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# SENATE BILL No. 118

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 3-5-4-1.2; IC 3-6-2-1; IC 3-8; IC 3-9-5-22; IC 3-10; IC 3-11; IC 3-13; IC 10-16-7-16; IC 20-23; IC 20-26-4-4; IC 36-5-1.

**Synopsis:** Various election law matters. Provides that a candidate filing required to be made with the election division is void if the filing is made with a county election official. Adds a cross-reference concerning the election of Republican Party precinct committeemen. Repeals a provision establishing procedures governing the declaration and withdrawal of a declaration by a write-in candidate for a school board office elected at a primary election. Specifies that the party affiliation requirements for a primary candidate include voting in a previous primary of the party in Indiana. Provides that a candidate's nomination by petition is not effective unless the candidate files all required documents. Provides that a petition of nomination for a candidate in a special election called by the governor must be filed not later than 74, rather than 50, days before the election. Specifies noon July 3 before election day, rather than noon on the second Tuesday in September before a general election, as the deadline for filing a certificate of nomination to replace an independent or minor party candidate nominated by petition. For large contributions to statewide candidates: (1) removes a reference to filings by fax (current law does not permit statewide candidates to file by fax); and (2) requires the reporting of contributions received after the end of a reporting period and not less than 48 hours before an election. Permits a poll worker in an election conducted by a town election board to serve if the worker meets the same qualifications as a worker in a town election conducted by a county election board. Establishes procedures regarding a special election held to fill multiple vacancies in the United States House of Representatives. Removes obsolete references to ballots formerly  
(Continued next page)

**Effective:** Upon passage; July 1, 2012.

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## Landske

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January 4, 2012, read first time and referred to Committee on Elections.

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printed by the election division and voting system standards. Permits the filling of a county, city, town, or township office before a vacancy exists whenever the person holding the office has submitted a written resignation or been elected to another office. Extends the limitation on national guard musters or assemblies to all types of election days. Establishes that a petition of nomination in Mishawaka and East Chicago school district elections may not be filed earlier than 104 days before the election. (Current law specifies the final date for filing is 74 days before the election.) Makes a conforming amendment following the enactment of HEA 1074-2011 (P.L. 179-2011) concerning the terms of office of school board members. Removes a requirement for a census of registered voters before a town can dissolve or change its name.

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Introduced

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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## SENATE BILL No. 118

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 3-5-4-1.2 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**  
3 **UPON PASSAGE]: Sec. 1.2. (a) Whenever this title requires that a**  
4 **document declaring or certifying the candidacy of a person be filed**  
5 **with the election division or the secretary of state as a condition for**  
6 **the filing to be effective:**  
7 (1) a county election board;  
8 (2) a circuit court clerk;  
9 (3) a county voter registration office;  
10 (4) a board of elections and registration; or  
11 (5) a town election board;  
12 may not accept the filing on behalf of the election division or the  
13 secretary of state.  
14 (b) A county election board, circuit court clerk, county voter  
15 registration office, board of elections and registration, or town



1 election board that accepts a document that must be filed with the  
2 election division or the secretary of state as a condition for the  
3 filing to be effective:

- 4 (1) may not act as an agent of the election division or the
- 5 secretary of state; and
- 6 (2) is not required to transmit the filing to the election division
- 7 or the secretary of state.

8 (c) If a board, office, or clerk referred to in subsection (a)(1)  
9 through (a)(5) accepts a document that must be filed with the  
10 election division of the secretary of state as a condition for the  
11 filing to be effective, the following apply:

- 12 (1) The filing is void.
- 13 (2) The name of a candidate set forth in the filing may not
- 14 appear on the ballot, unless the document is filed with the
- 15 election division or the secretary of state in the manner
- 16 required by this title.

17 SECTION 2. IC 3-6-2-1 IS AMENDED TO READ AS FOLLOWS  
18 [EFFECTIVE UPON PASSAGE]: Sec. 1. Each political party whose  
19 nominee received at least ten percent (10%) of the votes cast in the  
20 state for secretary of state at the last election **for that office** may have  
21 precinct committeemen elected at the same time as a primary election  
22 in accordance with IC 3-10-1-4.5 **or IC 3-10-1-4.6** if provided by the  
23 rules of the political party.

