either a punch card ballot or~~ an optical scan ballot.

SECTION 3. IC 3-5-2-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. "Ballot card voting system" refers to ~~either a punch card voting system or~~ an optical scan voting system."

Page 1, line 15, strike "booklet, pamphlet, or other".

Page 1, after line 17, begin a new paragraph and insert:

"SECTION 5. IC 3-5-2-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. "Marking device" means:

- (~~1~~) an apparatus in which paper ballots or ballot cards are inserted and used in connection with a punch apparatus for the piercing of ballots by the voter;
- (~~2~~) **(1)** a pencil for marking a paper ballot or ballot card; or
- (~~3~~) **(2)** an approved touch-sensitive device that automatically registers a vote on an electronic voting system.

SECTION 6. IC 3-5-2-48.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 48.5. "Testing authority" means an independent test authority ~~as described in:~~ **or independent laboratory:**

- (1) ~~as described in the~~ Voting System Standards issued by the Federal Election Commission on April 30, 2002; or
- (2) ~~other more recent voting systems standards adopted by the commission under IC 3-11-15-13.~~
- (2) accredited under Section 231 of HAVA (42 U.S.C. 15371).**"

Page 2, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 8. IC 3-6-4.2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. The election division shall do the following:

- (~~1~~) Prepare and distribute paper ballots for the election or retention of persons to federal and state offices and for public questions in compliance with this title.
- (~~2~~) **(1)** Maintain complete and uniform descriptions and maps of

C  
O  
P  
Y



all precincts in Indiana.

~~(3)~~ **(2)** Promptly update the information required by subdivision ~~(2)~~ **(1)** after each precinct establishment order is filed with the commission under IC 3-11-1.5.

~~(4)~~ **(3)** Issue media watcher cards under IC 3-6-10-6.

~~(5)~~ **(4)** Prepare and transfer to the department of state revenue voter registration affidavits for inclusion in state adjusted gross income tax booklets under IC 6-8.1-3-19.

~~(6)~~ ~~After December 31, 2003,~~ **(5)** Serve in accordance with 42 U.S.C. 1973ff-1(b) as the office in Indiana responsible for providing information regarding voter registration procedures and absentee ballot procedures to absent uniformed services voters and overseas voters.

~~(7)~~ **(6)** As required by 42 U.S.C. 1973ff-1(c), submit a report to the federal Election Assistance Commission not later than ninety (90) days after each general election setting forth the combined number of absentee ballots:

(A) transmitted to absent uniformed services voters and overseas voters for the election; and

(B) returned by absent uniformed services voters and overseas voters and cast in the election.

~~(8)~~ **(7)** Implement the state plan in accordance with the requirements of HAVA (42 U.S.C. 15401 through 15406) and this title, and appoint members of the committee established under 42 U.S.C. 15405.

~~(9)~~ **(8)** Submit reports required under 42 U.S.C. 15408 to the federal Election Assistance Commission concerning the use of federal funds under Title II, Subtitle D, Part I of HAVA.

SECTION 9. IC 3-6-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) Each county election board, in addition to duties otherwise prescribed by law, shall do the following:

(1) Adopt and amend a written plan to implement NVRA within the county.

(2) Conduct all elections and administer the election laws within the county, except as provided in IC 3-8-5 and IC 3-10-7 for town conventions and municipal elections in certain small towns.

(3) Prepare all ballots. ~~except those prepared by the election division.~~

(4) Distribute all ballots and pasters to all of the precincts in the county.

(b) This subsection does not apply to pasters to be attached to

C  
O  
P  
Y



ballots during the final three (3) days before an election. Not later than the Monday before distributing ballots, pasters, and voting systems to the precincts in the county, the county election board shall notify the county chairman of each major political party and, upon request, the chairman of any other bona fide political party in the county, that sample ballots and pasters are available for inspection."

Page 2, line 11, after "34." insert "(a)".

Page 2, line 17, after "ballots." begin a new paragraph and insert: "(b)".

Page 13, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 32. IC 3-11-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) If, in the judgment of a county election board, the number of voters in a precinct of the county where a voting ~~machine~~ **system** is used for voting is so large that the ~~machine~~ **voting system** in use will not be sufficient to register the vote of all the voters in the precinct, the board may use paper ballots in addition to the ~~machine~~ **voting system**. The voting by paper ballot is subject to all the restrictions prescribed by this article.

(b) ~~The county election board shall then notify the election division of the board's determination and of the estimated number of state and presidential ballots that will be required in the precinct.~~"

Page 13, strike lines 30 through 32.

Page 13, line 33, strike "(2)" and insert "(1)".

Page 13, line 33, strike "local".

Page 13, line 36, strike "(3)" and insert "(2)".

Page 13, line 36, strike "local".

Page 14, line 5, strike "(4)" and insert "(3)".

Page 14, line 7, strike "(5)" and insert "(4)".

Page 14, line 9, strike "(6)" and insert "(5)".

Page 14, line 12, strike "subdivision (3)." and insert "**subdivision (2).**"

Page 14, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 34. IC 3-11-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) The ~~local~~ ballots delivered to the inspector of each precinct under section 11 of this chapter shall be placed in a strong and stout paper envelope or bag, which shall then be tightly closed, fastened securely, and attested by the initials of the circuit court clerk or the clerk's designee in the presence of the inspector or the inspector's representative. The inspector shall sign a receipt for the ballots. The ballot packages may not be opened until:

- (1) they have been delivered to the precinct election board to

C  
o  
p  
y



which they are directed; and

(2) the precinct election board is fully organized and ready for the reception of votes.

