ORDER 2012-01
STATE RECOUNT COMMISSION
ADOPTION OF AMENDMENTS TO
RECOUNT GUIDELINES

WHEREAS, Indiana Code 3-12-10-5 permits the State Recount Commission to regulate the course of its hearings and other proceedings;

WHEREAS, the State Recount Commission has previously adopted "Guidelines for Conduct of an Election Recount and Contest", with the Commission last amending these Guidelines on November 24, 2010;

WHEREAS, it is desirable to further amend these Guidelines to better reflect current Indiana law by adopting a revised State Board of Accounts manual for recounts and to remove an obsolete reference to school board only ballots;

NOW, THEREFORE, IT IS ORDERED BY THE STATE RECOUNT COMMISSION:

SECTION 1. Chapter 2, Section 3(b) of the *Guidelines for Conduct of an Election Recount and Contest*, is amended to read "(b) The state board of accounts manual for recounts (*Agency Guidelines for Conduct of Recount for the State Recount Commission*, May 2012 edition) is approved for use in recounts conducted by the commission. If any conflict exists between this manual and these guidelines, the guidelines control to the extent of that conflict."

The May 2, 2012 edition of the *Agency Guidelines for Conduct of Recounts for the State Recount Commission* is incorporated by reference into this Order.

SECTION 2. Chapter 2, Section 5(d) of the *Guidelines for Conduct of an Election Recount and Contest*, is amended to read "(d) If a recount is conducted concerning a primary election, the ballots cast in the primary conducted for the candidates of the other major party, and the ballots cast solely on public questions are not to be recounted, but shall be documented solely for the purpose of reconciling the number of voters who cast ballots in person or by absentee ballot at the precinct (according to the poll list) with the number of ballots cast in the precinct according to the canvass."

SECTION 3. This Order takes effect immediately.

ADOPTED, THIS THE 2nd DAY OF MAY, 2012:

Connie Lawson, Chair
State Recount Commission

Gordon K. Durnil, Member

Bernard Pylitt, Member

STATE BOARD OF ACCOUNTS
302 West Washington Street
4th Floor, Room E418
Indianapolis, IN 46204-2769

STATE OF INDIANA

STATE BOARD OF ACCOUNTS

AGENCY GUIDELINES FOR CONDUCT OF RECOUNTS FOR THE STATE RECOUNT COMMISSION

May 2, 2012

Bruce A. Hartman, CPA
State Examiner

Michael H. Bozymski, CPA
Deputy State Examiner

Paul D. Joyce, CPA
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INTRODUCTION

TO: Supervisors, Field Examiners, and Clerks of Circuit Court

Under the provisions of Indiana Code Section 3-12-10-8, the State Board of Accounts shall conduct any recount or other contest proceeding ordered by the State Recount Commission. This manual is designed to meet the needs of recounting federal, state and legislative elections and is subject to change. Through this document, the State Board of Accounts is instructing its Supervisors and Field Examiners in the internal agency guidelines necessary to carry out the recount duties. For convenience of our staff, we have enclosed, as an appendix, the guidelines adopted and amended by the State Recount Commission. As always, any questions or problems will be resolved by the Supervisors acting through and on behalf of the State Examiner and Deputy State Examiners that comprise the State Board of Accounts. This manual is not intended to be used by local officials for local election recounts.

STATE BOARD OF ACCOUNTS

Bruce A. Hartman, CPA
State Examiner

Michael H. Bozymski, CPA
Deputy State Examiner

Paul D. Joyce, CPA
Deputy State Examiner

SBoA PROCEDURES FOR RECOUNT

RECOUNT PROCEDURE

I. General Instructions

A. Head up SBoA Precinct Tally Sheet (Form 1).

B. Completely answer all preliminary questions on tally sheet.

C. Proceed with appropriate counting procedures.

II. Electronic Voting Systems

A. Complete and count signatures on SBoA Poll List Signature Count (Form 5). That count should match the public counter reading plus absentee votes; explain variance if possible before proceeding.

B. Count paper votes, including absentee, provisional and emergency votes, by hand, determine their validity, and enter the necessary information on the SBoA Tally Sheet (Form 3) and transfer information to SBoA Summary Tally Sheet (Form 2).

C. Submit problems, questions and discrepancies to the SBoA Supervisor ("Supervisor") or his designee or Recount Director. Do not sign the SBoA Precinct Tally Sheet (Form 1) until problems and discrepancies have been addressed.

D. Submit all Forms to the Supervisor immediately upon completion of the precinct.

E. Upon request, Supervisor submits copies of Forms 1 through 6 and exhibits to candidates.

F. At the direction of the Recount Director and Supervisor, the absentee or system reviews may be performed separately by separate audit teams.

G. At the direction of the Recount Director and Supervisor, computer cartridges from electronic voting systems may be read through one or more electronic voting systems. Each individual electronic voting system will not be inspected unless specifically directed by the Recount Director and Supervisor.

III. Ballots

A. Count the signatures on the poll list, complete the SBoA Poll List Signature Count (Form 5) and enter pertinent data on the SBoA Precinct Tally Sheet (Form 1).

B. Examine all ballots set aside by precinct election board as not counted and determine their validity.

RECOUNT PROCEDURE (Continued)

C. Damaged or defective ballots are replaced prior to the count on election day. The duplicate ballots must be labeled "duplicate" and bear a serial number which is recorded on the damaged defective ballot. Verify that the number of damaged or defective ballots equals the number of duplicates and that the serial numbers match.

D. Examine for validity and manually count damaged (if not duplicated) ballots and absentee ballots by hand. Enter totals on SBoA Precinct Tally Sheet (Form 1).

E. Examine each ballot to determine validity and segregate as necessary.

F. Upon request, count each ballot manually or tabulate electronically.

G. Enter the totals on the SBoA Tally Sheet (Form 3) and transfer information to SBoA Summary Tally Sheet (Form 2) and transfer information to SBoA Precinct Tally Sheet (Form 1).

H. Check the totals against those certified to the clerk of the circuit court.

I. Submit problems, questions and discrepancies to the Supervisor and Recount Director. Do not sign the SBoA Precinct Tally Sheet (Form 1) until problems have been addressed.

J. Submit all Forms to the Supervisor immediately upon completion of the precinct.

K. Upon request, Supervisor submits copies of Forms 1 through 6 and exhibits to candidates.

IV. Working Papers

A. One member of the audit team shall physically handle all ballot materials. The other member shall record the necessary information in the workpapers which must be kept by the audit team.

B. The following workpapers must be kept by the audit team:

1. SBoA Precinct Tally Sheet (Form 1)

2. SBoA Summary Tally Sheet (Form 2)

3. SBoA Tally Sheet (Form 3)

4. SBoA Election Night Printout Inspection Sheet (Form 4)

5. SBoA Poll List Signature Count (Form 5)

6. SBoA Exhibit List (Form 6)

7. Any other workpapers considered necessary by the Supervisor or Recount Director.

PROCEDURES FOR INDIVIDUAL INSPECTION OF BALLOTS

In accordance with the SBoA Procedures for Recount, validity rules and other procedures in this manual, physically inspect the ballots as follows:

1. Hold the ballot up and declare the candidate for whom the ballot is counted in each affected race.

2. Review the validity rules and declare whether the ballot is valid or invalid.

3. After allowing the candidate watchers the opportunity to view the ballot and dispute the ballot, place the ballot on the proper stack on the table.

4. For each disputed ballot:

   a) Stamp the ballot with the exhibit stamp in a location that does not interfere with the ability to read the ballot.
   b) Complete the information requested on the exhibit stamp.
   c) Add the exhibit information to the SBoA Exhibit List (Form 6).
   d) Copy the disputed materials to be attached to Forms 1 through 6.

BASIC RULES

BALLOTS OR EMERGENCY BALLOTS (NOT ABSENTEES)

Remember PIC - OM

P - Precinct Designation

I - Initials of Poll Clerks

C - Checkmark verification

O - Overvotes in Affected Race

M - Marks on the Ballot (for identification purposes)

BASIC RULES

ABSENTEE BALLOTS AND PROVISIONAL BALLOTS

Remember PICS - OM

P - Precinct Designation

I - Initials of Board Members or Authorized Representatives

C - Checkmark verification

S - Seal and Signature of Clerk

O - Overvotes in Affected Race

M - Marks on the Ballot (for identification purposes)

CROSSVOTES AND OVERVOTES

(IC 3-12-1-7)

1. Straight ticket marked and ballot marked for relevant candidate of same party – count as vote for the candidate.

2. Single straight ticket marked and ballot marked for relevant candidate of opposite party – count as vote for opposite party candidate with ballot marked. (Ignore straight party mark.)

3. Straight ticket marked and ballot marked for irrelevant race – count as vote for relevant candidate as dictated by straight vote.

4. Multiple straight ticket marked for more than one political party results in an invalid ballot.

5. Ballot marked for more than one candidate in the same race – count as a no vote for that race.

TABLE LAYOUT

After calling, the ballots are placed on the table in the following stacks:

SECTION A - UNDISPUTED VALID BALLOTS

Stack 1 Candidate 1

Stack 2 Candidate 2

Stack 3 Candidate 3

SECTION B - UNDISPUTED INVALID BALLOTS

Stack 1 Candidate 1

Stack 2 Candidate 2

Stack 3 Candidate 3

SECTION C - DISPUTED VALID BALLOTS

Stack 1 Candidate 1

Stack 2 Candidate 2

Stack 3 Candidate 3

SECTION D – DISPUTED INVALID BALLOTS

Stack 1 Candidate 1

Stack 2 Candidate 2

Stack 3 Candidate 3

SECTION E - WRITE IN BALLOTS

SECTION F – NO VOTES

FORM 1

SBoA PRECINCT TALLY SHEET

District _____ Candidate 1 (C1) _____

County _____ Candidate 2 (C2) _____

Precinct _____ Candidate 3 (C3) _____

I County Precinct Tally Certificate (County tally after Election Day, requested by precinct and in grand total)

1. Number of absentee ballot votes cast in the affected race as recorded on the precinct certificate: C1 _____ + C2 _____ + C3 _____ + WI ____ + NV ____ = Total _____

2. Number of provisional ballot votes cast in the affected race as recorded on the precinct certificate: C1 _____ + C2 _____ + C3 _____ + WI ____ + NV ____ = Total _____

3. Number of early votes cast in the affected race as recorded on the precinct certificate: C1 _____ + C2 _____ + C3 _____ + WI ____ + NV ____ = Total _____

4. Number of emergency ballot votes cast in the affected race as recorded on the precinct certificate: C1 _____ + C2 _____ + C3 _____ + WI ____ + NV ____ = Total _____

5. Number of electronic ballot votes cast in the affected race as recorded on the precinct certificate: C1 _____ + C2 _____ + C3 _____ + WI ____ + NV ____ = Total _____

6. Number of optical scan ballot votes in the affected race as recorded on the precinct certificate: C1 _____ + C2 _____ + C3 _____ + WI ____ + NV ____ = Total _____

7. Number of paper ballot votes cast in the affected race as recorded on the precinct certificate: C1 _____ + C2 _____ + C3 _____ + WI ____ + NV ____ = Total _____

8. Total number of all votes cast (absentee, provisional, early vote, emergency, electronic, optical scan, and paper) in the affected race as recorded on the precinct certificate: C1 _____ + C2 _____ + C3 _____ + WI ____ + NV ____ = Total _____

II Absentee Voters

9. Number of absentee voter applications: _____

10. Number of absentee voter affidavits: _____

11. Number of absentee votes delivered to the precinct: _____

12. Number of absentee voters listed on poll list (from Form 5): _____

    Does this figure agree with I 1. above: _____

13. If no, explain variance: _____

    _____

(1) WI – Write-in's
(2) NV – No votes
(3) Early votes are votes cast at satellite offices in a county where voters may cast absentee ballots before an absentee voter board. (IC 3-11-10-26.3)

III Provisional Votes

14. Number of provisional votes cast in precinct: _____

15. Number of provisional votes determined valid by county election board: _____

16. Number of valid provisional votes rejected due to over vote in this race, lack of initial, and distinguishing marks, etc. _____

17. Does number of valid provisional votes, minus rejected votes, agree with I 2. above: _____

_____

18. If no, explain variance if known: _____

_____

IV Reconciliation

19. Absentee Votes (Total Number of absentee voters)

per the SBoA Poll List Signature Count (from Form 5) _____

per SBoA Summary Tally Sheet (from Form 2) _____

Variance _____

Explain variance if known:

20. Provisional Votes

per the County Election Board (CEB) _____

per SBoA Summary Tally Sheet (from Form 2) _____

Variance _____

Explain variance if known:

21. Early Votes

per the SBoA Poll List Signature Count (from Form 5) _____

per the Public Counter or Cartridge Printout (per Precinct Tally) _____

Variance _____

Explain variance if known:

22. Emergency Votes

per the SBoA Precinct Tally Sheet (Form 1) _____

per SBoA Summary Tally Sheet (from Form 2) _____

Variance _____

Explain variance if known:

23. Electronic Votes (Total Number of "in person" voters)

per the SBoA Poll List Signature Count (from Form 5) _____

per the Public Counter or Cartridge Printout (per Precinct Tally) _____

Variance _____

Explain variance if known:

24. Optical Scan Votes

per the SBoA Poll List Signature Count (from Form 5) _____

per the Public Counter or Cartridge Printout (per Precinct Tally) _____

Variance _____

Explain variance if known:

25. Paper Votes

per the SBoA Precinct Tally Sheet (Form 1) _____

per SBoA Summary Tally Sheet (from Form 2) _____

Variance _____

Explain variance if known:

26. Total Vote Count

	Total votes cast in affected race					
	C1	C2	C3	WI	NV	Total
per SBoA Precinct Tally Sheet (from I 8.)	___	___	___	___	___	___
per SBoA Summary Tally Sheet (from Form 2)	___	___	___	___	___	___
Variance	___	___	___	___	___	___

Explain variance if known: _____

_____

V Disputes:

27. Have any votes been disputed in this precinct (from Form 6)? _____

28. Has the entire precinct been disputed per IC 3-12-11-17.7? _____

A. Disputed by: _____

B. Reasons stated by candidate or representative for dispute, if any:

_____

_____

_____

29. Exhibits should be identified by number and listed separately on the workpaper "SBoA Exhibit List." (Form 6)

30. Other Comments: _____

31. Names of Observers: _____

_____

32. Note to SBoA Field Examiner:
Notify candidates and/or representatives that this is the last opportunity to dispute a ballot.