24 SECTION 3. IC 3-8-2-2.6 IS REPEALED [EFFECTIVE UPON  
25 PASSAGE]. Sec. 2:6: (a) This section applies to a write-in candidate  
26 for a school board office to be elected on the same election day that a  
27 primary election is conducted:

- 28 (b) A:
- 29 (1) declaration of intent to be a write-in candidate; or
- 30 (2) withdrawal of a declaration;

31 must be subscribed and sworn to before an individual authorized to  
32 administer oaths:

33 (c) A declaration of intent to be a write-in candidate for a school  
34 board office must be filed:

- 35 (1) not earlier than the first date specified in IC 3-8-6-10(b) for
- 36 the timely filing of a petition of nomination; and
- 37 (2) not later than noon eighty-eight (88) days before the primary
- 38 election.

39 (d) A candidate may withdraw a declaration of intent filed under  
40 subsection (c) not later than noon eighty-five (85) days before the  
41 primary election:

- 42 (e) A question concerning the validity of a declaration of intent to

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1 be a write-in candidate for a school board office must be filed with the  
 2 county election board under IC 3-8-1-2(c) not later than noon  
 3 eighty-one (81) days before the date of the primary election. The  
 4 county election board shall determine all questions regarding the  
 5 validity of the declaration not later than noon sixty-eight (68) days  
 6 before the date of the primary election.

7 SECTION 4. IC 3-8-2-2.7, AS AMENDED BY P.L.164-2006,  
 8 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9 UPON PASSAGE]: Sec. 2.7. (a) ~~This subsection does not apply to a~~  
 10 ~~write-in candidate for school board office who is subject to section~~  
 11 ~~2.6(c) of this chapter.~~ A candidate may withdraw a declaration of intent  
 12 to be a write-in candidate not later than noon July 15 before a general  
 13 or municipal election.

14 (b) This subsection applies to a candidate who filed a declaration of  
 15 intent to be a write-in candidate with the election division. The election  
 16 division shall issue a corrected certification of write-in candidates  
 17 under IC 3-8-7-30 as soon as practicable after a declaration is  
 18 withdrawn under this section.

19 SECTION 5. IC 3-8-2-4, AS AMENDED BY P.L.225-2011,  
 20 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 UPON PASSAGE]: Sec. 4. (a) A declaration of candidacy for a  
 22 primary election must be filed not later than noon eighty-eight (88)  
 23 days and not earlier than one hundred eighteen (118) days before the  
 24 primary election. The declaration must be subscribed and sworn to  
 25 before a person authorized to administer oaths.

26 (b) ~~This subsection does not apply to a write-in candidate for school~~  
 27 ~~board office who is subject to section 2.6(c) of this chapter.~~ A  
 28 declaration of intent to be a write-in candidate must be filed:

- 29 (1) not earlier than the first date specified in IC 3-8-6-10(b) for  
 30 the timely filing of a petition of nomination; and  
 31 (2) not later than noon on the date specified by IC 3-13-1-15(c)  
 32 for a major political party to file a certificate of candidate  
 33 selection.

34 The declaration must be subscribed and sworn to before a person  
 35 authorized to administer oaths.

36 (c) During a year in which a federal decennial census, federal  
 37 special census, special tabulation, or corrected population count  
 38 becomes effective under IC 1-1-3.5, a declaration of:

- 39 (1) candidacy may be filed for an office that will appear on the  
 40 primary election ballot; or  
 41 (2) intent to be a write-in candidate **may be filed** for an office that  
 42 will appear on the general, municipal, or school board election

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1 ballot;  
2 that year as a result of the new tabulation of population or corrected  
3 population count.

4 SECTION 6. IC 3-8-2-7 IS AMENDED TO READ AS FOLLOWS  
5 [EFFECTIVE JULY 1, 2012]: Sec. 7. (a) The declaration of each  
6 candidate required by this chapter must be signed before a person  
7 authorized to administer oaths and contain the following information:

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

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

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

13 (2) A statement that the candidate is a registered voter and the  
14 location of the candidate's precinct and township (or ward and  
15 city or town), county, and state.

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

19 (4) A statement of the candidate's party affiliation. For purposes  
20 of this subdivision, a candidate is considered to be affiliated with  
21 a political party only if any of the following applies:

22 (A) The most recent primary election **in Indiana** in which the  
23 candidate voted was a primary election held by the party with  
24 which the candidate claims affiliation.

25 (B) The candidate has never voted in a primary election and  
26 claims a party affiliation.

27 (C) The county chairman of:

28 (i) the political party with which the candidate claims  
29 affiliation; and

30 (ii) the county in which the candidate resides;

31 certifies that the candidate is a member of the political party.

32 The declaration of candidacy must inform candidates how party  
33 affiliation is determined under this subdivision and permit the  
34 candidate to indicate on the declaration of candidacy which of  
35 clauses (A), (B), or (C) applies to the candidate. If a candidate  
36 claims party affiliation under clause (C), the candidate must  
37 attach to the candidate's declaration of candidacy the written  
38 certification of the county chairman required by clause (C).