(b) The ~~local~~ provisional ballots delivered to the inspector of each precinct under section 11 of this chapter shall be placed in a strong and stout paper envelope or bag, separate from the bag described in subsection (a), which shall then be tightly closed, fastened securely, and attested by the initials of the circuit court clerk or the clerk's designee in the presence of the inspector or the inspector's representative. The inspector shall sign a receipt for the provisional ballots. The provisional ballot packages may not be opened until:

(1) they have been delivered to the precinct election board to which they are directed; and

(2) the precinct election board is fully organized and ready to receive votes.".

Page 15, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 38. IC 3-11-6.5-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6.1. (a) When approving applications for reimbursement for voting systems under this chapter, the budget agency shall give priority to approving applications to replace a punch card voting system or voting machine system.

**(b) This section expires January 1, 2006.**

SECTION 39. IC 3-11-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. ~~(a)~~ The commission must approve a ballot card voting system before it may be used in an election.

~~(b) After June 30, 2001, the commission may not approve a punch card voting system for use in an election.~~

SECTION 40. IC 3-11-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A ballot card voting system must permit a voter to vote either:

(1) a straight party ticket for all of the candidates of a political party by a single mark ~~or punch~~ on each ballot card;

(2) a split ticket for the candidates of different political parties and for independent candidates; or

(3) a straight party ticket and then split that ticket by casting individual votes for candidates of another political party or independent candidate.

SECTION 41. IC 3-11-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The commission shall:

(1) **require the vendor to** have tests conducted concerning the

C  
O  
P  
Y



~~suitability~~ **compliance** of a ballot card voting system **with HAVA and the standards set forth in this chapter and IC 3-11-15; and**

**(2) have the results of the tests evaluated by the person designated under IC 3-11-16;**

before determining whether to approve the **application for certification** of a ballot card voting system.

**(b) The tests required under this section must be performed by an independent laboratory accredited under Section 231 of HAVA (42 U.S.C. 15371). The vendor shall pay any testing expenses incurred under this section.**

**(c) Except as provided in subsection (d), a ballot card voting system may not be marketed, sold, leased, installed, or implemented in Indiana before the application for certification of the system is approved by the commission.**

**(d) This subsection applies to a ballot card voting system whose application for certification has been filed with the election division and has not been approved by the commission. Notwithstanding subsection (c), a vendor may market a ballot card system described by this subsection if:**

**(1) the vendor files the application for certification with the election division before conducting any marketing of the system in Indiana; and**

**(2) all of the vendor's product information has a prominent and easily readable label that states that the ballot card voting system has not been approved by the commission for use in Indiana elections.**

**(e) An approval of a ballot card voting system under this chapter expires on the date specified in section 19(a) of this chapter.**

SECTION 42. IC 3-11-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) A **vendor may apply for approval of a** proposed improvement or change to a ballot card voting system ~~shall be reported to the election division by:~~

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

~~(2) the county election board, if a county is proposing the change;~~ **that is currently certified by the commission. Except as provided in subsection (b), a proposed improvement or change may not be marketed, sold, leased, installed, or implemented in Indiana before the application for the improvement or change is approved by the commission.**

C  
O  
P  
Y



**(b) This subsection applies to a ballot card voting system whose application for a proposed improvement or change has been filed with the election division and has not been approved by the commission. Notwithstanding subsection (a), a vendor may market a ballot card voting system described by this subsection if:**

- (1) the vendor files the application with the election division before conducting any marketing of the system in Indiana; and**
- (2) all of the vendor's product information has a prominent and easily readable label that states that the proposed improvement or change to the ballot card voting system has not been approved by the commission for use in Indiana elections.**

~~(b)~~ **(c) An application for approval of an improvement or change must be in the form prescribed by the commission.**

**(d) The vendor applying for approval of an improvement or a change must have the improvement or change to the voting system tested by an independent laboratory accredited under Section 231 of HAVA (42 U.S.C. 15371). The vendor shall pay any testing expenses incurred under this subsection.**

~~(c)~~ **(e) The election division (or a competent the person designated by the commission to act on behalf of the election division under IC 3-11-16) shall review the proposed improvement or change to the voting system and report the results of the review to the commission. The commission shall determine, within a reasonable period of time, whether the improvement or change impairs the accuracy, efficiency, capacity, or ability to meet the requirements of this chapter or the standards adopted by the commission under section 2 of this chapter. The review must indicate:**

- (1) whether the proposed improvement or change has been approved by an independent laboratory accredited under Section 231 of HAVA (42 U.S.C. 15371); and**
- (2) whether the proposed improvement or change would comply with HAVA and the standards set forth in this chapter and IC 3-11-15.**

~~(d)~~ **(f) After the commission has approved the application for an improvement or change to a ballot card voting system, the improvement or change may be marketed, sold, leased, installed, or implemented in Indiana.**

**(g) An approval of an application under this section expires on the date specified under section 19(a) of this chapter.**

SECTION 43. IC 3-11-7-16 IS AMENDED TO READ AS

EH 1407—LS 7361/DI 75+

C  
O  
P  
Y



FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. The commission may not approve the **marketing, sale, lease, installation, or implementation** of a ballot card voting system by a vendor if the commission finds that the system fails to meet all statutory requirements.