Field Examiner _____ Date: _____

Field Examiner _____ Date: _____

SBoA Supervisor _____ Date: _____

SBoA Supervisor _____ Date: _____

FORM 2

SBoA Summary Tally Sheet

18. SBoA Vote Tally	Electronic (1) C1	C2	C3	Write In	No Vote	All Paper Ballots (Absentee, Provisional, Early, Emergency, Optical Scan, or Paper) (2) C1	C2	C3	Write In	No Vote	Totals [(1) + (2)] C1	C2	C3	Write In	No Vote
A. Valid Ballots						**Valid**									
Electronic						Absentee									
						Provisional									
						Early									
						Emergency									
						Optical Scan									
						Paper					Total				
Total Valid Ballots						Total					Valid				
B. Invalid Ballots						**Invalid**									
Electronic						Absentee									
						Provisional									
						Paper									
						Emergency									
						Optical Scan									
						Paper					Total				
Total Invalid Ballots						Total					Invalid				
C. Disputed Ballots						**Disputed**									
Valid:						**Valid:**									
Electronic						Absentee									
						Provisional									
						Paper									
						Emergency									
						Optical Scan									
						Paper									
Invalid:						**Invalid:**									
Electronic						Absentee									
						Provisional									
						Paper									
						Emergency									
						Optical Scan									
						Paper					Total				
Total Disputed Ballots						Total					Disputed				

FORM 3

SBoA Paper Ballot Tally Sheet For Absentee, Provisional, Early, Emergency, Optical Scan, and Paper Ballots

District _____
County _____
Precinct _____

Candidate (C1) _____
Candidate (C2) _____
Candidate (C3) _____

	SBoA DETERMINATION												DISPUTED BY CANDIDATES REPRESENTATIVES											
	VALID BALLOTS						INVALID BALLOTS						DISPUTED VALID						DISPUTED INVALID					
	Absentee	Provisional	Early	Emergency	Optical Scan	Paper	Absentee	Provisional	Early	Emergency	Optical Scan	Paper	Absentee	Provisional	Early	Emergency	Optical Scan	Paper	Absentee	Provisional	Early	Emergency	Optical Scan	Paper
C1																								
C2																								
C3																								
Write In																								
No Votes																								

The totals of Form 3 should be posted to Form 2

FORM 4

SBoA ELECTION NIGHT PRINTOUT INSPECTION SHEET

District _____ Candidate 1 (C1) _____

County _____ Candidate 2 (C2) _____

Precinct _____ Candidate 3 (C3) _____

Machine Number _____

1. Was election night printout in a sealed container? _____(yes or no)
2. Did the printout show that the machine was programmed so that no over voting could occur in the affected race? _____
3. Was the machine tested to ensure votes were recorded correctly? _____
4. Were the vote tallies for each candidate equal to zero at the opening of the polls? _____
5. Total voters: _____
6. Total votes cast in affected race:

Candidate	Votes
Candidate 1	
Candidate 2	
Candidate 3	

7. Does the printout reconcile to the cartridge reading for the affected race? _____

NOTE: Attach machine tape on back of this page.

FORM 5

SBoA Poll List Signature Count

District _____
County _____
Precinct _____

How were the absentee voter's identified on the poll book?

_____
_____

Page	Signatures	Absentee	Page	Signatures	Absentee	Page	Signatures	Absentee
1			51			101		
2			52			102		
3			53			103		
4			54			104		
5			55			105		
6			56			106		
7			57			107		
8			58			108		
9			59			109		
10			60			110		
11			61			111		
12			62			112		
13			63			113		
14			64			114		
15			65			115		
16			66			116		
17			67			117		
18			68			118		
19			69			119		
20			70			120		
21			71			121		
22			72			122		
23			73			123		
24			74			124		
25			75			125		
26			76			126		
27			77			127		
28			78			128		
29			79			129		
30			80			130		
31			81			131		
32			82			132		
33			83			133		
34			84			134		
35			85			135		
36			86			136		
37			87			137		
38			88			138		
39			89			139		
40			90			140		
41			91			141		
42			92			142		
43			93			143		
44			94			144		
45			95			145		
46			96			146		
47			97			147		
48			98			148		
49			99			149		
50			100			150		
Totals								

Grand Totals

FORM 6

SBoA EXHIBIT LIST

DISTRICT _____ CANDIDATE 1 (C1) _____

COUNTY _____ CANDIDATE 2 (C2) _____

PRECINCT _____ CANDIDATE 3 (C3) _____

Note: The original exhibit should be stamped and numbered; only the first page of a poll book need be stamped and numbered if the entire precinct is challenged.

1	2	3	4	5	6
EXHIBIT NO.	SBoA DETERMINATION	VOTED FOR	REASON FOR SBoA DETERMINATION	DISPUTED BY	REASON FOR DISPUTE, IF ANY

APPENDIX A

STATE RECOUNT COMMISSION
GUIDELINES FOR CONDUCT OF AN
ELECTION RECOUNT AND CONTEST

INDIANA STATE RECOUNT COMMISSION
Guidelines for Conduct of an Election Recount and Contest
As Amended, May 2, 2012

Chapter 1. Definitions

Sec. 1. (a) "Candidate" refers to a candidate for nomination or election to an office for which a recount or contest petition has been filed.

(b) If a candidate who is entitled to file a recount or contest petition does not do so in accordance with IC 3-12-11, a state chairman or county chairman who files a recount petition under IC 3-12-11, has the rights and responsibilities of a "candidate" under these guidelines.

Sec. 2. "Commission" refers to the state recount commission established by IC 3-12-10-1.

Sec. 3. "Cross-petitioner" includes a candidate who was opposed in the primary or election by the petitioner, whether or not the candidate chose to file a cross-petition with the commission under IC 3-12.

Sec. 4. "Disputed ballot" refers to a ballot challenged by a party to a recount or to a ballot that the state board of accounts determines does not conform with these guidelines or IC 3-12.

Sec. 5. "No votes" refers to ballots subjected to the recount which:

(1) do not indicate a vote cast for any candidate subject to the recount; and

(2) are otherwise classified as either "valid" or "invalid" under these guidelines or IC 3-12.

Sec. 6. "Precinct tally sheet" refers to the written record used by the state board of accounts to record the precinct vote tally and other evidence concerning the voting process in a precinct.

Sec. 7. "Recount" means the determination by the state recount commission of the number of valid votes received by each candidate for the office subject to a recount.

Sec. 8. "Tally" means the counting by the state board of accounts of votes cast for each candidate in each of the following categories: undisputed valid, undisputed invalid, or disputed.

Sec. 9. All other terms used in these guidelines have the meaning set forth in IC 3-5.

Chapter 2. Conduct of Election Recounts and Contests Generally

Sec. 1. The state recount commission shall conduct all recounts and contests under identical procedures to the extent reasonably possible.

Sec. 2. The commission makes the final decision as to whether a disputed ballot will be counted.

Sec. 3. (a) All tallying shall be physically performed by the state board of accounts in accordance with these guidelines.

(b) The state board of accounts staff manual for recounts (*Agency Guidelines for Conduct of Recount for the State Recount Commission*, May 2, 2012 edition) is approved for use

in recounts conducted by the commission. If any conflict exists between this manual and these guidelines, the guidelines control to the extent of that conflict.
(c) The commission shall conduct the recount at times and locations designated by it, but all tallying of votes shall be conducted within the county where the votes were cast unless the parties consent to a change of location.
Sec. 4. The commission shall appoint a director who is responsible for supervising the conduct of the tally by the state board of accounts. The state board of accounts shall prepare for the director a report on the tally by the state board of accounts. The director shall present the report to the commission to enable the commission to make final decisions in a fair and prompt manner.
Sec. 5. (a) The commission may order with consent of all parties to a recount, that a prerecount inspection of impounded election material be conducted by the attorneys representing the parties. This inspection:
(1) must be conducted under the supervision of the state board of accounts and the Indiana state police at all times; and
(2) is designed to enable the parties to narrow the issues and material subject to dispute in the recount so that the recount may be conducted efficiently.
The director shall attend this inspection and is authorized to resolve any dispute regarding its scope and procedures.
(b) When the recount begins, all tallying must be conducted by audit teams composed of at least two staff members of the state board of accounts. The director may assign additional staff members to the audit teams to conduct the recount. Where possible, team assignments should be rotated daily so that the same auditors do not work as a team on consecutive days.
(c) Except as provided in subsection (d), the audit team shall inspect and tally all ballots in accordance with these guidelines. The audit team may classify a ballot as invalid only for reasons set forth in these guidelines or IC 3-12 and if no party to the recount disputes that determination. The audit team shall also inspect all poll lists, voter affidavits, absentee envelopes, and other documents relevant to the recount, as determined by the director.
(d) If a recount is conducted concerning a primary election, the ballots cast in the primary conducted for the candidates of the other major party, and the ballots cast solely on public questions are not to be recounted, but shall be documented solely for the purpose of reconciling the number of voters who cast ballots in person or by absentee ballot at the precinct (according to the poll list) with the number of ballots cast in the precinct according to the canvass.
Sec. 6. (a) The state board of accounts shall designate one of its staff to act as a supervisor for each group of audit teams.
(b) Each supervisor should be present at the tallying location while the tally is being conducted, assist the director in managing the tallying process, and keep the director advised of the progress of the tallying.
(c) The supervisor shall inspect all absentee ballot envelopes not distributed to the precinct election boards or to central count absentee ballot counters and shall permit observers to inspect the envelopes. The supervisor may not open the envelope.

Sec. 7. At least one state police officer must be present at each counting location during the tallying. The state police are responsible for the safety and integrity of all election materials during and after the recount, until further order of the commission.
Sec. 8. Each candidate in a race being tallied may observe each audit team as it conducts the tally. Each candidate may also designate one observer per audit team and not more than two managers for the candidate's observers in each county. The audit team shall allow each candidate or his/her manager or observer a reasonable opportunity to view each ballot, document, voting machine or other materials reviewed by the audit team. An audit team does not have to delay the tallying process because of the absence of a candidate or candidate's manager or observer.
Sec. 9. During the tallying of ballots in each precinct, one member of the audit team shall be responsible for inspecting each ballot and determining the tally category for that ballot. The other member of the audit team shall keep all necessary records. The members of the audit team may consult with one another or the director.
Sec. 10. The candidates, and their managers and observers, may not argue or interfere with the audit team but may request that a ballot be identified by the audit team as a disputed ballot. The candidate, manager or observer need not state the reason for the challenge. Unless a ballot is challenged by a candidate, manager, or observer before the audit team signs the precinct tally sheet, the audit team's decision as to the classification of that ballot is final. The commission shall review disputed ballots upon completion of the tally by the state board of accounts.
Sec. 11. The audit team shall mark any disputed ballot as an exhibit. The mark must contain at least the following information: county, township or ward, precinct, exhibit number and the name of the candidate challenging the ballot, or whether the ballot is disputed by the state board of accounts.
Sec. 12. The director shall attempt to resolve procedural problems (other than ballot validity issues) not resolved by these guidelines. The director shall keep the commission advised of the progress of the tallying, procedural problems he/she resolves and any disagreement with his/her actions. If an issue arises during the tallying process, the commission may meet to resolve such an issue at the request of a candidate.
Sec. 13. Each audit team shall tally only one precinct at a time, and election materials for each precinct shall be kept separate by precinct.
Sec. 14. The audit team shall record information relevant to seals on the voting machines and ballot boxes or other containers of election materials on the precinct tally sheet.
Sec. 15. (a) The audit team shall then open the container of election materials and record the following information, if available, on the precinct tally sheet:
(1) the total number of votes recorded on the precinct certificate;
(2) the number of voters' signatures on the poll list;
(3) the number of absentee ballots delivered to the precinct;
(4) the number of absentee voters listed on the poll list;
(5) the number of absentee ballots not counted;
(6) the number of absentee voter applications; and
(7) the number of votes for each candidate in the relevant race as reported by the precinct election board or the county election board.
(b) Any discrepancies between the numbers recorded by election officials and the numbers recorded by the audit team should also be recorded on the precinct tally sheet.