39 (5) A statement that the candidate complies with all requirements  
40 under the laws of Indiana to be a candidate for the above named  
41 office, including any applicable residency requirements, and that  
42 the candidate is not ineligible to be a candidate due to a criminal

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- 1 conviction that would prohibit the candidate from serving in the  
 2 office.
- 3 (6) A request that the candidate's name be placed on the official  
 4 primary ballot of that party to be voted on, the office for which the  
 5 candidate is declaring, and the date of the primary election.
- 6 (7) A statement that the candidate:
- 7 (A) is aware of the provisions of IC 3-9 regarding campaign  
 8 finance and the reporting of campaign contributions and  
 9 expenditures; and
- 10 (B) agrees to comply with the provisions of IC 3-9.
- 11 The candidate must separately sign the statement required by this  
 12 subdivision.
- 13 (8) A statement as to whether the candidate has been a candidate  
 14 for state, **legislative**, or local office in a previous primary,  
 15 **municipal, special**, or general election and whether the candidate  
 16 has filed all reports required by IC 3-9-5-10 for all previous  
 17 candidacies.
- 18 (9) If the candidate is subject to IC 3-9-1-5, a statement that the  
 19 candidate has filed a campaign finance statement of organization  
 20 for the candidate's principal committee or is aware that the  
 21 candidate may be required to file a campaign finance statement of  
 22 organization not later than noon seven (7) days after the final date  
 23 to file the declaration of candidacy under section 11 of this  
 24 chapter.
- 25 (10) The candidate's signature.
- 26 (b) The commission shall provide that the form of a declaration of  
 27 candidacy includes the following information near the separate  
 28 signature required by subsection (a)(7):
- 29 (1) The dates for filing campaign finance reports under IC 3-9.  
 30 (2) The penalties for late filing of campaign finance reports under  
 31 IC 3-9.
- 32 (c) A declaration of candidacy must include a statement that the  
 33 candidate requests the name on the candidate's voter registration record  
 34 be the same as the name the candidate uses on the declaration of  
 35 candidacy. If there is a difference between the name on the candidate's  
 36 declaration of candidacy and the name on the candidate's voter  
 37 registration record, the officer with whom the declaration of candidacy  
 38 is filed shall forward the information to the voter registration officer of  
 39 the appropriate county as required by IC 3-5-7-6(e). The voter  
 40 registration officer of the appropriate county shall change the name on  
 41 the candidate's voter registration record to be the same as the name on  
 42 the candidate's declaration of candidacy.

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1 SECTION 7. IC 3-8-6-12.5 IS ADDED TO THE INDIANA CODE  
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 3 UPON PASSAGE]: **Sec. 12.5. (a) A candidate's nomination by  
 4 petition under this chapter is not effective unless the candidate  
 5 timely files each document required under sections 10 and 12 of  
 6 this chapter.**

7 **(b) The county election board may not include on a ballot the  
 8 name of a candidate whose nomination is ineffective under  
 9 subsection (a).**

10 **(c) The election division may not certify the name of the  
 11 candidate for placement on a ballot by a county election board if  
 12 the candidate's nomination is ineffective under subsection (a).**

13 SECTION 8. IC 3-8-6-13 IS AMENDED TO READ AS FOLLOWS  
 14 [EFFECTIVE UPON PASSAGE]: Sec. 13. In a special election called  
 15 by the governor, a petition of nomination shall be filed with the circuit  
 16 court clerk or other public official with whom a petition is required to  
 17 be filed, at any time after the election is called but no later than noon  
 18 ~~fifty (50)~~ **seventy-four (74)** days before the date of the election.

19 SECTION 9. IC 3-8-6-17 IS AMENDED TO READ AS FOLLOWS  
 20 [EFFECTIVE JULY 1, 2012]: Sec. 17. (a) If:

- 21 (1) a petition of nomination contains the name of at least one (1)  
 22 candidate who seeks to be placed on the ballot as the candidate of  
 23 a political party described by section 1 of this chapter; and  
 24 (2) a candidate listed on the petition ceases to be a candidate after  
 25 the petition is circulated for signature or filed;

26 the candidate may be replaced on the petition in accordance with this  
 27 section.