SECTION 44. IC 3-11-7-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) The election division (or ~~a competent~~ **the** person designated by the commission to act on behalf of the election division **under IC 3-11-16**) may periodically examine a ballot card voting system that the commission has previously approved to determine ~~if whether~~ **whether** the system is still in compliance with all statutory requirements **and whether the voting system in use in a county has the same hardware, firmware, and software as the version of the voting system that was certified by the commission.**

(b) ~~If the election division or competent person finds that a system examined under~~ **does not comply with** subsection (a), ~~fails to meet all requirements and standards; and the commission concurs in these findings; the commission may by unanimous vote of all of the members of the commission; rescind the commission's approval of the voting system.~~

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

- ~~(1) recommend that use of the system be discontinued; and~~
- ~~(2) prohibit the system from being **installed, implemented,** leased, marketed, **used, permitted to be used,** or sold for use in Indiana in an election conducted under this title.~~

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

- ~~(1) March 25, 1992; or~~
- ~~(2) a revision of IC 3-11-15 enacted after July 1, 1997, that imposes additional standards that did not apply to the voting system at the time of the system's initial certification.~~

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

~~(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with this article, the commission may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed, or sold for use in~~

C  
O  
P  
Y



Indiana in an election conducted under this title:

SECTION 45. IC 3-11-7-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) The ~~commission may require a county executive to~~ **shall** file a copy of all contracts, leases, or purchase orders, including modifications, for the sale or lease of voting equipment, systems, or software with the election division.

(b) ~~The election division may advise or instruct county officials on the content of the documents listed in subsection (a)~~ **must be filed not later than thirty (30) days after the date of approval of the contract, lease, or purchase order by the county executive.**

SECTION 46. IC 3-11-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) Except as provided in subsection (g), the approval of a ballot card voting system under this chapter expires ~~five (5) years after the date the commission approves the system.~~ **October 1 of the year following the year in which presidential electors are elected under IC 3-10-2-3.**

(b) The vendor of a voting system approved under this chapter may request that the approval be renewed by filing an application with the election division.

(c) The application described in subsection (b) must identify all counties that are currently using the voting system. Before ~~considering the commission considers~~ the application for renewal, the election division shall give notice ~~by regular United States mail~~ of the application to the circuit court clerk of each county listed in the application.

(d) When the commission considers the application, the commission shall request comments regarding the renewal of the application from any interested person. **Before acting on the application for renewal, the commission must receive a report from the person designated under IC 3-11-16 indicating that the hardware, firmware, and software included in the application for renewal of the voting system is identical to the version of the voting system previously certified by the commission.**

(e) ~~The commission may, by unanimous consent of its entire membership, order the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.~~

(f) ~~(e)~~ **After receiving the report under subsection (d) and receiving comments from interested persons,** the commission shall approve an application for renewal under this section if the commission finds that the voting system:

C  
O  
P  
Y



- (1) complies with the standards prescribed under this chapter;
- (2) has worked effectively where the system has been used; and
- (3) has been adequately supported by the vendor of the system.

~~(g)~~ **(f) This subsection does not apply to the marketing of a voting system performed in compliance with section 12(d) or 15(b) of this chapter.** If the commission finds that a vendor has marketed, sold, leased, installed, implemented, or permitted the use of a voting system in Indiana that:

- (1) has not been certified by the commission for use in Indiana; or
- (2) includes hardware, firmware, or software in a version that has not been approved for use in Indiana;

the commission may revoke the approval granted under this section and prohibit the vendor from marketing, leasing, or selling any voting system in Indiana for a specific period not to exceed five (5) years.

~~(h)~~ **(g)** A vendor subject to subsection ~~(g)~~ **(f)** may continue to provide support during the period specified in subsection ~~(g)~~ **(f)** to a county that has acquired a voting system from the vendor after the vendor certifies that the voting system to be supported by the vendor only includes hardware, firmware, and software approved for use in Indiana.

SECTION 47. IC 3-11-7.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A person ~~owning or interested in an electronic voting system~~ may request the election division (or a competent person designated by the commission to act on behalf of the election division) to ~~examine the~~ **submit an application for approval of an electronic voting system and report on its accuracy, efficiency, and capacity. in the form prescribed by the commission.**

SECTION 48. IC 3-11-7.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a) The commission shall:**

- (1) require the vendor to have tests conducted concerning the compliance of an electronic voting system with HAVA and the standards set forth in this chapter and IC 3-11-15; and**
- (2) have the results of the tests evaluated by the person designated under IC 3-11-16;**

**before determining whether to approve the application for certification of an electronic voting system.**

**(b) The tests required under this section must be performed by an independent laboratory accredited under Section 231 of HAVA (42 U.S.C. 15371). The vendor shall pay any testing expenses under this section.**

C  
o  
p  
y



(c) If the commission finds that an electronic voting system complies with this article, the commission may approve the system. The approved system then may be adopted for use at an election.

**(d) Except as provided in subsection (e), an electronic voting system may not be marketed, sold, leased, installed, or implemented in Indiana before the application for certification of the system is approved by the commission.**

**(e) This subsection applies to an electronic voting system whose application for certification has been filed with the election division and has not been approved by the commission. Notwithstanding subsection (d), a vendor may market an electronic voting system described by this subsection if:**

- (1) the vendor files the application with the election division before conducting any marketing of the system in Indiana; and**
- (2) all of the vendor's product information has a prominent and easily readable label that states that the electronic voting system has not been approved by the commission for use in Indiana elections.**

**(f) An approval of an electronic voting system under this chapter expires on the date specified by section 28(a) of this chapter.**

SECTION 49. IC 3-11-7.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A **vendor may apply for approval of a** proposed improvement or change to an electronic voting system ~~shall be reported to the election division by:~~

- ~~(1) the vendor, if a vendor is involved in the proposed change; and~~
- ~~(2) the county election board, if a county is proposing the change.~~

**that is currently certified by the commission. Except as provided in subsection (b), a proposed improvement or change may not be marketed, sold, leased, installed, or implemented in Indiana before the application for the improvement or change is approved by the commission.**

**(b) This subsection applies to an electronic voting system whose application for a proposed improvement or change has been filed with the election division and has not been approved by the commission. Notwithstanding subsection (a), a vendor may market an electronic voting system described by this subsection if:**

- (1) the vendor files the application with the election division before conducting any marketing of the system in Indiana; and**

C  
O  
P  
Y



**(2) all of the vendor's product information has a prominent and easily readable label that states that the proposed improvement or change to the electronic voting system has not been approved by the commission for use in Indiana elections.**

~~(b) A report of~~ **(c) An application for approval of an** improvement or a change must be in the form prescribed by the commission.