Sec. 16. The audit team may not independently examine the absentee voter applications and affidavits on absentee ballot envelopes but shall permit each candidate, manager, or observer to inspect them and to challenge ballots cast pursuant to any of them.
Sec. 17. The audit team may not remove from its envelope any absentee ballots or provisional ballots not removed from their ballot envelopes by the precinct election board or the central count absentee ballot counters.
Sec. 18. The audit team shall:
(1) tally the total number of undisputed valid ballots cast for each candidate in each relevant race;
(2) tally the number of undisputed invalid ballots for each candidate rejected by the audit team;
(3) tally the number of disputed ballots for each candidate;
(4) tally the number of no votes in the precinct;
(5) sign and date the precinct tally sheet;
(6) place all precinct materials in the precinct container; and
(7) return the container and the completed precinct tally sheet to the state board of accounts
supervisor or director.
Sec. 19. The director or supervisor shall make copies of each precinct tally sheet available to each candidate's representatives and the media as soon as possible.
Sec. 20. (a) Upon completion of the tallying by the state board of accounts, the commission shall convene to review the report of the director and to receive from the candidates evidence relevant to whether disputed votes should be counted.
(b) The commission shall proceed to conduct the count required under IC 3-12-11-17.7(a) in the following manner:
(1) If the tallying by the state board of accounts indicates that there are not disputed ballots in one or more precincts, the director shall present a report of the votes cast for each candidate in the indicated precincts. The commission shall order the votes counted for the designated candidates and shall order any undisputed invalid ballots or no votes in the precinct to not be counted.
(2) After the disposition of all precincts with no disputed ballots, the commission shall proceed to count all ballots in precincts with one or more disputed ballots.
(3) If the recount is to be conducted in more than one county, the commission may begin with any county agreed upon by the parties. If no agreement exists between the parties, the recount shall begin in the county designated by the commission and proceed to subsequent counties in accordance with an order adopted by the commission. The commission shall conduct the recount in precincts within one county in alphanumeric order, according to the precinct name, unless all parties to the recount join in requesting that the count be conducted in an alternative manner.
(4) The commission shall begin by recognizing the director to present the state board of accounts report regarding the votes cast within all precincts other than the precincts described in (1). The director shall state the number of:
(a) undisputed valid votes cast for each candidate in each precinct;
(b) undisputed invalid votes cast for each candidate; and
(c) no votes cast in each precinct.
(5) The commission shall then order:

the votes described in 4(a) to be counted for the designated candidates; and
the votes described in 4(b) or 4(c) not counted.
(6) If, following the designation of a ballot as disputed, the party who disputed the ballot determines that the ballot should be designated as either an undisputed valid vote cast for a specific candidate, or as an undisputed invalid vote, the party may file a written statement to that effect with the director. The statement must:
(a) identify the ballot according to the "Exhibit No." on the state board of accounts exhibit list of disputed ballots;
(b) state whether the ballot should be categorized as an undisputed valid vote for a specified
candidate, or as an undisputed invalid vote; and
(c) be signed by the party to the recount who disputed the ballot.
(7) After the commission acts under (5) to order that ballots be counted or not counted, the director shall report to the commission whether a statement described by (6) has been filed with the director regarding any disputed ballot. If so, the commission shall proceed to order the ballot to be counted for a specified candidate, or not counted, in accordance with the statement.
(8) The commission shall then recognize the petitioner to present ballots disputed by the petitioner or state board of accounts to the commission that the petitioner contends should be counted as votes for the petitioner. The petitioner shall present each ballot in the order that the ballot is designated as an exhibit number in the exhibit list of disputed ballots and for the first such precinct according to the precinct order listed in (3). However, the commission may consent to the consideration of more than one ballot in the precinct at the same time if requested by the petitioner, and the commission determines that the issues regarding the disputed ballots are essentially identical so that there is no need for a determination regarding each ballot in this group.
(9) After the presentation of a ballot (or when permitted, a group of ballots) under (8), the commission shall determine based on all relevant evidence whether or not the ballot(s) shall be counted as a vote (or votes) for the petitioner, a vote (or votes) for the cross-petitioner, or whether the ballots shall not be counted for any candidate.
(10) After the completion of the petitioner's case-in-chief in all of the precincts included in the recount, the commission shall then recognize the cross-petitioner to present ballots disputed by the cross-petitioner or state board of accounts to the commission that the cross-petitioner contends should be counted as votes for the cross-petitioner. The cross-petitioner shall present each ballot in the order that the ballot is designated as an exhibit number in the exhibit list of disputed ballots and for the first such precinct according to the precinct order listed in (3). However, the commission may consent to the consideration of more than one ballot in the precinct at the same time if requested by the cross-petitioner, and the commission determines that the issues regarding the disputed ballots are essentially identical so that there is no need for a determination regarding each ballot in this group.
(11) After the presentation of a ballot (or when permitted, a group of ballots) under (10), the commission shall determine based on all relevant evidence whether or not the ballot(s) in the precinct shall be counted as a vote (or votes) for the petitioner, a vote (or votes) for the crosspetitioner, or whether the ballots shall not be counted for any candidate.

(12) After completion of the cross-petitioner's case-in-chief in all of the precincts included in the recount, the commission shall then recognize the director to report whether any disputed ballots in any precinct have not been presented by either the petitioner or cross-petitioner to the commission. If the director identifies any ballots that remain disputed, the director shall present these ballots to the commission for determination.

Sec. 21. (a) Except as provided in subsection (b), (c), or (d), a member of the commission (or an individual acting on behalf of the commission) shall not initiate, permit, or consider ex parte communications, or consider other communications made to the member or individual outside the presence of the parties, concerning a pending or impending proceeding.

(b) Where circumstances require, ex parte communications for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits are authorized if the member or individual reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication and promptly notifies the commission and all other parties of the substance of the ex parte communication and allows an opportunity to respond.

(c) A member or individual may consult with commission staff and others whose function it is to aid the member or individual in carrying out the member or individual's responsibilities.

(d) A member or individual may, with the consent of the parties, confer separately with the parties and their lawyers to mediate or settle matters pending before the commission.

Sec. 22. All testimony presented to the commission by an individual shall be sworn to (or affirmed) by that individual.

Sec. 23. The commission may accept evidence in a proceeding even if the evidence would not be admissible in a judicial proceeding under the rules of evidence. In accepting the evidence described by this section, the commission shall ensure that the commission's proceedings are conducted with the decorum required to protect the rights of the parties to the proceeding and other individuals.

Sec. 24. Unless otherwise ordered by the commission, if the commission requests or requires that written briefs be submitted in a proceeding before the commission, the briefs must be filed with the election division no later than forty-eight (48) hours before the commission is scheduled to meet to consider the matter.

Sec. 25. After the commission has completed its count under Section 20, the commission shall adjust accordingly the tallies certified by the state board of accounts, resolve any other issues raised in the recount, or contest and certify the results to the election division pursuant to IC 3-12-11-15.

Chapter 3. Tallying Votes in a Ballot Card Voting System Precinct

Sec. 1. This chapter applies only to tallying votes in a precinct that uses ballot cards for registering votes.

Sec. 2. The director shall obtain the use of one or, if possible, two automatic tabulating machines in each county. The director may seek the assistance of county election officials in preparing the machines for use in the tallying.

Sec. 3. The state board of accounts shall prepare a test deck of sample ballot cards, and the candidates may jointly prepare test decks. At the beginning and end of each day of

tallying, the counting machine shall be tested by running decks prepared by the candidates. Candidates and their managers or observers may observe all testing and operation of automatic tabulating machines.
Sec. 4. The audit team shall examine the precinct header card to determine whether it is the correct card for the precinct. Candidates, managers, or observers may inspect the precinct header card and have it marked as an exhibit for review by the commission.
Sec. 5. (a) The audit team shall manually inspect each ballot card in the container of election materials to determine whether it should be counted.
(b) A ballot marked "REJECTED", "VOID", "SPOILED", or "CANCELLED" or with any other similar notation regarding the reliability of the ballot permitted under the state law must be disputed by the audit team. The audit team shall record any available information concerning the reasons the marking appears on a ballot.
Sec. 6. The audit team shall divide all ballots into three groups:
(1) Ballot cards to be counted that are undisputed.
(2) Ballot cards that are disputed.
(3) Ballot cards not to be counted that are undisputed, including no votes.
Sec. 7. (a) All undamaged ballots to be counted shall then be counted on two separate automatic tabulating machines, if available; otherwise, the ballots shall be counted twice on one machine. The audit team shall compare the totals for each candidate from each machine run and shall record the totals.
(b) If the totals are identical on both machines, or on both runs on the same machine, no further counting will be necessary.
(c) If the totals are not identical, the audit team shall manually count the ballots at least twice, so that the audit team and supervisor are satisfied that the manual count is accurate.
Sec. 8. The director may order any appropriate test or a hand count in any precinct he/she believes there is a substantial question concerning the accuracy of the tabulating machine count.
Sec. 9. Notwithstanding sections 7 and 8 of this chapter if a petition or cross petition for a recount request that the ballot cards in a specific precinct be counted manually, the audit teams shall count the cards accordingly and may not use automatic tabulating machines except in a test unless the petitioner or crosspetitioner withdraws the request after the state board of accounts conducts a test of the automatic tabulating machine to ascertain its accuracy. A written withdrawal of such a request is effective upon delivery to the director, supervisor, or commission.

Chapter 4. Tallying Votes in Paper Ballot Precincts
Sec. 1. This chapter applies only to tallying votes in a precinct that uses paper ballots for registering votes.
Sec. 2. The audit team shall divide the paper ballots into three groups:
(1) Paper ballots to be counted that are undisputed.
(2) Paper ballots that are disputed.
(3) Paper ballots not to be counted that are undisputed, including no votes.
Sec. 3. (a) The audit team shall manually inspect each paper ballot in the container of election materials.

(b) A ballot marked "REJECTED" or "VOID" or "SPOILED" or "CANCELLED" or with any other similar notation regarding the reliability of the ballot permitted under the state law may not be counted by the audit team. The audit team shall record any available information concerning the reasons the marking appears on a ballot.

Chapter 5. Tallying Votes in an Electronic Voting System Precinct

Sec. 1. This chapter applies only to tallying votes in a precinct that uses the electronic voting system.

Sec. 2. (a) The audit team shall check the election night printout to ensure that the test of the electronic voting machine showed that the votes were recorded correctly, no over voting could occur, and the vote tallies for each office were equal to zero. The team shall note any discrepancies.

(b) The team shall check the election night results reported by the precinct election board with the printout for accuracy and shall note any discrepancies.

Sec. 3. If requested by a candidate or candidate's representative, the audit team shall cause a new printout to be made from the memory cartridges for a precinct. The new printout shall be compared with the old printout and election night results reported by the precinct election board. The audit team shall note any discrepancies.

Sec. 4. If a new printout is requested under Section 3 from more than one memory cartridge, the cartridges shall be read on one electronic voting system designated by the director, unless a party requests the use of the electronic voting system in which the cartridge was originally used.

Sec. 5. Unless otherwise requested by a party, a memory cartridge read on an electronic voting system is not required to also be read on the computer program maintained by the county election board for use in election night tabulations.

Chapter 6. Tallying Votes in a Vote Center County

Sec. 1. This chapter applies only to tallying votes in a county that is designated as a vote center pilot county under Indiana Code 3-11-18.

Sec. 2. Chapter 2 (Conduct of Election Recounts and Contests Generally), Chapter 3 (Tallying Votes in a Ballot Card Voting System Precinct), Chapter 4 (Tallying Votes in Paper Ballot Precincts), and Chapter 5 (Tallying Votes in an Electronic Voting System Precinct) of these Guidelines apply to the tallying of votes in a vote center pilot county, except to the extent of a conflict with this Chapter.

Sec. 3. If this chapter conflicts with any other provision of these Guidelines, this chapter prevails to the extent of the conflict.

Sec. 4. The recount director shall arrange for the county voter registration office to provide a work station with a link to the statewide voter registration system to permit the checking of signatures on voter registration applications with signatures made by voters casting a ballot at a vote center. The recount director shall ensure that a state board of accounts audit team and the state police supervise all activity at this work station and that candidate watchers may monitor recount-related activity at this work station. A party may request a copy of the signature of the individual scanned into the statewide voter registration system.

Sec. 5. Unless otherwise requested by a party, any sign-in cards used by voters at a vote center which are sorted by date, time, and vote center location, are not required to be sorted by precinct for purposes of a recount.
Sec. 6. If a party requests that a copy be made of a document, an additional copy of that document shall be provided to counsel for the opposing party.
Sec. 7. Each state board of accounts audit team shall tally votes in only one vote center at a time, and election materials for each vote center shall be kept separate by vote center.
Sec. 8. The recount director shall arrange for the circuit court clerk of the county to generate:
(1) reports listing voters by precinct and by vote center, using the county's electronic poll book software; and
(2) reports of the votes cast in each precinct using the county's vote tabulation software.
Sec. 9. The audit team shall tally votes in a vote center by:
(1) running a report from the electronic poll book software listing the number of voters in the precinct and by vote center; and
(2) running a statement from the county's vote tabulation software showing the total number of votes cast in each precinct.
Sec. 10. The audit team shall begin the reconciliation by comparing the number of votes cast in the precinct (according to the county vote tabulation software) with the number of voters of the precinct who signed in at any vote center, according to the report from the electronic poll book data system.
Sec. 11. The audit team shall then add the total number of votes cast by paper ballot or optical scan absentee ballot within that precinct to the number of votes cast by voters of the precinct at any vote center, and note any remaining discrepancy between the total number of votes cast in the precinct according to the county tabulating system and the number of voters of that precinct who cast a vote at any vote center, according to the electronic poll book database.
Sec. 12. A party may not dispute an individual ballot or group of ballots cast in a vote center after the state board of accounts audit team declares that the tallying of votes cast in that vote center has closed. This section does not prohibit: (1) the disputing of a ballot cast in that vote center as a result of the signature comparison conducted at the work station described in Section 4 (until the signature comparison for that ballot is completed); or (2) the disputing of all of the ballots cast in a precinct following the closing of the precinct tallying under Section 14.
Sec. 13. The tallying of optical scan ballots or paper ballots shall be conducted in accordance with Chapter 3 and Chapter 4 of these Guidelines, with these ballots being sorted by precinct.
Sec. 14. Tallying in a precinct is not closed until the tallying of all vote centers has been completed, and the votes cast in that precinct by using optical scan ballots or paper ballots having been added to the votes cast at each vote center by voters of that precinct. The state board of accounts audit team shall then announce that the tallying in a precinct will be closed, and ask if either party wishes to dispute all of the ballots cast in that precinct. If no party disputes the entirety of the ballots cast in the precinct, the audit team shall declare the precinct tallying closed. After the closing of a precinct's tallying, no further disputes will be accepted from a party concerning all or part of the ballots cast in that precinct.