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

- 33 (1) be on a form prescribed by the commission;  
 34 (2) state the following:  
 35 (A) the name of the individual who ceased to be a candidate;  
 36 (B) the date and reason the individual ceased to be a  
 37 candidate; and  
 38 (C) the name of the individual who will replace the candidate  
 39 as:  
 40 (i) the individual wants the individual's name to appear on  
 41 the ballot; and  
 42 (ii) the individual's name is permitted to appear on the ballot

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1 under IC 3-5-7; and

2 (3) be accompanied by the following:

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

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

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

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

25 (d) The statement required under subsection (b) or (c) must be filed  
26 not later than the final date and time for the ~~certification of presidential~~  
27 ~~and vice presidential nominees under IC 3-10-4-5.~~ **filing of a**  
28 **certificate of candidate selection under IC 3-13-1-15(c).**

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

32 SECTION 10. IC 3-9-5-22, AS ADDED BY P.L.221-2005,  
33 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 UPON PASSAGE]: Sec. 22. (a) This section applies only to a large  
35 contribution that is received by a candidate for a state office, the  
36 candidate's committee, or the treasurer of the candidate's committee.

37 (b) As used in this section, "election" refers to any of the following:

38 (1) For a candidate nominated at a primary election, the primary  
39 election.

40 (2) For a candidate nominated at a state convention, the state  
41 convention.

42 (3) A general election.

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1 (c) As used in this section, "large contribution" means either of the  
2 following:

3 (1) Contributions:

4 (A) that total at least one thousand dollars (\$1,000); and

5 (B) that are received

6 (i) after the end of a reporting period and ~~before the deadline~~  
7 ~~for the candidate's committee to file a report under section~~  
8 ~~6 of this chapter; and~~

9 (ii) not less than forty-eight (48) hours before an election.

10 (2) A single contribution that is at least ten thousand dollars  
11 (\$10,000) that is received at any time.

12 (d) The treasurer of a candidate's committee shall file a  
13 supplemental large contribution report with the election division not  
14 later than:

15 (1) forty-eight (48) hours after a contribution described by  
16 subsection (c)(1) is received; or

17 (2) noon seven (7) days after a contribution described by  
18 subsection (c)(2) is received.

19 (e) A report filed under this section may be filed ~~by facsimile~~  
20 ~~transmission or~~ as an electronic report when the requirements of  
21 IC 3-9-4 or this chapter have been met. A report required by subsection  
22 (d) must contain the following information for each large contribution:

23 (1) The name of the person making the contribution.

24 (2) The address of the person making the contribution.

25 (3) If the person making the contribution is an individual, the  
26 individual's occupation.

27 (4) The total amount of the contribution.

28 (5) The dates and times the contributions making up the large  
29 contribution described in subsection (c)(1) or a large contribution  
30 described in subsection (c)(2) were received by the treasurer, the  
31 candidate, or the candidate's committee.

32 (f) The commission shall prescribe the form for the report required  
33 by this section.

34 SECTION 11. IC 3-10-7-22, AS AMENDED BY P.L.230-2005,  
35 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JULY 1, 2012]: Sec. 22. (a) A town election board shall appoint a  
37 precinct election board for each precinct in the town.

38 (b) If a precinct is wholly or partly in the town, the town election  
39 board may designate the polls for the precinct to be at the polls for an  
40 adjoining precinct, using the precinct election board of the adjoining  
41 precinct.

42 (c) If a precinct election board administers more than one (1)

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1 precinct under subsection (b), the board shall keep the ballots cast in  
 2 each precinct separate from ballots cast in any other precinct, so that  
 3 the votes cast for each candidate and on each public question in each  
 4 of the precincts administered by the board may be determined.

5 (d) Each precinct election board consists of:

- 6 (1) one (1) inspector; and
- 7 (2) two (2) judges of opposite political parties.

8 (e) The members of a precinct election board must be voters who  
 9 reside in the town. **comply with IC 3-6-6.**

10 SECTION 12. IC 3-10-8-7.5 IS ADDED TO THE INDIANA CODE  
 11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 12 UPON PASSAGE]: **Sec. 7.5. (a) This section applies to a special  
 13 election to fill one (1) or more vacancies in the office of United  
 14 States Representative under 2 U.S.C. 8(b).**

15 (b) A special election conducted under this section shall be  
 16 governed by other provisions of this title as far as applicable.

17 (c) A political party entitled to fill a candidate vacancy under  
 18 IC 3-13-2 shall nominate a candidate for election to the office  
 19 under IC 3-13-2-3.

20 (d) A candidate who does not intend to affiliate with a political  
 21 party described by subsection (c) shall:

- 22 (1) be nominated as an independent or a candidate of a  
 23 political party by petition in accordance with IC 3-8-6; or
- 24 (2) file a declaration of intent to be a write-in candidate under  
 25 IC 3-8-2-4(b).