**(d) The vendor applying for approval of an improvement or a change must have the improvement or change to the voting system tested by an independent laboratory accredited under Section 231 of HAVA (42 U.S.C. 15371). The vendor shall pay any testing expenses incurred under this subsection.**

~~(c) (e) The election division (or a competent~~ **(e) The person designated by the commission to act on behalf of the election division under IC 3-11-16)** shall review the improvement or change to the voting system and report the results of the review to the commission. ~~The commission shall determine within a reasonable period of time whether the improvement or change impairs the accuracy, efficiency, capacity, or ability to meet the requirements of this article. The review must indicate:~~

**(1) whether the proposed improvement or change has been approved by an independent laboratory accredited under Section 231 of HAVA (42 U.S.C. 15371); and**

**(2) whether the proposed improvement or change would comply with HAVA and the standards set forth in this chapter and IC 3-11-15.**

~~(d) (f) After the commission has examined and approved the~~ **application for** an improvement or change to an electronic voting system, the improvement or change may be marketed, sold, leased, installed, or implemented in Indiana.

**(g) An approval of an application under this section expires on the date specified by section 28(a) of this chapter.**

SECTION 50. IC 3-11-7.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The commission may not approve **the marketing, sale, lease, installation, or implementation of** an electronic voting system unless the system meets the specifications in sections 8 through 19 of this chapter and in IC 3-11-15.

SECTION 51. IC 3-11-7.5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. A county executive may ~~adopt and~~ purchase, or procure, **lease, install, implement, or authorize the use of** an electronic voting system only

C  
O  
P  
Y



after the system has been approved by the commission.

SECTION 52. IC 3-11-7.5-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) The election division (or a ~~competent~~ **the** person designated by the commission to act on behalf of the election division **under IC 3-11-16**) may periodically examine an electronic voting system that the commission has previously approved to determine ~~if~~ **whether** that system is still in compliance with all statutory requirements **and whether the voting system in use in a county has the same hardware, firmware, and software as the version of the voting system that was certified by the commission.**

(b) ~~If the election division or competent person finds that a system examined under~~ **does not comply with** subsection (a), fails to meet all requirements and standards; and the commission concurs in these findings; the commission may by unanimous vote of all of the members of the commission; rescind the commission's approval of the voting system.

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

- (1) recommend that use of the system be discontinued; and
- (2) prohibit the system from being **installed, implemented,** leased, marketed, **used, permitted to be used,** or sold for use in Indiana in an election conducted under this title.

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

- (1) March 25, 1992; or
- (2) a revision of IC 3-11-15 enacted after July 1, 1997, that imposes additional standards that did not apply to the voting system at the time of the system's initial certification.

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

(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with this article; the commission may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title:

SECTION 53. IC 3-11-7.5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) The commission may require a county executive ~~to~~ **shall** file a copy of all

C  
O  
P  
Y



contracts, leases, or purchase orders, including modifications, for the sale or lease of voting equipment, systems, or software with the election division.

(b) ~~The election division may advise or instruct county officials on the content of the documents listed in subsection (a)~~ **must be filed not later than thirty (30) days after the date of approval of the contract, lease, or purchase order by the county executive.**

SECTION 54. IC 3-11-7.5-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) Except as provided in subsection (g), the approval of an electronic voting system under this chapter expires ~~five (5) years after the date the commission approves the system.~~ **October 1 of the year following the year in which presidential electors are elected under IC 3-10-2-3.**

(b) The vendor of a voting system approved under this chapter may request that the approval be renewed by filing an application with the election division.

(c) The application described in subsection (b) must identify all counties that are currently using the voting system. Before the commission considers the application for renewal, the election division shall give notice ~~by regular United States mail~~ of the application to the circuit court clerk of each county listed in the application.

(d) When the commission considers the application, the election division shall request comments regarding the renewal of the application from any interested person. **Before acting on the application for renewal, the commission must receive a report from the person designated under IC 3-11-16 indicating that the hardware, firmware, and software included in the application for renewal of the voting system is identical to the version of the voting system previously certified by the commission.**

~~(e) The commission may, by unanimous consent of the commission's entire membership, order the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.~~

~~(f)~~ **(e) After receiving the report under subsection (d) and comments from interested persons,** the commission shall approve an application for renewal under this section if the commission finds that the voting system:

- (1) complies with the standards prescribed under this chapter;
- (2) has worked effectively where the system has been used; and
- (3) has been adequately supported by the vendor of the system.

~~(g)~~ **(f) This subsection does not apply to the marketing of a voting system performed in compliance with section 4(e) or 5(b) of**

C  
o  
p  
y



**this chapter.** If the commission finds that a vendor has marketed, sold, leased, installed, implemented, or permitted the use of a voting system in Indiana that:

- (1) has not been certified by the commission for use in Indiana; or
- (2) includes hardware, firmware, or software in a version that has not been approved for use in Indiana;

the commission may revoke the approval granted under this section and prohibit the vendor from marketing, leasing, or selling any voting system in Indiana for a specific period not to exceed five (5) years.

~~(h)~~ **(g)** A vendor subject to ~~subsection (g)~~ **subsection (f)** may continue to provide support during the period specified in ~~subsection (g)~~ **subsection (f)** to a county that has acquired a voting system from the vendor after the vendor certifies that the voting system to be supported by the vendor only includes hardware, firmware, and software approved for use in Indiana."