Sec. 15. The report generated by the state board of accounts shall include the count of votes for each candidate by precinct and the count of votes cast for each candidate by vote center.

Chapter 7. Review of an Unopened Provisional Ballot Envelope and Documentation Associated with that Envelope.

Sec. 1. This Chapter applies to the review of an unopened provisional ballot envelope and the documents associated with that envelope.

Sec. 2. This Chapter is adopted to implement reasonable procedures to provide the greatest possible protection to the individual who cast the provisional ballot to ensure that information about the individual's ballot remains confidential under state law (and federal law, to the extent that Section 302(a)(5) of the Help America Vote Act of 2002 applies to the proceedings of the commission); and to enable the commission to conduct a recount proceeding in accordance with state law and these Guidelines.

Sec. 3. Except as otherwise provided in this Chapter, the state board of accounts shall handle an unopened provisional ballot envelope and the documents associated with that envelope in the manner necessary to perform the reconciliation process described in the *Agency Guidelines for Conduct of Recount for the State Recount Commission.*

Sec. 4. The recount director shall arrange for the provisional ballot material described in Section 1 of this Chapter to be processed at a single work station by one State Board of Accounts audit team, with one watcher designated by each party to the recount proceeding. Another individual may not be substituted for an individual designated as a member of the audit team or as a watcher under this Section unless the recount director determines that there is good cause to do so.

Sec. 5. Except as permitted in this Chapter, a person shall not approach the work station or engage in activity at the work station in a manner that the recount director determines would permit the person to view, record, or otherwise obtain information about an individual's provisional ballot.

Sec. 6. The recount director, audit team, other state board of accounts personnel, and state police personnel may be present at the work station to perform tasks necessary for the handling and securing of the provisional ballot material.

Sec. 7. A watcher designated under this chapter may be present at the work station to observe the handling and securing of the provisional ballot material, and may request to view both sides of an unopened provisional ballot envelope and documents associated with that envelope.

Sec. 8. A watcher designated under this chapter may make handwritten notes regarding the provisional ballot material, but shall not be provided with a photocopy of any provisional ballot material. A watcher may not otherwise record or document information regarding the provisional ballot material, and may not use laptop computers or blank state prescribed forms associated with provisional ballots at the work station.

Sec. 9. In processing the provisional ballot material, the audit team may not open any unopened provisional ballot envelope.

Sec. 10. At the request of a watcher, the audit team shall mark an unopened provisional ballot envelope or document associated with the envelope as an exhibit in the same manner that other material is marked as an exhibit under these Guidelines. The audit team shall inform the watchers of the designation used to identify the exhibit.

AS ADOPTED AND AMENDED BY THE STATE RECOUNT COMMISSION

APPENDIX B

INDIANA CODE CITATIONS

IC 3-12

ARTICLE 12. ASCERTAINING RESULTS OF ELECTIONS

IC 3-12-1

Chapter 1. Rules for Counting Ballots

IC 3-12-1-1

Intent of voter primary factor to consider in determining voter's choice on ballot

Sec. 1. Subject to sections 5, 6, 8, 9, 9.5, and 13 of this chapter, the primary factor to be considered in determining a voter's choice on a ballot is the intent of the voter. If the voter's intent can be determined on the ballot or on part of the ballot, the vote shall be counted for the affected candidate or candidates or on the public question. However, if it is impossible to determine a voter's choice of candidates on a part of a ballot or vote on a public question, then the voter's vote concerning those candidates or public questions may not be counted.

As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.328.

IC 3-12-1-1.2

Chapter establishes standards to define vote

Sec. 1.2. (a) This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot, optical scan voting system, or electronic voting system.

(b) The standards in this chapter apply to counting votes on every voting system, except where specific standards applicable only:

(1) to a type of voting system are provided under IC 3-12-2, IC 3-12-3, or IC 3-12-3.5; and

(2) in a recount or contest proceeding are provided under IC 3-12-6, IC 3-12-8, IC 3-12-11, or IC 3-12-12.

As added by P.L.209-2003, SEC.180.

IC 3-12-1-1.5

"Election officer" defined

Sec. 1.5. As used in this chapter, "election officer" means a person employed or appointed by the state, a political subdivision, or a political party to perform a duty under this title.

As added by P.L.3-1987, SEC.329.

C 3-12-1-1.7

Write-in votes

Sec. 1.7. (a) The following provisions govern the counting of write-in votes:

(1) Except as provided in subsection (b), only votes cast for declared write-in candidates shall be counted and certified.

(2) The name of a candidate, written on the space reserved for write-in voting, is not considered a distinguishing mark that would invalidate a ballot under section 3 of this chapter.

However, the name or office of a candidate written in a place on the ballot other than the place reserved for write-in voting may not be counted for that office.

(3) A write-in vote for an office is void if the voter attempts to cast the vote by a means other than printing the name of the candidate in ink or lead pencil. The use of stickers, labels, rubber stamps, or other similar device is not permitted.

(4) An abbreviation, a misspelling, or other minor variation in the form of the name of a candidate or an office shall be disregarded in determining the validity of the ballot if the intention of the voter can be ascertained.

(5) Write-in votes for each write-in candidate shall be counted separately using the tally sheets provided by the county election board.

(b) This subsection does not apply to an office for which more than one (1) individual may be nominated or elected within the same election district. A write-in vote cast for an individual whose name appears on the ballot as a candidate for that office shall be counted as a vote for the candidate.

As added by P.L.4-1991, SEC.110. Amended by P.L.3-1993, SEC.177; P.L.3-1997, SEC.338.

IC 3-12-1-2

Ballot void if not properly endorsed; absentee ballots

Sec. 2. (a) This section does not apply to absentee ballots.

(b) The whole ballot may not be counted, subject to section 12 of this chapter, if the ballot is not endorsed with the initials of the poll clerks.

As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.330.

IC 3-12-1-3

Ballot void if it bears distinguishing mark or mutilation

Sec. 3. The whole ballot is void if the ballot bears any distinguishing mark (other than a voting mark) or a mutilation made by the voter or an election officer with the intent to enable a person to determine who cast the marked or mutilated ballot.

As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.331.

IC 3-12-1-4

Ballot void for extrinsic act; erasures

Sec. 4. (a) The whole ballot is void if a voter does any act extrinsic to the ballot, such as enclosing any paper or other article in the folded ballot, with the intent to enable a person to determine that the voter cast the ballot.

(b) An erasure by a voter does not make the whole ballot void unless made with the intent to enable a person to determine who cast the ballot, but it does not register a vote for the elected office, political party office, or public question for which it is made.

As added by P.L.5-1986, SEC.8. Amended by P.L.6-1986, SEC.34; P.L.3-1987, SEC.332.

IC 3-12-1-5

Voting mark on or in voting square

Sec. 5. A voting mark made by a voter on or in a voting square at the left of a candidate's name shall be counted as a vote for the candidate.

As added by P.L.5-1986, SEC.8. Amended by P.L.6-1986, SEC.35.

IC 3-12-1-6

Voting mark on or in voting square; public questions

Sec. 6. A voting mark made by a voter on or in a voting square following the word "Yes" or the word "No" before a public question shall be counted as indicated.

As added by P.L.5-1986, SEC.8. Amended by P.L.6-1986, SEC.36.

IC 3-12-1-7

Straight party ticket voting; counting multiple votes

Sec. 7. (a) This subsection applies whenever a voter:

(1) votes a straight party ticket; and

(2) votes only for one (1) or more individual candidates who are all of the same political party as the straight ticket vote.

The straight ticket vote shall be counted and the individual candidate votes may not be counted.

(b) This subsection applies whenever:

(1) a voter has voted a straight party ticket for the candidates of one (1) political party;

(2) only one (1) person may be elected to an office; and

(3) the voter has voted for one (1) individual candidate for the office described in subdivision (2) who is:

(A) a candidate of a political party other than the party for which the voter voted a straight ticket; or

(B) an independent candidate for the office.

If the voter has voted for one (1) individual candidate for the office described in subdivision (2), the individual candidate vote for that office shall be counted, the straight party ticket vote for that office may not be counted, and the straight party ticket votes for other offices on the ballot shall be counted.

(c) This subsection applies whenever:

(1) a voter has voted a straight party ticket for the candidates of one (1) political party; and

(2) the voter has voted for more individual candidates for the office than the number of persons to be elected to that office.

The individual votes cast by the voter for the office for the independent candidates and the candidates of a political party other than the political party for which the voter cast a straight party ticket shall be counted. The straight party ticket vote cast by that voter for that office shall be counted unless the total number of votes cast for the office by the voter, when adding the voter's votes for the individual candidates for the office and the voter's straight party ticket votes for the office, is greater than the number of persons to be elected to the office. If the total number of votes cast for the office is greater than the number of persons to be elected to the office, the

straight party ticket votes for the office may not be counted. The straight party ticket votes for other offices on the voter's ballot shall be counted.

(e)This subsection applies whenever:

(1) a voter has voted a straight party ticket for the candidates of one (1) political party;

(2) more than one (1) person may be elected to an office; and

(3) the voter has voted for individual candidates for the office described in subdivision (2) who are:

independent candidates or candidates of a political party

(A) Candidates of the same political party for which the voter cast a straight party ticket under subdivision (1).

The individual votes cast by the voter for the office for the independent candidates and the candidates of a political party other than the political party for which the voter cast a straight party ticket shall be counted. The individual votes cast by the voter for the office for the candidates of the same political party for which the voter cast a straight party ticket may not be counted. The straight party ticket vote cast by that voter for that office shall be counted unless the total number of votes cast for the office by the voter, when adding the voter's votes for the individual candidates for the office and the voter's straight party ticket vote for the office is greater than the number of persons to be elected to the office. If the total number of votes cast for the office is greater than the number of persons to be elected to the office, the straight party ticket votes for that office may not be counted. The straight party ticket votes for other offices on the voter's ballot shall be counted.

(f) If a voter votes a straight party ticket for more than one (1) political party, the whole ballot is void with regard to all candidates nominated by a political party or designated as independent candidates on the ballot. However, the voter's vote for a school board candidate or on a public question shall be counted if otherwise valid under this chapter.

(g) If a voter does not vote a straight party ticket and the number of votes cast by that voter for the candidates for an office are less than or equal to the number of openings for that office, the individual candidates votes shall be counted.

(h) If a voter does not vote a straight party ticket and the number of votes cast by that voter for an office exceeds the number of openings for that office, none of the votes concerning that office may be counted.

As added by P.L.5-1986, SEC.8. Amended by P.L.6-1986, SEC.37; P.L.3-1993, SEC.178; P.L.3-1997, SEC.339; P.L.164-2006, SEC.124.

IC 3-12-1-7.5

Write-in votes; straight party ticket or multiple votes

Sec. 7.5. (a) If a voter votes a straight party ticket for at least one (1) office for which only one (1) person may be elected and writes in The name of a candidate, the straight party ticket vote shall be counted for all offices except the offices for which a write-in vote

was cast. The write-in vote shall be counted if the voter's intent can be determined.

(b) If a voter votes a straight party ticket for an office for which at least two (2) people may be elected and writes in the name of a candidate, the straight party vote for that office may not be counted unless:

(1) fewer candidates appear on the party's ticket than may be elected; and

(2) the voter has not written in a number of names that, when added to the straight party candidate's name, would be greater than the number of seats available for that office.

(c) If a voter votes for one (1) individual candidate for an office for which only one (1) person may be elected and also writes in the name of another candidate for the same office, neither vote may be counted.

(d) If a voter votes for at least one (1) individual candidate for an office for which at least two (2) people may be elected and also writes in the name of at least one (1) candidate, the vote for that office may not be counted unless the number of individual votes cast for the office, when added to the number of write-in votes cast for that office, is less than or equal to the number of seats available for that office.

(e) If a voter votes an individual or a straight party vote for a candidate for an office and also writes in the name of the same candidate for the same office, only one (1) vote for that candidate may be counted.

As added by P.L.4-1991, SEC.111.

IC 3-12-1-8

Voting mark on political party device circle

Sec. 8. A voting mark made by a voter on or in a circle containing a political party device shall be counted as a vote for each candidate of that political party on that ballot.

As added by P.L.5-1986, SEC.8. Amended by P.L.6-1986, SEC.38; P.L.3-1987, SEC.333.

IC 3-12-1-9

Voting mark touching circle or square; counting

Sec. 9. (a) A voting mark that touches a circle or a square shall be counted as if it were on or in the circle or square.

(b) A voting mark that:

(1) does not touch a circle or square; and

(2) is not on or in the circle or square;

may not be counted.

As added by P.L.5-1986, SEC.8. Amended by P.L.6-1986, SEC.39; P.L.3-1987, SEC.334.

IC 3-12-1-9.5

Remake of damaged or defective ballot card; conditions

Sec. 9.5. (a) This section applies to counting votes cast on ballot

cards.
(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.
As added by P.L.3-1987, SEC.335. Amended by P.L.58-2005, SEC.26; P.L.221-2005, SEC.100.

IC 3-12-1-10
Void ballot

Sec. 10. A ballot on which a voter writes:
(1) the voter's name;
(2) the voter's initials;
(3) a number; or
(4) a symbol (such as a star, circle, parallel lines, dots, or any combination of such symbols), if written with the intent to enable a person to determine who cast the ballot;
is void.
As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.336.