26 (e) A certificate of candidate selection under IC 3-13-2-8, a  
 27 petition of nomination, or a declaration of intent to be a write-in  
 28 candidate must be filed with the election division not later than  
 29 noon thirty-five (35) days before the special election is to be  
 30 conducted.

31 (f) A candidate is required to file a notice of withdrawal with the  
 32 election division not later than noon thirty-three (33) days before  
 33 the special election is to be conducted.

34 (g) As required under 2 U.S.C. 8(b)(5)(B), and notwithstanding  
 35 IC 3-11-10-14, a county election board shall accept an absentee  
 36 ballot cast by an absent uniformed services voter or an overseas  
 37 voter for up to forty-five (45) days after the absentee ballot was  
 38 transmitted to the voter.

39 (h) Notwithstanding IC 3-12-5-8(a), if the ballot is determined  
 40 by the county election board to be otherwise valid, the circuit court  
 41 clerk shall file an amendment to the certified statement previously  
 42 filed under IC 3-12-5-6 with the election division not later than

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1 **noon seven (7) days following the determination of the validity of**  
 2 **the ballot. Notwithstanding IC 3-12-5-9, the election division, the**  
 3 **secretary of state, and the governor shall prepare, execute, and**  
 4 **transmit a replacement certificate of election if the amendment**  
 5 **filed under this subsection results in a different candidate receiving**  
 6 **the highest number of votes for the office.**

7 SECTION 13. IC 3-11-2-10, AS AMENDED BY P.L.190-2011,  
 8 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9 JULY 1, 2012]: Sec. 10. (a) Public questions shall be placed on the  
 10 general election ballot in the following order after the statement  
 11 described in section 7 of this chapter, and the instructions described in  
 12 subsections (d) and (e) and section 8 of this chapter:

13 (1) Ratification of a state constitutional amendment.

14 (2) Local public questions.

15 Each public question shall be placed in a separate column on the ballot.

16 (b) The name or title of the political party or independent ticket  
 17 described in section 6 of this chapter shall be placed on the general  
 18 election ballot after the public questions described in subsection (a).  
 19 The device of the political party or independent ticket shall be placed  
 20 immediately under the name of the political party or independent ticket.  
 21 The instructions for voting a straight party ticket shall be placed to the  
 22 right of the device.

23 (c) The instructions for voting a straight party ticket must conform  
 24 as nearly as possible to the following: "To vote a straight (insert  
 25 political party name) ticket for all (insert political party name)  
 26 candidates on this ballot, make a voting mark on or in this circle and do  
 27 not make any other marks on this ballot. If you wish to vote for a  
 28 candidate seeking a nonpartisan office or on a public question, you  
 29 must make another voting mark on the appropriate place on this  
 30 ballot."

31 (d) If the ballot contains an independent ticket described in section  
 32 6 of this chapter and at least one (1) other independent candidate, the  
 33 ballot must also contain a statement that reads substantially as follows:  
 34 "A vote cast for an independent ticket will only be counted for the  
 35 candidates for President and Vice President or governor and lieutenant  
 36 governor comprising that independent ticket. This vote will NOT be  
 37 counted for any OTHER independent candidate appearing on the  
 38 ballot."

39 (e) The ballot must also contain a statement that reads substantially  
 40 as follows: "A write-in vote will NOT be counted unless the vote is for  
 41 a DECLARED write-in candidate. To vote for a write-in candidate, you  
 42 must make a voting mark on or in the square to the left of the name you

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have written in or your vote will not be counted."

(f) The list of candidates of the political party shall be placed immediately under the instructions for voting a straight party ticket. The names of the candidates shall be placed three-fourths (3/4) of an inch apart from center to center of the name. The name of each candidate must have, immediately on its left, a square three-eighths (3/8) of an inch on each side.

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

SECTION 14. IC 3-11-3-4 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 4: The election division shall provide a seal for the ballots. The seal may be of a design considered proper by the election division, but the same design may not be used for two (2) consecutive elections.~~

SECTION 15. IC 3-11-4-12.5, AS ADDED BY P.L.66-2010, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12.5. (a) This section applies to an absent uniformed services voter or overseas voter.

(b) If a voter makes a timely application for and does not receive an absentee ballot from a county election board, the voter may use a federal write-in absentee ballot in the form prescribed by the Federal Voting Assistance Program of the United States Department of Defense and in accordance with the requirements set forth in 42 U.S.C. 1973ff-2 to cast a vote **by mail, electronic mail, or fax** for any of the following:

- (1) Any candidate for nomination at a primary election.
- (2) Any candidate, political party, or public question on a general election, municipal election, or special election ballot.