Page 18, between lines 13 and 14, begin a new paragraph and insert:  
"SECTION 60. IC 3-11-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Before an election at which a ballot card voting system is used, a county election board shall:

- (1) have the marking devices prepared for the election;
- (2) have the marking devices put in order, set and adjusted, and made ready for voting when delivered to the precincts; and
- (3) provide the precinct election officers with marking devices, a demonstration marking device, ~~(except in precincts using optical scan ballots)~~, ballot cards, ballot boxes, ballot labels, and other records and supplies as required.

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

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

SECTION 61. IC 3-11-13-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. In partisan elections, the ballot labels must include a voting square or position where a voter may by one (1) mark ~~or punch~~ on each card record a straight party or an independent ticket vote for all the candidates of one (1) political party or the independent ticket, except for offices for which

C  
O  
P  
Y



the voter has voted individually for a candidate. If the voter records a vote for the two (2) candidates comprising an independent ticket, the vote must not count for any other independent candidate on the ballot.

SECTION 62. IC 3-11-13-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. ~~(a)~~ This subsection does not apply to an optical scan voting system and expires January 1, 2006. Each ballot card provided under section 17 of this chapter must have two (2) attached perforated stubs on which is printed the same serial number. The top stub shall be bound or stapled in the package of ballot cards retained by the precinct election officers. The following information must be printed on the second stub:

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

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

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

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

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

~~(d)~~ **(c)** This subsection is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an optical scan voting system. Except as provided in subsection ~~(c)~~; **(d)**, a write-in vote shall be cast by printing the name of the candidate and the title of the office in the space provided for write-in votes on a ballot card or secrecy envelope.

~~(e)~~ **(d)** Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 63. IC 3-11-13-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. The test required by section 22 of this chapter must:

- ~~(1)~~ include the visual inspection of the voting devices for the correct alignment of the card stock and the templates for proper punching;
- ~~(2)~~ **(1)** be conducted by processing a preaudited group of ballot

C  
O  
P  
Y



cards ~~punched or~~ marked so as to record a predetermined number of valid votes for each candidate and on each public question; and ~~(3)~~ **(2)** include for each office one (1) or more ballot cards that have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating machines to reject the votes."

Page 18, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 65. IC 3-11-13-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) After the delivery of a ballot card voting system to a precinct, the precinct election board may meet at the polls on the same day and open the package containing the sample ballot cards, to determine whether the system is ready for use in accordance with section 16 of this chapter. If a ballot card voting system is not in compliance with that section, the board shall immediately label, set and adjust, and place the system in order or have it done.

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

(c) On the morning of election day, the precinct election officers shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

- (1) the chute erected;
- (2) the sample ballots and instruction cards posted; and
- (3) everything put in readiness for the commencement of voting at the opening of the polls.

(d) Before the opening of the polls, the precinct election officers shall **do the following:**

- (1) Compare the ballot cards used in the marking device with the sample ballots furnished and determine whether the names, numbers, and letters are in agreement.
- (2) Determine that the system records that zero (0) votes have been cast for each candidate and on each public question.**
- (3) Assure that the system is otherwise in perfect order.**

(e) The officers then shall certify that:

- (1) the marking device and the sample ballots are in agreement;
- (2) the system records zero (0) votes cast; and**
- (3) the system appears to be in perfect order.**

Forms shall be provided for certification, and the certification shall be filed with the election returns.

SECTION 66. IC 3-11-13-28.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28.5. (a) Unless

C  
O  
P  
Y



challenged, a voter may proceed to vote.

~~(b)~~ This subsection does not apply to an optical scan voting system. After a voter has signed the poll list, the poll clerk holding the ballot card shall remove the top stub, as described in section 18 of this chapter, and deliver to the voter one (1) of each ballot card that the voter is entitled to vote at the election. The top stub (and any second stub declined by the voter under section 33 of this chapter) shall be retained by the precinct election board and returned to the election board following the close of the polls.

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

~~(d)~~ (c) This subsection applies after December 31, 2005, to an optical scan ballot card ballot tabulated at a central location. As provided by 42 U.S.C. 15481, when a voter receives an optical scan ballot card ballot, 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 67. IC 3-11-13-28.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28.7. (a) The two (2) poll clerks of each precinct shall place their initials in ink on the secrecy envelope of a ballot card (or on the fold-over part of a ballot card described in ~~section 18(c)(1)~~ **section 18(b)(1)** of this chapter) at the time the card is issued to a voter. The initials must be in the poll clerk's ordinary handwriting or printing and without a distinguishing mark of any kind.

(b) This subsection is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an optical scan voting system. A write-in vote cast on a secrecy envelope or fold-over envelope:

- (1) is not valid unless:
  - (A) the secrecy envelope is initialed by both poll clerks; and
  - (B) the vote includes both the name of the write-in candidate and the office for which the write-in vote is cast; and
- (2) makes the secrecy envelope or fold-over envelope a ballot for purposes of this title.

SECTION 68. IC 3-11-13-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. (a) In addition to the instructions printed on the ballot card or ballot labels, instructions

C  
O  
P  
Y



to voters shall be posted in each voting booth or placed on the marking device. Each voter shall be instructed by both judges, on request, on how to operate the voting device before the voter enters the voting booth.

(b) The instructions posted in the voting booth or placed on the marking device must state the following:

(1) That the voter should examine the ballot card to determine if it contains the initials of the poll clerks in ink on the back of the card.

(2) That the voter should not make an unnecessary mark ~~or punch~~ on the ballot card because the mark ~~or punch~~ may void the card.

(3) That the voter should examine the ballot card to determine if the card has any mark (other than the initials of the poll clerks) before voting.