IC 3-12-1-11
Primary election; application of chapter

Sec. 11. In applying this chapter to a primary election, the voting square includes the voting space at the left of the name of a candidate on the primary ballot.
As added by P.L.5-1986, SEC.8.

IC 3-12-1-12
Application to votes cast by any method; counting vote made invalid by mistake or inadvertence of election officer

Sec. 12. (a) This section applies to votes cast by any method.
(b) Except as provided in section 13 of this chapter, a ballot that has been marked and cast by a voter in compliance with this title but may otherwise not be counted solely as the result of the act or failure to act of an election officer may nevertheless be counted in a proceeding under IC 3-12-6, IC 3-12-8, or IC 3-12-11 unless evidence of fraud, tampering, or misconduct affecting the integrity of the ballot is presented by a party to the proceeding.
(c) The act or failure to act by an election officer is not by itself evidence of fraud, tampering, or misconduct affecting the integrity of the ballot.
As added by P.L.7-1986, SEC.3. Amended by P.L.3-1987, SEC.337; P.L.8-1992, SEC.29.

IC 3-12-1-13
Absentee ballots; necessary endorsements

Sec. 13. (a) This section applies only to absentee ballots.
(b) The whole ballot may not be counted unless the ballot is

endorsed with the initials of:
(1) the two (2) members of the absentee voter board in the office of the circuit court clerk under IC 3-11-4-19 or IC 3-11-10-26; or
(2) the two (2) appointed members of the county election board (or their designated representatives) under IC 3-11-4-19.
As added by P.L.3-1987, SEC.338.

IC 3-12-1-14
Counting of vote cast for candidate who ceases to be candidate

Sec. 14. (a) This section does not apply to a vote:
(1) cast for president or vice president of the United States under IC 3-10-4-6; or
(2) described by section 15 of this chapter.
(b) A vote cast for a candidate who ceases to be a candidate may not be counted as a vote for a successor candidate selected under IC 3-13-1 or IC 3-13-2.
As added by P.L.5-1989, SEC.63.

IC 3-12-1-15
Vote cast for one straight party ticket

Sec. 15. (a) This section applies to a vote cast for one (1) straight party ticket that includes a candidate for election to office who:
(1) ceases to be a candidate; and
(2) is succeeded by a candidate selected under IC 3-13-1 or IC 3-13-2.
(b) A vote cast in the election for the original nominee is considered a vote cast for the successor.
As added by P.L.5-1989, SEC.64.

IC 3-12-1-16
Vote cast for "no candidate" or "candidate deceased"

Sec. 16. (a) This section applies when:
(1) a ballot:
(A) contains pasters applied under IC 3-11-3-29.5(a) to cover the name of an individual who is no longer a candidate; or
(B) is reprinted under IC 3-11-3-29.5(c) to omit the name of an individual who is no longer a candidate; and
(2) the candidate vacancy is filled following the application of the pasters or the reprinting of the ballots.
(b) A vote cast on the ballot where the statement "NO CANDIDATE" or "CANDIDATE DECEASED" appears is considered a vote cast for the successor candidate.
As added by P.L.38-1999, SEC.57.

IC 3-12-1-17
Absentee ballot received from overseas voter; arrival time; when to count

Sec. 17. (a) This section applies only to an absentee ballot sent by

mail.
(b) Notwithstanding IC 3-11-10-14 and IC 3-11.5-4-10, an absentee ballot received from an overseas voter is not considered as arriving too late if both of the following apply:
(1) The absentee ballot envelope is postmarked not later than the date of the election.
(2) The absentee ballot is received not later than the deadline for counting provisional ballots under IC 3-11.7-5-1.
(c) If the postmark on the absentee ballot envelope is unclear, the county election board, by unanimous vote of the entire membership of the board, determines the postmark date. If the board is unable to determine the postmark date, the absentee ballot may not be counted.
As added by P.L.164-2006, SEC.125.

IC 3-12-1-18
Federal write-in absentee ballot cast in primary election by absent uniformed services voter or overseas voter; voter actions that void ballot

Sec. 18. (a) This section applies to a federal write-in absentee ballot cast in a primary election as provided in IC 3-11-4-12.5(b)(1) by an absent uniformed services voter or overseas voter.
(b) If a voter does any of the following, the voter's vote is void:
(1) The voter votes for more than one (1) candidate, and the candidates are not on the official primary ballot of the same political party.
(2) The voter votes for a candidate who is not on the official primary ballot of any political party.
(3) The voter votes for a candidate who is on the official primary ballot of a political party, but the voter does not indicate the office for which the candidate seeks to be nominated.
(c) If the voter votes for a political party, but the voter does not vote for any individual candidates who are on that political party's official primary ballot, the voter's vote is void.
As added by P.L.66-2010, SEC.28.

IC 3-12-1-19
Federal write-in absentee ballot cast in general, municipal, or special election by absent uniformed services voter or overseas voter; counting votes

Sec. 19. (a) This section applies to a federal write-in absentee ballot cast in a general election, municipal election, or special election as provided in IC 3-11-4-12.5(b)(2) by an absent uniformed services voter or overseas voter.
(b) If a voter designates a candidate by writing in the name of a political party on the ballot, the voter's vote shall be counted for all candidates of that political party on the ballot.
(c) If a voter writes an abbreviation, misspelling, or other minor variation instead of the correct name of a candidate or a political party, the voter's vote shall be counted if the intent of the voter can be determined.

As added by P.L.66-2010, SEC.29.

IC 3-12-3

Chapter 3. Counting Ballot Card Votes

IC 3-12-3-1

Counting of ballot cards

Sec. 1. (a) Subject to IC 3-12-2-5, after the marking devices have been secured against further voting under IC 3-11-13-36, the inspector shall open the ballot box and count the number of ballot cards or envelopes containing ballot cards that have been cast to determine whether the number of cards cast exceeds the number of voters shown on the poll lists. If the number of ballot cards cast exceeds the total number of voters, this fact shall be reported in writing to the appropriate election officer together with the reasons for the discrepancy, if known. The total number of voters shall be entered on the tally sheets.

(b) A ballot card may not be removed from a secrecy envelope containing a write-in vote under this section. *As added by P.L.5-1986, SEC.8. Amended by P.L.4-1991, SEC.112.*

IC 3-12-3-1.1

Chapter establishes standards to define vote

Sec. 1.1. This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on an optical scan voting system. *As added by P.L.209-2003, SEC.183.*

IC 3-12-3-1.2

Closing of all polls located in one room before vote count

Sec. 1.2. This section applies to a precinct where votes have been cast on a ballot card system that is designed to allow the counting and tabulation of votes by the precinct election board. Except as provided in section 14 of this chapter, if the polls for more than one

(1) precinct are located in the same room, the inspector of a precinct using the room may not begin the vote counting procedure until all the polls in the room are officially closed and no more persons are waiting in line to vote.

As added by P.L.10-1988, SEC.125. Amended by P.L.1-1993, SEC.8; P.L.3-1995, SEC.123.

IC 3-12-3-1.5

Protest; marking and signing of protested ballots

Sec. 1.5. (a) During the tabulation of the votes, any member of the precinct election board in a precinct where votes have been cast on a ballot card system that is designed to allow the counting and tabulation of votes by the precinct election board may protest the counting of any ballot or any part of a ballot cast in that precinct.

(b) During the tabulation of votes at a central counting location under section 3 of this chapter:

(1) a member of the precinct election board in a precinct where votes were cast on a ballot card system; or

(2) a member of the county election board, if a member of the precinct election board is not present during the tabulation of the votes of the precinct; may protest the counting of any ballot or part of a ballot cast in that precinct. (c) If a ballot or any part of a ballot is protested, the

poll clerks in the precinct where votes have been cast or the member of the county election board, if the poll clerks are not present during the tabulation of votes at a central counting location, immediately shall write on the back of the protested ballot card the word "counted" or "not counted" as appropriate. The clerks or county election board member then shall officially sign each protested ballot card. *As added by P.L.10-1988, SEC.126. Amended by P.L.5-1989, SEC.65; P.L.1-1993, SEC.9; P.L.3-1993, SEC.184.*

IC 3-12-3-2

Counted ballot cards; processing

Sec. 2. (a) After the ballot cards have been counted under section 1 of this chapter, the precinct election board shall comply with this section.

(b) This subsection applies if the votes have been cast on a ballot card voting system that is not designed to allow the counting and tabulation of votes by the precinct election board. The inspector shall place all cards that have been cast in the container provided for that purpose and the container shall be sealed by the inspector in the presence of the precinct election board. The inspector and the judge of the opposite political party shall immediately deliver the container, together with the unused, uncounted, and defective cards and returns, to the central counting location or other designated place.

(c) This subsection applies if the votes have been cast on a ballot card voting system that is designed to allow the counting and tabulation of votes by the precinct election board. The precinct election board shall:

(1) process the ballot cards with the automatic tabulating machine provided to the precinct, if the vote is not automatically registered by the ballot card voting system;

(2) take the vote as tabulated under subdivision (1) or as automatically registered by the ballot card voting system; and

(3) certify the totals and the ballot count as required under section 1 of this chapter on forms supplied to the precinct for that purpose.

Copies of the totals shall be delivered to each member of the precinct election board. One (1) copy of the vote totals shall be prepared and signed for the news media on the form furnished by the county election board.

As added by P.L.5-1986, SEC.8. Amended by P.L.6-1986, SEC.40; P.L.3-1987, SEC.349; P.L.1-1993, SEC.10.

IC 3-12-3-2.5

Central counting location

Sec. 2.5. (a) Not later than ten (10) days before any election at which ballot cards will be tabulated at a central counting location, the county election board shall designate the counting location to be used for the processing or counting of ballots.

(b) This counting location must be located within the county or within an adjoining county in Indiana. If the counting location is within the county, the board shall also determine whether the precinct officials are to make their returns directly to the counting location or to the office of the clerk of the circuit court. If the counting location is outside the county, all precinct returns shall be made directly to the office of the clerk of the circuit court or to the chief deputy of a combined election board established under IC 3-6-5.2.

(c) No counting location shall be used by more than one (1) county at an election without the approval of the commission.

(d) Whenever the precinct returns are made directly to the office of the clerk of the circuit court and the counting location is not performed in that office, the county election board is responsible for arranging adequate security during the transfer of all ballot cards to the counting location.

This security shall include the following:
(1) All ballot cards must at all times be under the supervision of at least two (2) persons, one (1) from each of two (2) political parties entitled to have a member on the county election board.
(2) At least one (1) member of the county sheriff's department shall accompany the ballot cards from the clerk's office to the counting location. This assistance shall be rendered under IC 3-6-5-33.
As added by P.L.3-1997, SEC.340.

IC 3-12-3-3
Proceedings at central counting location; direction and observation; open to public
Sec. 3. All proceedings at a central counting location shall be directed by the appropriate election officers under the observation of at least two (2) precinct judges or other appropriate election officers who are not of the same political party. The proceedings must be open to the public, but no persons except those employed and authorized for that purpose may touch a ballot card, ballot container, or return. *As added by P.L.5-1986, SEC.8.*

IC 3-12-3-4 Opening of ballot cards container and removal of contents
Sec. 4. At a central counting location each container of ballot cards shall be opened and its contents removed. The ballot cards shall be:
(1) checked to determine if the cards are properly grouped; and
(2) arranged so that all similar cards from a precinct are together.
As added by P.L.5-1986, SEC.8.

IC 3-12-3-5
Damaged or defective ballot card; absentee ballot of absent uniformed services voter or overseas voter; failure of tabulating machine
Sec. 5. (a) If a ballot card is damaged or defective so that it cannot properly be counted by the automatic tabulating machines, then a remake team composed of one (1) person from each of the major political parties of the county shall have the card prepared for processing so as to record accurately the intention of the voter insofar as it can be ascertained.

(b) If the ballot card voting system is designed to allow the counting and tabulation of votes by the precinct election board, the members of the remake team must be members of the precinct election board in which the ballot was cast.

(c) If necessary, a true, duplicate copy shall be made of the damaged ballot card in the presence of witnesses and substituted for the damaged card. Similarly, a duplicate ballot card shall be made of a defective card, not including the uncounted votes.

(d) This subsection applies to an absent uniformed services voter or overseas voter permitted to transmit an absentee ballot by fax or electronic mail under IC 3-11-4-6. To facilitate the transmittal and return of the voter's absentee ballot by fax or electronic mail, the county election board may provide the voter with a paper ballot rather than a ballot card. The paper ballot must conform with the requirements for paper ballots set forth in IC 3-10 and IC 3-11. After the voter returns the ballot by fax or electronic mail, a remake team appointed under this section shall prepare a ballot card for processing that accurately records the intention of the voter as indicated on the paper ballot. The ballot card created under this subsection must be marked and counted as a duplicate ballot under sections 6 through 7 of this chapter.

(e) If an automatic tabulating machine fails during the counting and tabulation of votes following the close of the polls, the county election board shall immediately arrange for the repair and proper functioning of the system. The county election board may, by unanimous vote of its entire membership, authorize the counting and tabulation of votes for this election on an

automatic tabulating machine approved for use in Indiana by the commission:
(1) until the repair and retesting of the malfunctioning machine; and
(2) whether or not the machine was tested under IC 3-11-13-22. *As added by P.L.5-1986, SEC.8. Amended by P.L.6-1986, SEC.41; P.L.3-1987, SEC.350; P.L.1-1993, SEC.11; P.L.3-1997, SEC.341; P.L.263-2003, SEC.4; P.L.97-2004, SEC.12; P.L.198-2005, SEC.16.*

IC 3-12-3-6
Duplicate ballot card to be clearly labeled and bear serial number

Sec. 6. All duplicate ballot cards must:
(1) be clearly labeled "duplicate"; and
(2) bear a serial number, which shall be recorded on the damaged or defective card.
As added by P.L.5-1986, SEC.8.