SECTION 16. IC 3-11-10-14, AS AMENDED BY P.L.198-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. Subject to **IC 3-10-8-7.5** and section 11 of this chapter, absentee ballots received by mail (or by fax or electronic mail under IC 3-11-4-6) after the county election board has started the final delivery of the ballots to the precincts on election day are considered as arriving too late and need not be delivered to the polls.

SECTION 17. IC 3-11-15-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. The ballot counting software must be designed in a modular fashion and not be self-modifying. Modular programs must consist of code written in relatively small and easily identifiable sections, with each unit having a single entry point and a single exit point. Each module must have a

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1 specific function that can be tested and verified more or less  
2 independently of the remainder of the code. ~~Appendix E of the~~  
3 ~~Performance and Test Standards for Punchcard, Marksense, and Direct~~  
4 ~~Recording contains numerical guidelines for program modules.~~

5 SECTION 18. IC 3-13-7-1.5 IS ADDED TO THE INDIANA CODE  
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
7 1, 2012]: **Sec. 1.5. A county auditor may give notice of a meeting,**  
8 **and the meeting may be conducted under this chapter, before a**  
9 **vacancy exists whenever the person holding an office has:**

- 10 (1) submitted a written resignation under IC 5-8-3.5; or
- 11 (2) been elected to another office.

12 SECTION 19. IC 3-13-8-1.5 IS ADDED TO THE INDIANA CODE  
13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
14 1, 2012]: **Sec. 1.5. A city clerk or city clerk-treasurer may give**  
15 **notice of a meeting, and the meeting may be conducted under this**  
16 **chapter, before a vacancy exists whenever the person holding an**  
17 **office has:**

- 18 (1) submitted a written resignation under IC 5-8-3.5; or
- 19 (2) been elected to another office.

20 SECTION 20. IC 3-13-9-1.5 IS ADDED TO THE INDIANA CODE  
21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
22 1, 2012]: **Sec. 1.5. A town clerk-treasurer or president of the town**  
23 **council may give notice of a meeting, and the meeting may be**  
24 **conducted under this chapter, before a vacancy exists whenever the**  
25 **person holding an office has:**

- 26 (1) submitted a written resignation under IC 5-8-3.5; or
- 27 (2) been elected to another office.

28 SECTION 21. IC 3-13-10-1.5 IS ADDED TO THE INDIANA  
29 CODE AS A NEW SECTION TO READ AS FOLLOWS  
30 [EFFECTIVE JULY 1, 2012]: **Sec. 1.5. A county auditor may give**  
31 **notice of a meeting, and the meeting may be conducted under this**  
32 **chapter, before a vacancy exists whenever the person holding an**  
33 **office has:**

- 34 (1) submitted a written resignation under IC 5-8-3.5; or
- 35 (2) been elected to another office.

36 SECTION 22. IC 10-16-7-16 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 16. (a) A muster or an  
38 assembly for instruction, review, or parade may not be held or called  
39 in any county on any day during which a general election, **primary**  
40 **election, municipal election,** or special election is held in the county,  
41 except in case of or imminent danger of riot, invasion, insurrection, or  
42 public disaster.

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1 (b) An officer who orders a muster or an assembly on an election  
2 day shall forfeit an amount as a court-martial adjudges.

3 SECTION 23. IC 20-23-17-3, AS ADDED BY P.L.179-2011,  
4 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2012]: Sec. 3. (a) The governing body of the school  
6 corporation consists of five (5) members chosen as follows:

7 (1) Three (3) members shall be elected by the voters of the school  
8 corporation at a general election to be held in the county and  
9 every four (4) years thereafter.

10 (2) One (1) member shall be appointed by the city executive.

11 (3) One (1) member shall be appointed by the city legislative  
12 body.

13 (b) The members elected under subsection (a)(1) shall be elected as  
14 follows:

15 (1) On a nonpartisan basis.

16 (2) In a general election held in the county.

17 (3) By the registered voters of the entire school corporation.

18 (c) The following apply to an election of members of the governing  
19 body of the school corporation under subsection (a)(1):

20 (1) Each candidate must file a petition of nomination with the  
21 circuit court clerk **not earlier than one hundred four (104) days**  
22 **and** not later than seventy-four (74) days before the election at  
23 which members are to be elected. The petition of nomination must  
24 include the following information:

25 (A) The name of the candidate.

26 (B) A certification that the candidate meets the qualifications  
27 for candidacy imposed by this chapter.