(4) That the voter should return the ballot card to the poll clerks and request another ballot card if:

(A) the poll clerks' initials have not been properly placed on the card;

(B) the card has a mark (other than the initials of the poll clerks) before the voter places a voting mark on the ballot; or

(C) the voter has improperly marked ~~or punched~~ the card.

(5) That the voter should examine the ballot card after voting to determine that all marks ~~or punches~~ made on the card to indicate the voter's selections have been completely marked. ~~or punched~~.

(c) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, a voter casting an optical scan ballot card under this section must be:

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

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

SECTION 69. IC 3-11-13-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 30. When a voter is handed a ballot card, the voter shall be instructed to:

(1) use only the marking device provided for ~~punching, slotting,~~ ~~or~~ marking the cards and that the voter is not to mark a card in

C  
O  
P  
Y



any other way;

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

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

SECTION 70. IC 3-11-13-31.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31.7. (a) This section is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an optical scan voting system.

(b) After receiving ballot cards, a voter shall, without leaving the room, go alone into one (1) of the booths or compartments that is unoccupied and indicate:

(1) the candidates for whom the voter desires to vote by ~~punching a hole in~~ or marking the squares immediately beside the candidates' names; and

(2) the voter's preference on each public question by ~~punching a hole in~~ or marking the square beside the word "yes" or "no" under the question.

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

SECTION 71. IC 3-11-13-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 33. (a) After a voter has marked a ballot card, the voter shall place it inside the envelope provided for this purpose or fold the envelope described in section 18(c)(1) of this chapter and return the ballot card to the judge.

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

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

(1) accept the envelope and deposit it in the ballot box; or

C  
O  
P  
Y



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

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

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

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

SECTION 72. IC 3-11-13-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35. ~~(a)~~ If a voter spoils or defaces a ballot card or marks it erroneously, the voter shall return the card so as not to disclose any choices that the voter has made.

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

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

(1) immediately cancel the defective card by writing on the back of the card and stub the word "VOID" in ink or in indelible pencil; and

(2) without detaching any stub attached to the card, place the card in the container for voided ballots in a manner that does not expose the choices of the voter.

SECTION 73. IC 3-11-14-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) Before an electronic voting system is delivered to a precinct, the county election board shall have the system put in order, set and adjusted, and ready for use in voting. **As part of the system's preparation, the county election board may conduct any of the comparisons and determinations required under section 17 of the chapter. However, notwithstanding any action taken by the county election board, each precinct election board must also perform the comparisons and determinations required under section 17 of this chapter before the opening of the polls.** The board may employ one (1) or

C  
O  
P  
Y



more competent persons to prepare systems in accordance with this section.

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

SECTION 74. IC 3-11-14-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. (a) This section is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an electronic voting system.

(b) If a voter is not challenged by a member of the precinct election board, the voter may pass the railing to the side where an electronic voting system is and into the voting booth. There the voter shall register the voter's vote in secret by indicating:

- (1) the candidates for whom the voter desires to vote by touching a device on or in the squares immediately above the candidates' names;
- (2) if the voter intends to cast a write-in vote, a write-in vote by touching a device on or in the square immediately below the candidates' names and printing the name of the candidate in the window provided for write-in voting; and
- (3) the voter's preference on each public question by touching a device above the word "yes" or "no" under the question.

(c) If an election is a general or municipal election and a voter desires to vote for all the candidates of one (1) political party or group of petitioners, the voter may cast a straight party ticket by touching that party's device. The voter's vote shall then be counted for all the candidates under that name. However, if the voter casts a vote by touching the circle of an independent ticket comprised of two (2) candidates, the vote shall not be counted for any other independent candidate on the ballot.

(d) **This subsection applies after December 31, 2005.** As provided by 42 U.S.C. 15481, a voter casting a ballot on an electronic voting system must be:

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

C  
O  
P  
Y



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

SECTION 75. IC 3-11-14.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

**Chapter 14.5. Public Tests of Electronic Voting Systems**

**Sec. 1. At least fourteen (14) days before election day, the county election board of each county planning to use an electronic voting system at the next election shall randomly select at least three (3) precincts within the county and test the voting system units to be used at those precincts on election day. Each voting system shall be tested to ascertain that the system will correctly count the votes cast for all candidates and on all public questions in that precinct.**

**Sec. 2. Public notice of the time and place shall be given at least forty-eight (48) hours before the test. The notice shall be published once in accordance with IC 5-3-1-4.**

**Sec. 3. The two (2) appointed members of the county election board shall observe the test required by this chapter and, if they so determine, shall certify the test as meeting the requirements of this chapter.**

**Sec. 4. The test must be open to representatives of political parties, candidates, the media, and the public.**

**Sec. 5. The test required by this chapter must include the following:**

- (1) The visual inspection of the voting system and ballot labels.**
- (2) The manual entry of a preaudited group of ballots marked so as to record a predetermined number of valid votes for each candidate and on each public question.**
- (3) At least one (1) ballot for each office that has votes in excess of the number allowed by law in order to test the ability of the electronic voting system to reject the overvotes.**

**Sec. 6. If an error is detected during the test required by section 5 of this chapter, the cause of the error shall be determined and corrected, and an errorless count must be made before the use of the electronic voting system at the election is approved.**

**Sec. 7. After completion of the count, the voting system shall be sealed. The ballots used to conduct the test and all other election materials shall be sealed, retained, and disposed of as provided for paper ballots.**

**Sec. 8. Immediately following the completion of the voting system test under section 5 of this chapter, the county election**

**C  
O  
P  
Y**



board shall enter the vote totals from the voting systems tested under this chapter into the component of the voting system used by the county election board to tabulate election results under IC 3-12-3.5. The board shall determine whether this component of the voting system properly tabulates the votes cast in each of the precincts tested under this chapter.