IC 3-12-3-7
Duplicate ballot card to be counted

Sec. 7. Each duplicate ballot card shall be counted instead of the damaged or defective card.
As added by P.L.5-1986, SEC.8.

IC 3-12-3-8
Votes to be counted manually if automatic tabulating machines test not conducted

Sec. 8. If either test of automatic tabulating machines required by IC 3-11-13-22 and IC 3-11-13-26 is not conducted for a particular office or public question, the votes for that office or question shall be counted manually. If for any reason it becomes impracticable to count all or some of the ballot cards with automatic tabulating machines:
(1) the precinct election board in which the machine is located, if the ballot card voting system is designed to allow the counting and tabulation of votes by the precinct election board; or
(2) the county election board, if the ballot card voting system is not designed to allow the counting and tabulation of votes by the precinct election board;
may direct that they be counted manually.
As added by P.L.5-1986, SEC.8. Amended by P.L.6-1986, SEC.42; P.L.3-1987, SEC.351; P.L.1-1993, SEC.12.

IC 3-12-3-9
Manual counting of ballot cards; compliance with tabulating standards

Sec. 9. If ballot cards are counted manually, the tabulation of votes must comply with the standards prescribed by IC 3-11-7.
As added by P.L.5-1986, SEC.8.

IC 3-12-3-10
Procedures after vote totals have been taken and certified; ballot cards and automatic tabulating machines; disposition; inspector's oath

Sec. 10. (a) After the voting totals have been taken and certified by a precinct election board under section 2(c) of this chapter, the inspector shall:
(1) seal each automatic tabulating machine used in the precinct;
(2) place all ballot cards that have been counted in the container provided for that purpose; and
(3) seal the container into which the ballot cards have been
placed; in the presence of the precinct election board. The automatic tabulating machine may not be moved from the polls after the polls are closed until collected.
(b) The inspector and judge of the opposite political party shall deliver:

(1) the certification of the vote totals and one (1) copy of the certificate prepared under section 2(c) of this chapter for the circuit court clerk;
(2) the certificate of the vote totals prepared under section 2(c) of this chapter for the news media;

(3) the container in which ballot cards have been placed under subsection (a); and
(4) the unused, uncounted, and defective ballot cards and

returns; to the circuit court clerk.
(c) The inspector and judge of the opposite political party shall deliver the certificates and the list of voters to the county election board by midnight on election day. However, if:
(1) a ballot card voting system failed;
(2) the failure of the system was reported as required by this title;
(3) paper ballots were used in place of the system; and
(4) the use of the paper ballots caused a substantial delay in the vote counting process; then the certificates, the list of voters, and the tally papers shall be delivered as soon as possible.
(d) Upon delivery of the container to the circuit court clerk under subsection (c), the inspector shall take and subscribe an oath before the clerk stating that the inspector:
(1) closed and sealed the container in the presence of the judges and poll clerks;
(2) securely kept the ballot cards in the container;
(3) did not permit any person to open the container or to otherwise touch or tamper with the ballot cards; and
(4) has no knowledge of any other person opening the container.
(e) Each oath taken under subsection (d) shall be filed in the circuit court clerk's office with other election papers.
(f) Upon completion of the counting of the votes by a precinct election board under section 2(c) of this chapter or at a central location, all ballot cards shall be arranged by precincts and kept by the circuit court clerk for the period required by IC 3-10-1-31 or IC 3-10-1-31.1. The clerk shall determine the final disposition of all voted ballot cards. *As added by P.L.5-1986, SEC.8. Amended by P.L.6-1986, SEC.43; P.L.3-1987, SEC.352; P.L.3-1993, SEC.185; P.L.14-2004, SEC.158.*

IC 3-12-3-11
Official return of precinct; publication

Sec. 11. (a) The return printed by the automatic tabulating machines, along with the return of votes by absentee and provisional voters, constitutes the official return of each precinct. Upon completion of the count, the return is open to the public.
(b) This subsection applies if the votes have been cast on a ballot card voting system that is not designed to allow the counting and tabulation of votes by the precinct election board. The circuit court clerk shall, upon request, furnish to the media in the area the results of the tabulation.
(c) This subsection applies if the votes have been cast on a ballot card voting system that is designed to allow the counting and tabulation of votes by the precinct election board. Upon receiving the certificate for the media prepared under section 2(c) of this chapter, the circuit court clerk shall deliver the certificate to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county.
(d) If a precinct election board administers more than one (1) precinct, the precinct election board or circuit court clerk shall keep the ballots cast in each precinct separate from ballots cast in any other precinct, so that the votes cast for each candidate and on each public question in each of the precincts administered by the board may be determined. *As added by P.L.5-1986, SEC.8. Amended by P.L.6-1986, SEC.44; P.L.3-1987, SEC.353; P.L.1-1993, SEC.13; P.L.126-2002,*

SEC.88; P.L.230-2005, SEC.57.

IC 3-12-3-12
Casting of votes by absentee voters; counting

Sec. 12. Votes by absentee voters may be cast on paper ballots or ballot cards, or both methods may be used. The ballots may be counted by an automatic tabulating machine or by special canvassing boards appointed by and under the direction of the county election board. A true copy of each paper absentee ballot may be made on a ballot card, which, after being verified in the presence of witnesses, shall be counted in the same manner as other ballot cards. *As added by P.L.5-1986, SEC.8. Amended by P.L.6-1986, SEC.45.*

IC 3-12-3-12.5
Vote count to continue to completion

Sec. 12.5. To minimize the delay in the counting of the vote, the count must begin immediately upon delivery of the cards to the central counting location under section 2(b) of this chapter or upon the closing of the polls under section 2(c) of this chapter. The tabulation must continue without interruption until all votes are canvassed and all certificates of the vote totals required under section 10(b) of this chapter or totals required under section 11(b) of this chapter are completed and delivered to the persons entitled to receive the certificates or totals.
As added by P.L.3-1987, SEC.354.

IC 3-12-3-13
Recount; procedure

Sec. 13. In case of a recount, all ballot cards shall be recounted in the manner prescribed by this chapter unless:
(1) the court ordering the recount or the state recount commission directs that they be counted manually; or
(2) a request for a manual recount is made under IC 3-12-6 or IC 3-12-11.

As added by P.L.5-1986, SEC.8. Amended by P.L.3-1987, SEC.355.

IC 3-12-3-14
Absentee ballots

Sec. 14. (a) The precinct election board may count absentee ballots before the polls have closed.
(b) If the precinct election board counts absentee ballots under this section, a member of the precinct election board may not, before the polls have closed, provide any person other than a member of the precinct election board with information concerning the number of votes:
(1) a candidate received for an office; or
(2) cast to approve or reject a public question; on absentee ballots counted under this section. *As added by P.L.3-1995, SEC.124.*

IC 3-12-3.5
Chapter 3.5. Counting of Electronic Voting System Votes

IC 3-12-3.5-1
Application of chapter

Sec. 1. This chapter applies to each precinct where voting is by electronic voting system. *As added by P.L.3-1987, SEC.356.*

IC 3-12-3.5-1.1

Chapter establishes standards to define vote

Sec. 1.1. This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on an electronic voting system. *As added by P.L.209-2003, SEC.184.*

IC 3-12-3.5-1.5

Closing of all polls located in one room before vote count

Sec. 1.5. Except as provided in section 7 of this chapter, if the polls for more than one (1) precinct are located in the same room, the inspector of a precinct using the room may not begin the vote counting procedure until all the polls in the room are officially closed and no more persons are waiting in line to vote. *As added by P.L.10-1988, SEC.127. Amended by P.L.3-1995, SEC.125.*

IC 3-12-3.5-2

Announcement that printout of vote available for examination

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 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 on each system; and

(2) each public question on each system. *As added by P.L.3-1987, SEC.356. Amended by P.L.221-2005, SEC.102.*

IC 3-12-3.5-3

Certificates of vote result

Sec. 3. (a) When paper vote total printouts have been obtained, the precinct election board shall prepare certificates stating the number of votes that each candidate received for each office and the votes on each public question by attaching the paper vote total printouts to certificate forms supplied by the county election board.

(b) Each member of the board shall be given a copy of the certificate.

(c) If a precinct election board administers more than one (1) precinct, the board shall keep the ballots cast in each precinct separate from ballots cast in any other precinct, so that the votes cast for each candidate and on each public question in each of the precincts administered by the board may be determined.

As added by P.L.3-1987, SEC.356. Amended by P.L.230-2005, SEC.58.

IC 3-12-3.5-4

Delivery of certificates

Sec. 4. The inspector and judge of the opposite political party shall deliver the certificates prepared under section 3 of this chapter and the list of voters to the county election board by midnight on election day. However, if:

(1) an electronic voting system failed;

(2) the failure of the system was reported as required by this title;

(3) paper ballots were used in place of the system; and

(4) the use of the paper ballots caused a substantial delay in the

vote counting process; then the certificates, the list of voters, and the tally papers shall be delivered as soon as possible. *As added by P.L.3-1987, SEC.356. Amended by P.L.3-1993, SEC.186.*

IC 3-12-3.5-5
News media certificate

Sec. 5. Immediately upon completion of the vote count, each precinct election board shall make and sign a certificate for the news media showing the total number of votes received by each candidate in the precinct. The inspector and judge of the opposite political party shall deliver the certificate to the circuit court clerk at the same time that the certificates, the list of voters, and the tally papers are delivered under section 4 of this chapter. The circuit court clerk immediately shall deliver the certificate made for the news media to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county. The county election board shall furnish each precinct election board with the forms on which the certificates are to be prepared. *As added by P.L.3-1987, SEC.356.*

IC 3-12-3.5-6
Vote count to continue to completion

Sec. 6. To minimize the delay in the counting of the vote, canvassing must begin immediately upon the closing of the polls and continue without interruption until all the votes are canvassed and all certificates of the vote required under section 3 of this chapter are completed and delivered to the persons entitled to receive the certificates. *As added by P.L.3-1987, SEC.356.*

IC 3-12-3.5-7
Absentee ballots

Sec. 7. (a) The precinct election board may count absentee ballots before the polls have closed.
(b) If the precinct election board counts absentee ballots under this section, a member of the precinct election board may not, before the polls have closed, provide any person other than a member of the precinct election board with information concerning the number of votes:
(1) a candidate received for an office; or
(2) cast to approve or reject a public question; on absentee ballots counted under this section. *As added by P.L.3-1995, SEC.126.*

IC 3-12-10
Chapter 10. State Recount Commission

IC 3-12-10-1 Establishment of commission

Sec. 1. The state recount commission is established.
As added by P.L.7-1986, SEC.18. Amended by P.L.11-1993, SEC.4.

IC 3-12-10-2 Repealed

(Repealed by P.L.8-1995, SEC.71.)

IC 3-12-10-2.1 Members

Sec. 2.1. (a) Except as provided in this section, the secretary of state and the designee of the state chairman of each of the major political parties of the state shall serve as members of the state recount commission.

(b) Except as provided in this section, the secretary of state shall serve as the chair of the state recount commission.

(c) If an election to the office of secretary of state is the subject of a petition filed under IC 3-12-11, final determination of all petitions filed under IC 3-12-11 relating to that election must be made before January 1 after the election.

(d) The secretary of state may not serve on the commission if the secretary of state is:

(1) a petitioner under IC 3-12-11; or

(2) named as a candidate in a petition under IC 3-12-11; until the commission makes a final determination under IC 3-12-11 of all related petitions in which the secretary of state is a petitioner or is named.

(e) If the secretary of state may not serve on the commission under subsection (d), the state chairman of the same major political party as the secretary of state shall designate another individual to serve as a member and chair of the commission. The other individual must have voted in the most recent primary election of the political party of the state chairman making the appointment. The individual serves until the commission issues its final determination of all petitions relating to the election that are described in subsection (d). The secretary of state shall then resume as a member and the chairman of the state recount commission.

(f) An individual who serves on the state recount commission as secretary of state ceases to be a member of the commission when the individual ceases to be secretary of state. *As added by P.L.8-1995, SEC.56.*

IC 3-12-10-2.2

Purpose; administration; expenses; reversion to general fund; appropriations

Sec. 2.2. (a) The state recount fund is established for the purpose of receiving, holding, and disbursing funds as a fiduciary for the state recount commission and individuals who have provided a cash deposit under this article. The fund shall be administered by the administrative division of the office of the secretary of state.

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

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

(d) All money accruing to the fund is appropriated continuously for the purposes specified in subsection (a). *As added by P.L.176-1999, SEC.104.*

IC 3-12-10-2.5

Recount director

Sec. 2.5. The state recount commission shall employ and set the salary of a recount director. The recount director shall perform the tasks delegated to the director by the commission. *As added by P.L.3-1987, SEC.386.*

IC 3-12-10-3

Per diem; expenses

Sec. 3. (a) Each member of the state recount commission other than the secretary of state is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b).

(b) Each member of the state recount commission is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency. *As added by P.L.7-1986, SEC.18. Amended by P.L.3-1987, SEC.387.*

IC 3-12-10-4

Recount and contest proceedings

Sec. 4. (a) The state recount commission shall conduct recount proceedings under IC 3-12-11 resulting from:

(1) a presidential primary election;

(2) the nomination of a candidate to a federal, state, or legislative office in a primary

election; or

(3) an election for a federal, state, or legislative office.