28 (2) Only eligible voters residing in the school corporation may  
29 vote for a candidate seeking election.

30 SECTION 24. IC 20-23-17.2-5, AS ADDED BY P.L.179-2011,  
31 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2012]: Sec. 5. (a) The following apply to an election of  
33 members of the governing body of the school corporation under section  
34 3(a)(1) of this chapter:

35 (1) Each candidate must file a petition of nomination with the  
36 circuit court clerk **not earlier than one hundred four (104) days**  
37 **and** not later than seventy-four (74) days before the general  
38 election at which members are to be elected. The petition of  
39 nomination must include the following information:

40 (A) The name of the candidate.

41 (B) The candidate's residence address and the district in which  
42 the candidate resides.

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1 (C) The signatures of at least twenty (20) registered voters  
 2 residing within the school corporation district the candidate  
 3 seeks to represent.  
 4 (D) A certification that the candidate meets the qualifications  
 5 for candidacy imposed by this chapter.  
 6 (2) Only eligible voters residing in the school corporation district  
 7 may vote for a candidate to represent that district.  
 8 (3) One (1) candidate shall be elected for each district. The  
 9 candidate elected for a district must reside within the boundaries  
 10 of the district. The candidate elected as the member for a  
 11 particular district is the candidate who, among all the candidates  
 12 who reside within that district, receives the greatest number of  
 13 votes from voters residing in that district.  
 14 (b) The following apply to an election of the members of the  
 15 governing body of the school corporation under section 3(a)(2) of this  
 16 chapter:  
 17 (1) Each candidate must file a petition of nomination with the  
 18 circuit court clerk **not earlier than one hundred four (104) days**  
 19 **and** not later than seventy-four (74) days before the general  
 20 election at which members are to be elected. The petition of  
 21 nomination must include the following information:  
 22 (A) The name of the candidate.  
 23 (B) The candidate's residence address.  
 24 (C) The signatures of at least one hundred (100) registered  
 25 voters residing within the school corporation.  
 26 (D) A certification that the candidate meets the qualifications  
 27 for candidacy imposed by this chapter.  
 28 (2) Only eligible voters residing in the school corporation may  
 29 vote for a candidate.  
 30 (3) Three (3) candidates shall be elected at large. The three (3)  
 31 candidates who receive the greatest number of votes among all  
 32 candidates running for an at-large seat are elected as members of  
 33 the governing body.  
 34 SECTION 25. IC 20-26-4-4, AS ADDED BY P.L.1-2005,  
 35 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 UPON PASSAGE]: Sec. 4. ~~(a) This section does not apply to a school~~  
 37 ~~city of the first class or to a school corporation succeeding to all or the~~  
 38 ~~major part in area of a school city of the first class:~~  
 39 ~~(b) (a) The commencement and termination of terms of members of~~  
 40 ~~a governing body are as follows:~~  
 41 ~~(1) Except as provided in subdivision (2), the governing body of~~  
 42 ~~each school corporation shall determine whether the term of~~

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1 office for the governing body's members extends from January 1  
 2 to December 31 or from July 1 to June 30. A governing body that  
 3 makes a change in the commencement date of the governing  
 4 body's members' terms shall report the change to the state board  
 5 before August 1 preceding the year in which the change takes  
 6 place. An ex officio member of a governing body shall take office  
 7 at the time the ex officio member takes the oath of the office by  
 8 virtue of which the ex officio member is entitled to become an ex  
 9 officio member.

10 (2) In a county having a population of more than four hundred  
 11 thousand (400,000); the terms of office for the members of a  
 12 governing body; whether elected or appointed; commence on July  
 13 1 of the year in which the members are to take office under the  
 14 plan; resolution; or law under which the school corporation is  
 15 established; and terminate on the June 30 of the final year of the  
 16 term for which the members are to serve under the plan;  
 17 resolution; or law.

18 **established under the following:**

- 19 (1) IC 3-5-4-11.
- 20 (2) IC 20-23-4-30.
- 21 (3) IC 20-23-7-8.1.
- 22 (4) IC 20-23-12-8.
- 23 (5) IC 20-23-13-3.
- 24 (6) IC 20-23-14-8.
- 25 (7) IC 20-23-15-11.
- 26 (8) IC 20-23-17-4.
- 27 (9) IC 20-23-17.2-8.
- 28 (10) IC 20-25-3-4.