**Sec. 9. Not later than seven (7) days after conducting the tests required under this chapter, the county election board shall certify to the election division that the tests have been conducted in conformity with this chapter.**

**Sec. 10. A copy of the certification of the tests conducted under this chapter shall be filed with the election returns.**

SECTION 76. IC 3-11-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The performance and test standards and fees under this chapter apply to ~~a~~ **an optical scan voting system or an electronic** voting system ~~procured after March 25, 1992; described in IC 3-11-7 or IC 3-11-7.5.~~

SECTION 77. IC 3-11-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The commission shall not approve any system until the fee and the expenses incurred by the election division (or ~~a competent~~ **the person designated by the commission to act on behalf of the election division under IC 3-11-16**) in making the examination are paid by the person making the application.

SECTION 78. IC 3-11-15-13.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.3. (a) This section applies after December 31, 2005.

(b) To be approved by the commission for use in Indiana, a voting system must meet the Voting System Standards adopted by the Federal Election Commission on April 30, 2002.

~~(c) The commission may adopt rules under IC 4-22-2 to require a voting system to meet standards more recent than standards described in subsection (b). If the commission adopts rules under this subsection, a voting system must meet the standards described in the rules instead of the standards described in subsection (b).~~

**(c) A county may continue to use an optical scan ballot card voting system or an electronic voting system whose approval or certification expired on or before October 1, 2005, if the voting system:**

**(1) was:**

**(A) approved by the commission for use in elections in Indiana before July 1, 2003; and**

**C  
O  
P  
Y**



- (B) purchased by the county before July 1, 2003; and**
- (2) otherwise complies with the applicable provisions of HAVA and this article.**

**However, a voting system vendor may not market, sell, lease, or install a voting system described in this subsection.**

(d) As provided by 42 U.S.C. 15481, to be used in an election in Indiana, a voting system must be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.

(e) As provided by 42 U.S.C. 15481, an election board conducting an election satisfies the requirements of subsection (d) if the election board provides at least one (1) electronic voting system or other voting system equipped for individuals with disabilities at each polling place.

**(f) If a voter who is otherwise qualified to cast a ballot in a precinct chooses to cast the voter's ballot on the voting system provided under subsection (e), the voter must be allowed to cast the voter's ballot on that voting system, whether or not the voter is an individual with disabilities.**

SECTION 79. IC 3-11-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 16. Voting System Technical Oversight Program**

**Sec. 1. As used in this chapter, "program" refers to the voting system technical oversight program established by section 2 of this chapter.**

**Sec. 2. The voting system technical oversight program is established.**

**Sec. 3. The secretary of state shall contract with a person or an entity to conduct the program for a term specified in the contract.**

**Sec. 4. The person or entity designated under this chapter to conduct the program shall do the following:**

- (1) Develop and propose procedures and standards for the certification, acquisition, functioning, training, and security for voting systems used to conduct elections in Indiana.**
- (2) Compile and maintain an inventory of all voting systems used to conduct elections in Indiana.**
- (3) Review reports concerning voting systems prepared by independent laboratories and submitted by applicants for voting system certification.**
- (4) Recommend to the commission whether an application for**

**C  
O  
P  
Y**



voting system certification should be approved and, if so, whether the approval should be subject to any restrictions or conditions to ensure compliance with Indiana law.

(5) Perform any additional testing of a voting system necessary to determine whether the voting system complies with state law.

(6) Each year perform random audits of voting systems used to conduct Indiana elections and prepare reports indicating whether the voting systems have been certified, programmed, and used in compliance with Indiana law.

(7) Review contracts, leases, purchase orders, and amendments to those documents concerning the acquisition or maintenance of voting systems.

(8) Assist with the development of quantity purchase agreements and other contracts for the lease or purchase of voting systems.

(9) Perform any other duties related to the approval or use of voting systems as provided in:

(A) state law; or

(B) the contract described in section 3 of this chapter.

SECTION 80. IC 3-11-17 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 17. Voting System Violations**

**Sec. 1.** This chapter applies to a voting system vendor who sells, leases, installs, implements, or permits the use of a voting system in an election conducted in Indiana.

**Sec. 2.** In addition to any other penalty imposed, a vendor who knowingly, recklessly, or negligently sells, leases, installs, implements, or permits the use of a voting system in an election conducted in Indiana in violation of this title is subject to a civil penalty under this chapter.

**Sec. 3.** If the secretary of state determines that a vendor is subject to a civil penalty under section 2 of this chapter, the secretary of state may assess a civil penalty. The civil penalty assessed under this section may not exceed five hundred thousand dollars (\$500,000), plus any investigative costs incurred and documented by the secretary of state.

**Sec. 4.** The secretary of state is subject to IC 4-21.5 in imposing a civil penalty under this chapter.

**Sec. 5.** All civil penalties collected under this chapter shall be deposited with the treasurer of state in the voting system technical

C  
O  
P  
Y



oversight program account established by section 6 of this chapter.

**Sec. 6. (a) The voting system technical oversight program account is established with the state general fund to provide money for administering and enforcing IC 3-11-7, IC 3-11-7.5, IC 3-11-15, IC 11 3-11-16, and this chapter.**

**(b) The election division shall administer the account. With the approval of the budget agency, funds in the account are available to augment and supplement the funds appropriated to the election division for the purposes described in this section.**

**(c) The expenses of administering the account shall be paid from the money in the account. The account consists of all civil penalties collected under this chapter."**

Page 18, between lines 37 and 38, begin a new paragraph and insert:  
"SECTION 82. IC 3-12-1-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9.5. (a) This section applies to counting votes cast on ballot cards.