(b) The state recount commission shall conduct contest proceedings under IC 3-12-11 resulting from:

(1) a presidential primary election;

(2) the nomination of a candidate to a federal, state, or legislative office in a primary election; or

(3) an election for a federal, state, or legislative office. *As added by P.L.7-1986, SEC.18. Amended by P.L.3-1987, SEC.388; P.L.10-1988, SEC.163; P.L.14-2004, SEC.163.*

IC 3-12-10-5

Powers; rules

Sec. 5. (a) The state recount commission may, to comply with section 4 of this chapter:

(1) impound, take possession of, transport, or otherwise protect any election records or equipment related to a recount or contest;

(2) issue subpoenas, discovery orders, and protective orders;

(3) conduct and regulate the course of hearings and other proceedings;

(4) manage its internal affairs;

(5) adopt rules under IC 4-22-2; or

(6) exercise any other necessary power to perform its functions under this article.

(b) Rules adopted by the state recount commission for the conduct of a recount or contest proceeding must uniformly apply throughout Indiana.

(c) An impoundment order issued under subsection (a)(1) may not prevent a circuit court clerk or board of registration from copying election material other than ballots if the clerk or board copies the material under the supervision of the state police department. *As added by P.L.7-1986, SEC.18. Amended by P.L.3-1987, SEC.389.*

IC 3-12-10-5.5

Impoundment; use of copies of election material

Sec. 5.5. A circuit court clerk or board of registration may use a copy of election material other than ballots made under section 5 of this chapter instead of an original subject to an impoundment order under that section until the commission orders the release of the original. *As added by P.L.3-1987, SEC.390.*

IC 3-12-10-6

Election records or equipment; impoundment, possession, transportation, or protection

Sec. 6. Without the filing of a petition under IC 3-12-11, the state recount commission may impound, take possession of, transport, or otherwise protect any election records or equipment that the commission determines may be the subject of:

(1) a recount proceeding; or

(2) a contest proceeding conducted by the state recount commission under IC 3-12-11.

As added by P.L.7-1986, SEC.18. Amended by P.L.3-1987, SEC.391; P.L.10-1988, SEC.164.

IC 3-12-10-7

Delegation of powers

Sec. 7. (a) The state recount commission may designate one (1) or more members of the commission or one (1) or more other persons to exercise any of its powers, other than the:

(1) final adoption of rules;
(2) final determination of a recount under IC 3-12-11; or
(3) final determination of a contest under IC 3-12-11.

(b) Each person designated by the commission under subsection (a) who is not a member of the commission must be an attorney (as defined in IC 23-1.5-1-4). *As added by P.L.7-1986, SEC.18. Amended by P.L.3-1987, SEC.392.*

IC 3-12-10-8
State board of accounts; conduct of recount or other contest proceedings

Sec. 8. The state board of accounts shall conduct any recount or other contest proceeding ordered by the state recount commission in accordance with this article and guidelines adopted by the commission. *As added by P.L.7-1986, SEC.18. Amended by P.L.176-1999, SEC.105.*

IC 3-12-10-9
State police department; duties

Sec. 9. The state police department shall:
(1) serve any notices or other papers;
(2) secure or transport any election records or equipment; and
(3) perform any other law enforcement duties; ordered by the state recount commission. *As added by P.L.7-1986, SEC.18.*

IC 3-12-10-10
Secretary of state; assignment of staff and facilities

Sec. 10. The secretary of state may assign any of the election division's staff and facilities to the state recount commission to carry out the commission's responsibilities. *As added by P.L.7-1986, SEC.18. Amended by P.L.8-1995, SEC.57.*

IC 3-12-10-11
Reimbursement of agencies or offices for expenses

Sec. 11. The state recount commission shall reimburse any agency or office described in sections 8, 9, and 10 of this chapter that incurs any expense to carry out the responsibilities of the commission in conformity with the policies and procedures established by the state budget agency. *As added by P.L.7-1986, SEC.18.*

IC 3-12-10-12
Expenses of recount; expenses not reimbursed

Sec. 12. (a) The expenses of a recount conducted by the state recount commission shall be paid from the state recount fund following the commission's determination of whether a full or partial refund of the cash deposit should be granted under IC 3-12-11-10.
(b) The expenses of a contest conducted by the state recount commission shall be paid from the state recount fund.
(c) Notwithstanding subsections (a) and (b), the expenses incurred by a party to a recount or contest for:
(1) the appearance of an individual; or
(2) the copying or production of documents; in response to a subpoena approved by the state recount commission shall be borne by that party and are not subject to reimbursement under this chapter.
(d) A person (other than a party to a recount or contest) who claims reimbursement of expenses described by subsection (a) or (b) must submit a claim to the state recount commission

not later than noon sixty (60) days after the commission adopts a final order concerning the recount or contest. If the commission approves the claim, the treasurer of state shall issue a warrant to the person in accordance with IC 5-13-5.

(e) There is appropriated to the state recount fund from the state general fund an amount sufficient for the state recount commission's use in the payment of expenses under this section. *As added by P.L.7-1986, SEC.18. Amended by P.L.10-1988, SEC.165; P.L.176-1999, SEC.106; P.L.14-2004, SEC.164.*

IC 3-12-10-13

Reimbursement by candidate filing petition; petitioner's liability for expenses of another party

Sec. 13. (a) This section does not apply to a petitioner who is determined to have been nominated or elected after the recount or the contest.

(b) A candidate filing a petition under IC 3-12-11 shall reimburse the state for the expenses of the state recount commission in the amount of the cash deposit required for a recount under IC 3-12-11-10 or a contest under IC 3-12-11-11. However, the petitioner is not liable for the expenses chargeable to another party under section 14 of this chapter. *As added by P.L.7-1986, SEC.18. Amended by P.L.3-1987, SEC.393; P.L.8-1995, SEC.58.*

IC 3-12-10-14

Reimbursement by candidate filing cross-petition or opposing party in a contest action

Sec. 14. (a) This section does not apply to:

(1) a cross-petitioner who is determined to have been nominated or elected after a recount; or

(2) an opposing party in a contest action who prevails.

(b) A candidate filing a cross-petition under IC 3-12-11 or an opposing party in a contest action under IC 3-12-11 shall reimburse the state for the expenses of the state recount commission in the amount of the cash deposit required under IC 3-12-11-11. *As added by P.L.7-1986, SEC.18. Amended by P.L.3-1987, SEC.394; P.L.8-1995, SEC.59.*

IC 3-12-10-15

Determination of expenses

Sec. 15. The state recount commission shall determine the expenses chargeable to a person under sections 13 and 14 of this chapter. *As added by P.L.7-1986, SEC.18.*

IC 3-12-10-16

Application of IC 4-21.5

Sec. 16. IC 4-21.5 does not apply to the state recount commission.
As added by P.L.7-1986, SEC.18. Amended by P.L.7-1987, SEC.2.

IC 3-12-10-17

Stay of court action pending final determination by recount commission

Sec. 17. Any court action related to the election for an office that is the subject of a:

(1) recount proceeding under IC 3-12-11; or

(2) contest proceeding under IC 3-12-11; is stayed until the state recount commission has rendered a final determination. *As added by P.L.7-1986, SEC.18. Amended by P.L.3-1987, SEC.395.*

IC 3-12-10-18 Judicial review

Sec. 18. Any party to a final determination of the state recount commission concerning a

nomination subject to IC 3-12-11 or election to a state office other than governor or lieutenant governor may file a petition with the Marion County circuit court for judicial review of the determination no later than noon thirty (30) days after notice of the determination is served on the party. If the court finds that a party has been substantially prejudiced by commission action that is:
(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
(2) contrary to constitutional right, power, privilege, or immunity;
(3) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; or
(4) without observance of procedure required by law; the court may set aside the final determination of the commission. The court may remand the case to the commission for further proceedings and compel commission action that has been unreasonably delayed or unlawfully withheld. *As added by P.L.7-1986, SEC.18. Amended by P.L.3-1987, SEC.396; P.L.10-1988, SEC.166.*

IC 3-12-11

Chapter 11. Recount and Contest Procedures for Presidential Primary Elections and Nomination for and Election to Federal, State, and Legislative Offices

IC 3-12-11-1

Right to recount of vote or to contest nomination or election of a candidate

Sec. 1. (a) Any candidate:
(1) in a presidential primary election;
(2) for nomination to a federal, state, or legislative office in a primary election; or

(3) for a federal, state, or legislative office; is entitled to have the votes cast for that office recounted or to contest the nomination or election of a candidate under this chapter. A recount may be conducted in one (1) or more of the precincts in which votes were cast for the office.
(b) This subsection applies to an election for a federal or statewide office. If a candidate who is entitled to file a petition for a recount or contest under this chapter does not file a petition within the period established by section 2 of this chapter, the state chairman of the candidate's political party may file a petition to:
(1) have the votes recounted in one (1) or more precincts; or
(2) contest the nomination or election of a candidate.
(c) This subsection applies to an election for a legislative office. If a candidate who is entitled to file a petition for a recount or contest under this chapter does not file a petition within the period established by section 2 of this chapter, a county chairman who:
(1) resides in a county located within the election district in which the recount or contest is desired; and
(2) is a member of the same political party as the candidate
entitled to petition for a recount or contest under this chapter; may file a petition to have the votes recounted in one (1) or more precincts or to contest the nomination or election of a candidate. *As added by P.L.7-1986, SEC.19. Amended by P.L.10-1988, SEC.167; P.L.4-1996, SEC.81.*

IC 3-12-11-1.5

Chapter establishes standards to define vote in recount

Sec. 1.5. This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot, an optical scan voting system, or an electronic voting system in a recount conducted under this chapter. *As*

added by P.L.209-2003, SEC.190.

IC 3-12-11-2
Filing of verified petition

Sec. 2. (a) A candidate who desires:
(1) a recount of votes cast for a nomination or election subject to this chapter; or
(2) to contest a nomination subject to this chapter or the election of a state office other than governor or lieutenant governor;
must file a verified petition with the election division not later than noon fourteen (14) days after election day.

(b) A state or county chairman who is entitled to and desires to file a petition for a recount or contest under this chapter must file a verified petition with the election division not later than noon seventeen (17) days after election day. *As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.397; P.L.10-1988, SEC.168; P.L.4-1996, SEC.82; P.L.3-1997, SEC.367; P.L.221-2005, SEC.122.*

IC 3-12-11-3
Content of petition

Sec. 3. (a) Each petition for a recount filed under section 2 of this chapter must state the following:

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

(b) Each petition for a contest filed under section 2 of this chapter must state the following:
(1) The nomination or election to office that the petitioner contests.
(2) That the individual is entitled to contest an election or a nomination to office under this chapter.
(3) The name of the candidates as set forth on the ballot for the election and address of each of the candidates as set forth in the records of the election division.
(4) That the petitioner in good faith believes that one (1) or more of the following occurred:
(A) The person declared nominated or elected does not comply with a specific constitutional or statutory requirement set forth in the petition that is applicable to a candidate for the office.
(B) A mistake was made in the printing or distribution of ballots used in the election that makes it impossible to determine which candidate received the highest number of votes cast in the election.
(C) A mistake occurred in the programming of an electronic voting system, making it impossible to determine the candidate who received the highest number of votes.
(D) An electronic voting system malfunctioned, making it impossible to determine the candidate

who received the highest number of votes.
(E) A deliberate act or series of actions occurred making it impossible to determine the candidate who received the highest number of votes cast in the election.
(c) A petition stating that the petitioner believes that a mistake described in subsection (b)(4)(B), (b)(4)(C), or (b)(4)(D) has occurred must identify each precinct in which:
(1) ballots:
(A) containing the printing mistake; or
(B) distributed by mistake;
were cast;
(2) a mistake occurred in the programming of an electronic voting system; or
(3) an electronic voting system malfunctioned.
(d) A petition stating that the petitioner believes that an act or series of actions described in subsection (b)(4)(E) occurred must identify each precinct or other location in which the act or series of actions occurred to the extent known to the petitioner. *As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.398; P.L.10-1988, SEC.169; P.L.10-1989, SEC.15; P.L.3-1995, SEC.129; P.L.4-1996, SEC.83; P.L.176-1999, SEC.107; P.L.221-2005, SEC.123.*

IC 3-12-11-4
Cross-petition for recount

Sec. 4. A candidate who is nominated or elected to an office at an election on the face of the election returns may file a verified cross-petition for a recount with the election division not later than noon twenty-one (21) days after election day. *As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.399; P.L.10-1988, SEC.170; P.L.4-1996, SEC.84; P.L.3-1997, SEC.368; P.L.164-2006, SEC.128.*

IC 3-12-11-5
Failure to file cross-petition or answer to a petition; admission of truth; presumption

Sec. 5. The failure to file either a cross-petition or an answer to a petition for a recount or contest does not:
(1) constitute an admission of the truth of the allegations of the petition; or
(2) imply a presumption in favor of the petition.
As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.400.

IC 3-12-11-6
Contents of cross-petition

Sec. 6. Each cross-petition filed under section 4 of this chapter must state the following:
(1) The office for which the cross-petitioner desires a recount.
(2) The precincts in which the cross-petitioner desires a recount.
(3) That the cross-petitioner was a candidate at the election for nomination or election to the office and that the nomination or election to office was voted upon in the precincts specified.
(4) The name and address of the cross-petitioner's opposing candidate or candidates.
(5) That the cross-petitioner in good faith believes that the votes cast for nomination or election to the office at the election in the precincts were not correctly counted and returned.
(6) That the cross-petitioner desires a recount of all of the votes cast for nomination or election to the office in the precincts specified.

As added by P.L.7-1986, SEC.19. Amended by P.L.10-1988, SEC.171.