29 (e) (b) If a vacancy in the membership of a governing body occurs  
 30 for any reason (including the failure of a sufficient number of petitions  
 31 for candidates for governing body membership being filed for an  
 32 election and whether the vacancy was of an elected or appointed  
 33 member), the remaining members of the governing body shall by  
 34 majority vote fill the vacancy by appointing a person from within the  
 35 boundaries of the school corporation, with the residence and other  
 36 qualifications provided for a regularly elected or appointed board  
 37 member filling the membership, to serve for the term or the balance of  
 38 the term. However, this subsection does not apply to a vacancy:

- 39 (1) of a member who serves on a governing body in an ex officio  
 40 capacity; or
- 41 (2) a vacancy in an appointed board membership if a plan,  
 42 resolution, or law under which the school corporation operates

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1 specifically provides for filling vacancies by the appointing  
2 authority.

3 SECTION 26. IC 36-5-1-12 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 12. (a) Proceedings to  
5 dissolve a town may be instituted under either this section or  
6 IC 36-5-1.1.

7 (b) A proceeding under this section may be instituted to either  
8 dissolve the town or change its name. The proceeding is instituted by  
9 filing a petition with the town clerk. The petition must be signed by at  
10 least the number of the voters of the town required to place a candidate  
11 on the ballot under IC 3-8-6-3, must be verified by at least one (1) of  
12 the petitioners, and must include the reasons for the dissolution or  
13 change of name.

14 ~~(c) A census of all the voters of the town, taken within ten (10) days~~  
15 ~~before the filing of the petition, must be filed with the petition. The~~  
16 ~~person who prepared the census must, by affidavit attached to the~~  
17 ~~census, verify that the census is correct.~~

18 SECTION 27. IC 36-5-1-13 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 13. A petition ~~and~~  
20 ~~census~~ filed under section 12 of this chapter must be accompanied by  
21 a bond for costs and expenses, payable to and approved by the town  
22 legislative body. The petitioners shall pay all costs and expenses  
23 incurred under this chapter, including the expenses of an election, if  
24 their petition is not successful.

25 SECTION 28. IC 36-5-1-14 IS AMENDED TO READ AS  
26 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 14. When a petition  
27 ~~and census are is~~ filed under section 12 of this chapter, the town clerk  
28 shall give notice of the filing and of the day of a hearing on the petition,  
29 ~~and census~~, in the manner prescribed by IC 5-3-1.

30 SECTION 29. IC 36-5-1-15 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 15. (a) On the date  
32 named in the notice given under section 14 of this chapter, the town  
33 legislative body shall hear and consider:

- 34 (1) the petition; ~~and census~~; and  
35 (2) all statements presented in favor of or in opposition to  
36 granting the petition.

37 The legislative body shall then decide whether there is sufficient cause  
38 to submit the question of dissolving the town or changing its name to  
39 the voters of the town.

40 (b) A petitioner who wants to withdraw his name from the petition  
41 must do so before the legislative body makes its decision. The  
42 legislative body may not count names withdrawn from the petition as

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1 part of the total required by section 12 of this chapter.

2 SECTION 30. IC 36-5-1-18, AS AMENDED BY P.L.113-2010,  
3 SECTION 124, IS AMENDED TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2012]: Sec. 18. (a) If at least two-thirds (2/3) of  
5 the votes cast in an election under section 16 of this chapter are  
6 affirmative, ~~and at least four-fifths (4/5) of all the voters listed in the~~  
7 ~~census voted in the election~~, the dissolution or change of name takes  
8 effect in the manner prescribed by this section.

9 (b) A change of name takes effect thirty (30) days after the filing of  
10 the statement required by section 17 of this chapter.

11 (c) Except as provided in subsection (d), a dissolution takes effect  
12 six (6) months after the filing of the statement required by section 17  
13 of this chapter. The property owned by the town after payment of debts  
14 and liabilities shall be disposed of in the manner chosen by a majority  
15 of the voters of the town at a special election for that purpose.  
16 Dissolution of a town does not affect the validity of a contract to which  
17 the town is a party.

18 (d) A dissolution under this chapter may not take effect during the  
19 year preceding a year in which a federal decennial census is conducted.  
20 A dissolution that would otherwise take effect during the year  
21 preceding a year in which a federal decennial census is conducted takes  
22 effect January 1 of the year in which a federal decennial census is  
23 conducted.

24 (e) Notwithstanding subsection (d) as that subsection existed on  
25 December 31, 2009, a dissolution that took effect January 2, 2010,  
26 because of the application of subsection (d), as that subsection existed  
27 on December 31, 2009, is instead considered to take effect January 1,  
28 2010, without any additional action being required.

29 SECTION 31. **An emergency is declared for this act.**

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