(b) As used in this section, "chad" means the part of a ballot card that indicates a vote on the card when entirely punched out by the voter:

(c) A chad that has been pierced; but not entirely punched out of the card; shall be counted as a vote for the indicated candidate or for the indicated response to a public question:

(d) A chad that has been indented; but not in any way separated from the remainder of the card; may not be counted as a vote for a candidate or on a public question:

(e) Whenever:

(1) a ballot card contains a numbered box indicating which chad should be punched out by the voter to cast a vote for a candidate or on a public question;

(2) the indicated chad has not been punched out; and

(3) a hole has been made in the card that touches any part of the numbered box;

the hole shall be counted as a vote for the candidate or on the public question as if the indicated chad had been punched out. However, if a hole has been made in the ballot that does not touch a numbered box or punch out a chad; the hole may not be counted as a vote for a candidate or on a public question:

(f) Whenever:

(1) a chad has been punched out of a ballot card;

(2) a numbered box indicates that another chad may be punched out to cast a vote for:

(A) a different candidate for the same office as the candidate

**C  
O  
P  
Y**



for whom a vote was cast under subdivision (1); or  
 (B) a different response to the same public question on which  
 a vote was cast under subdivision (1); and  
 (3) a hole has been punched in the card that touches the numbered  
 box described in subdivision (2);  
 neither the chad described in subdivision (1) nor the hole described in  
 subdivision (3) may be counted as a vote for a candidate or on a public  
 question:

- (g) (b) This subsection applies to a ballot card that:
- (1) has been cast in a precinct whose votes are being recounted by  
 a local recount commission or the state recount commission;
  - (2) is damaged or defective so that it cannot properly be counted  
 by automated tabulating machines; and
  - (3) cannot be counted for the office subject to the recount due to  
 the damage or defect.

The ballot card shall be remade only if the conditions in subdivisions  
 (1) through (3) exist."

Page 19, between lines 9 and 10, begin a new paragraph and insert:  
 "SECTION 84. IC 3-12-3.5-2 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. After each  
 electronic voting system has been secured and the paper vote total  
 printouts obtained, the inspector shall announce in a distinct tone of  
 voice the result of the vote as shown by **that** the printouts **are**  
**available for inspection by the members of the precinct election**  
**board and any watchers present within the polls. The members and**  
**watchers are entitled to inspect and copy the printouts to document**  
**the votes cast for:**

- (1) each candidate in the order as their offices are arranged on  
 each system; and
- (2) each public question **on each system."**

Page 28, line 34, reset in roman "on a voting".

Page 28, line 34, after "machine" insert "**system**".

Page 29, delete lines 30 through 32, begin a new paragraph and  
 insert:

"SECTION 112. THE FOLLOWING ARE REPEALED  
 [EFFECTIVE UPON PASSAGE]: IC 3-5-2-21.5; IC 3-11-15-10;  
 IC 3-11-15-11; IC 3-11-15-50; IC 3-11-15-51; IC 3-11-15-52;  
 IC 3-11-15-53; IC 3-11-15-55; IC 3-11-15-56; IC 3-11-15-57;  
 IC 3-11-15-58.

SECTION 113. THE FOLLOWING ARE REPEALED  
 [EFFECTIVE JULY 1, 2005]: IC 3-5-2-41.5; IC 3-5-2-41.6;  
 IC 3-5-2-50.6; IC 3-11-3-2; IC 3-11-3-6; IC 3-11-5; IC 3-11-7.5-20;

C  
o  
p  
y



IC 3-11-12; IC 3-11-13-20; IC 3-12-2.5.

SECTION 114. [EFFECTIVE UPON PASSAGE] (a) The definitions set forth in IC 3-5-2 apply to this SECTION.

(b) To perform the duties set forth in IC 3-11-16, as added by this act, in establishing the voting system technical oversight program, the secretary of state shall issue a request for proposals to enter into the contract required under IC 3-11-16-3.

(c) Notwithstanding any other statute or rule:

(1) the secretary of state shall extend invitations to public and private colleges and universities located within Indiana to respond to the request for proposals not later than June 1, 2005; and

(2) the secretary of state and the person selected by the secretary of state shall enter into the contract required under IC 3-11-16-3 not later than July 1, 2005.

(d) This SECTION expires December 31, 2005.

SECTION 115. [EFFECTIVE UPON PASSAGE] (a) The definitions set forth in IC 3-5-2 apply to this SECTION.

(b) This SECTION applies to a county:

(1) that used a punch card ballot voting system to conduct the November 2, 2004, general election in any precinct in the county; and

(2) whose county executive, before July 1, 2005, has not entered into a contract that complies with this SECTION.

(c) To comply with this SECTION, a contract that a county executive enters into must require a voting system vendor to deliver, not later than December 31, 2005:

- (1) an electronic voting system;
- (2) an optical scan ballot voting system; or
- (3) a combination of both systems;

certified for installation, marketing, and use in Indiana on the effective date of the contract.

(d) If a county described in subsection (b) fails to enter into a contract that complies with subsection (c) before July 1, 2005, the secretary of state may enter into a quantity purchase agreement with a voting system vendor for the purchase of:

- (1) an electronic voting system;
- (2) an optical scan ballot voting system; or
- (3) a combination of both systems;

that is certified for installation, marketing, and use in Indiana on the effective date of the contract.

(e) The agreement described in subsection (d) must require the

COPY



**delivery of the voting system to each county described in this SECTION before January 1, 2006, for use in all elections conducted in the county after December 31, 2005.**

**(f) This SECTION expires December 31, 2006.**

**SECTION 116. An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1407 as printed February 9, 2005.),

LAWSON C, Chairperson

Committee Vote: Yeas 6, Nays 1.

**C  
o  
p  
y**