IC 3-12-11-7
Amendment of petition or cross-petition

Sec. 7. (a) Except as provided in subsection (b) or (c), the state recount commission may allow a petition or cross-petition to be amended at any time upon the terms and conditions that the state recount commission orders.
(b) The commission may not allow a petition or cross-petition to be amended following the deadline for filing a petition or cross-petition under this chapter if the petition or cross-petition as originally filed:
(1) failed to comply with section 3 or section 6 of this chapter; or
(2) was not filed before the deadline specified in section 2 or section 4 of this chapter.
(c) The commission may not allow a candidate who filed a petition or cross-petition to amend the petition or cross-petition by striking a precinct in which the candidate had desired a recount unless each opposing candidate consents to the amendment. *As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.401; P.L.176-1999, SEC.108.*

IC 3-12-11-8
Multiple candidates joining in petition for recount or contest

Sec. 8. Two (2) or more candidates for the same or a different office nominated or elected at the same election may join in a petition for a recount or contest. *As added by P.L.7-1986, SEC.19. Amended by P.L.10-1988, SEC.172.*

IC 3-12-11-9
Notice of filing of petition for recount; service and return

Sec. 9. (a) Upon the filing of a petition for a recount or contest with the election division, the secretary of state shall issue a notice of the filing and pendency of the petition to each opposing candidate and deliver the notice to the state police department.

(b) This subsection applies if an attorney has filed an appearance with the election division as the representative of a candidate. The state police shall serve the notice on the attorney for the candidate.
(c) If subsection (b) does not apply, the state police department shall immediately serve the notice upon each opposing candidate in person or by leaving a copy at the last and usual place of residence.

(d) The state police department shall make immediate return of the service under this section. *As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.402; P.L.3-1997, SEC.369; P.L.221-2005, SEC.124.*

IC 3-12-11-10
Cash deposit for payment of costs by petitioner

Sec. 10. (a) Each petitioner shall furnish a cash deposit for the payment of costs of the recount chargeable to the petitioner. The minimum amount of the cash deposit is one hundred dollars ($100). The cash deposit shall be deposited in the state recount fund.

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

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

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

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

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

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

(d) If after a recount, it is determined that a petitioner has been nominated or elected, the deposit furnished by that petitioner shall be returned to that petitioner in full.
(e) Any unexpended balance remaining in a deposit after payment of the costs of the recount shall be returned to the depositor in the following manner:
(1) If the recount results in a reduction of at least fifty percent (50%) but less than one hundred percent (100%) of the margin of the total certified votes, the petitioner shall receive a refund of that percentage of the unexpended balance.
(2) If after a recount, it is determined that a petitioner has been nominated or elected, the deposit or the bond furnished by that petitioner shall be returned to that petitioner in full.
(3) Any unexpended balance remaining after the provision of subdivision (1) has been satisfied shall be deposited in the state recount fund.

As added by P.L.7-1986, SEC.19. Amended by P.L.8-1995, SEC.60; P.L.176-1999, SEC.109; P.L.14-2004, SEC.165.

IC 3-12-11-11
Cash deposit by cross-petitioner

Sec. 11. (a) This section applies if a cross-petition is filed under this chapter.

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

(1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is not more than one percent (1%) of the total votes cast for all candidates for the nomination or office.
(2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is not more than one percent (1%) of the total votes cast for all candidates for the nomination or office.

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

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

(1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is more than one percent (1%) of the total votes cast for all candidates for the nomination or office.
(2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is more than one percent (1%) of the total votes cast for all candidates for the nomination or office.

The cross-petitioner shall furnish a cash deposit equal to ten dollars ($10) multiplied by the number of precincts that the cross-petitioner seeks to have recounted for the first ten (10) precincts recounted. For each precinct in excess of ten (10) the cross-petitioner seeks to have recounted, the cross-petitioner shall furnish an additional cash deposit equal to one hundred dollars ($100) multiplied by the number of precincts in excess of ten (10) that the cross-petitioner seeks to have recounted. The cash deposit shall be deposited in the state recount fund.
(d) If after a recount, it is determined that the cross-petitioner has been nominated or elected, the deposit furnished by the cross-petitioner shall be returned to the cross-petitioner in full.
(e) Any unexpended balance remaining in a deposit after payment of the costs of the recount shall be deposited in the state recount fund. *As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.403; P.L.8-1995, SEC.61; P.L.176-1999, SEC.110; P.L.221-2005, SEC.125.*

IC 3-12-11-12
Conditions for granting petitions and cross-petitions and ordering recounts; dismissal of petitions

Sec. 12. (a) Except as provided in subsection (d) or (e), the state recount commission shall grant the petitions and cross-petitions that have been filed and order the recount of the votes in the precincts upon:
(1) the filing of a petition and cash deposit or bond under this chapter;
(2) the expiration of the period under section 4 of this chapter for filing a cross-petition; and
(3) proof of service of all notices.
(b) Except as provided in subsection (d), whenever a petition filed under section 2 of this chapter requests a recount in all precincts in the election district, the state recount commission may order a recount in the precincts upon:
(1) the filing of a cash deposit or bond under this chapter; and
(2) proof of service of all notices.
(c) Except as provided in subsection (d), the state recount commission shall grant a petition for a contest that has been filed and order a contest proceeding upon:
(1) the filing of a petition under this chapter; and
(2) proof of service of all notices.
(d) Whenever a motion to dismiss a petition or cross-petition for a recount or a petition for a contest is filed with the state recount commission or is made by a member of the commission, the commission shall rule on the motion to dismiss before ordering or continuing with a recount or a contest. The motion to dismiss must:
(1) state that the petitioner or cross-petitioner has failed to comply with this chapter; and
(2) specifically identify the requirement that the petitioner or cross-petitioner has failed to comply with.
(e) Whenever the petitioner and each cross-petitioner or respondent file a joint motion to dismiss a recount or contest, the commission shall rule on the motion to dismiss before ordering or

continuing with a recount or contest. *As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.404; P.L.176-1999, SEC.111; P.L.221-2005, SEC.126.*

IC 3-12-11-13

Consolidated recount

Sec. 13. If there is a consolidation of petitions and cross-petitions, the state recount commission shall by consolidated order grant the consolidated petitions and cross-petitions and order a consolidated recount of all votes in each precinct in the election district for the office requested in the petitions and cross-petitions. *As added by P.L.7-1986, SEC.19. Amended by P.L.221-2005, SEC.127.*

IC 3-12-11-14

Precincts eligible for recount

Sec. 14. The state recount commission shall conduct a recount in each precinct designated in a petition or cross-petition granted under this chapter that is in the election district for the office. The commission may conduct a recount in any precinct that cast votes for an office that is the subject of a recount under this chapter if the precinct is within the election district for the office. *As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.405; P.L.221-2005, SEC.128.*

IC 3-12-11-15

Order of recount; certified copies sent to candidates by registered mail; charge of costs

Sec. 15. On the day when the order of a recount or contest proceeding is made and entered by the state recount commission, the election division shall send a certified copy of the order by certified mail to each opposing candidate named in the petition at the address stated in the petition, if a petition was filed, at the candidate's last known address. The commission shall charge the cost of mailing the order to the petitioner. *As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.406; P.L.3-1997, SEC.370.*

IC 3-12-11-16

Impoundment of election materials

Sec. 16. (a) Except as provided in subsection (b), the state recount commission may by order impound and provide for the protection of any election records or equipment described by IC 3-12-10-5(a).

(b) In a recount of an election for a legislative office, the state recount commission shall by order impound and provide for the protection of the following:

(1) All ballots, and electronic voting systems used at the election for casting votes in all of the precincts within the legislative district.

(2) All tally sheets relating to the votes cast for the office.

(3) All poll lists of persons registered by the poll clerks as having voted for the office.

As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.407; P.L.8-1995, SEC.62; P.L.221-2005, SEC.129.

IC 3-12-11-17

Convening of state recount commission; hearing on petition and recount

Sec. 17. (a) After a recount is ordered under section 12 of this chapter, the state recount commission or its designee shall convene at a place fixed by order of the state recount commission and expeditiously complete the recount of all votes ordered recounted. Each candidate affected by the recount may have a watcher present at the recount and may also be present in person. The candidate has the same rights as a watcher appointed under IC 3-6-8-4.

Representatives of the media may also attend the recount and have the same rights as media watchers appointed under IC 3-6-10.

(b) At least two (2) days after a contest proceeding is ordered under section 12 of this chapter, the state recount commission or its designee shall convene at a place fixed by order of the state recount commission and conduct a hearing on the contest petition. Each candidate affected by the contest may be present in person. The candidate has the same rights as a watcher appointed under IC 3-6-8-4. Representatives of the media may also attend the hearing and have the same rights as media watchers appointed under IC 3-6-10.

(c) The proceedings of the state recount commission under this section shall be performed in public under IC 5-14-1.5. However, the commission may restrict access to parts of a room where the recount or contest proceeding is being conducted to safeguard the election material or other evidence and to permit the material to be handled or transported by the commission. *As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.408; P.L.3-1997, SEC.371.*

IC 3-12-11-17.5

Petition for manual recount of ballot cards; withdrawal of petition

Sec. 17.5. (a) A petition or cross-petition filed under this chapter may request that ballot cards in specified precincts that used a ballot card voting system be counted manually. If a petition or cross-petition includes such a request, automatic tabulating machines may not be used to count ballot cards in the specified precincts. Ballot cards in those precincts shall be counted manually, and the tabulation of votes must comply with IC 3-11-7.

(b) A petitioner or cross-petitioner may withdraw a request for a manual recount of ballot cards at any time after the state board of accounts conducts a test of the automatic tabulating machines to ascertain that the machines will correctly count the votes cast for the office that is the subject of the recount. *As added by P.L.3-1987, SEC.409. Amended by P.L.10-1988, SEC.173.*

IC 3-12-11-17.7

Duties of recount commission

Sec. 17.7. (a) This section applies to ballots cast by any voting method.

(b) Unless the state recount commission makes a finding under subsection (c), the commission shall:

(1) count ballots in accordance with this article; and

(2) not order that all ballots in a precinct not be counted.

(c) If:

(1) a party to the recount presents evidence of fraud, tampering, or misconduct affecting the integrity of the ballot within a precinct; and

(2) the commission determines that the fraud, tampering, or misconduct within that precinct was so pervasive that it is impossible for the commission to determine the approximate number of votes that each candidate received in that precinct;

the commission may order that none of the ballots from that precinct be counted.

As added by P.L.3-1995, SEC.130. Amended by P.L.103-2005, SEC.19.

IC 3-12-11-18

Certification of recount results; final determination of candidate eligibility; special election order

Sec. 18. (a) When a recount is completed by the state recount commission or its designee, the commission shall:

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

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

(3) file its certificate with the election division.

(b) When a contest proceeding in which a candidate is alleged to be ineligible is completed by the state recount commission or its designee, the commission shall make a final determination concerning the eligibility of the candidate for nomination or election to the office.
(c) If the state recount commission or its designee determines that:
(1) a mistake was made in the printing or distribution of ballots used in the election;
(2) a mistake was made in the programming of an electronic voting system;
(3) an electronic voting system malfunctioned; or
(4) a deliberate act or series of actions occurred; that makes it impossible to determine which candidate received the highest number of votes cast, the commission shall order that a special election be conducted under IC 3-10-8.
(d) The special election ordered under subsection (c) shall be held in the precincts identified in the petition in which the commission determines that:
(1) ballots containing the printing mistake or distributed by mistake were cast;
(2) a mistake occurred in the programming of an electronic voting system;
(3) an electronic voting system malfunctioned; or

(4) a deliberate act or series of actions occurred. *As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.410; P.L.10-1988, SEC.174; P.L.10-1989, SEC.16; P.L.3-1997, SEC.372; P.L.14-2004, SEC.166; P.L.221-2005, SEC.130.*

IC 3-12-11-19
Recount certificate; certified copy as prima facie evidence of votes cast

Sec. 19. Except in recount proceedings for an election to the offices of governor and lieutenant governor and legislative offices, a recount certificate made under section 18 of this chapter supersedes all previous returns made in any form of the recounted votes. A certified copy of a recount certificate constitutes prima facie evidence of the votes cast for nomination or election to the office in the precincts in any proceeding in which there is an issue as to the votes cast at the election for the nomination or election to office. *As added by P.L.7-1986, SEC.19. Amended by P.L.3-1987, SEC.411; P.L.10-1988, SEC.175.*

IC 3-12-11-19.5
Recount or contest proceeding for presidential electors; conclusion

Sec. 19.5. As required under 3 U.S.C. 5, any recount or contest proceeding concerning the election of presidential electors must be concluded not later than six (6) days before the time fixed by federal law for the meeting of the electors. *As added by P.L.3-1997, SEC.373. Amended by P.L.14-2004, SEC.167.*

IC 3-12-11-20
Recount for offices of governor and lieutenant governor; certified statements

Sec. 20. (a) On the day following the completion of a recount for the election to the offices of governor and lieutenant governor, the election division shall prepare two (2) certified statements for the secretary of state under the secretary of state's seal showing the total number of votes that each candidate received.
(b) The secretary of state shall transmit the statements to:
(1) the speaker of the house of representatives; and
(2) the president pro tempore of the senate; before the date specified in Article 5, Section 9 of the Constitution of the State of Indiana for the beginning of the term of the governor. *As added by*

P.L.7-1986, SEC.19. Amended by P.L.10-1988, SEC.176; P.L.4-1995, SEC.14; P.L.3-1997, SEC.374.

IC 3-12-11-21

Recount for legislative office; deadline; certification of results

Sec. 21. (a) Except as provided in subsection (b), a recount or contest for election to a legislative office shall be completed by the state recount commission not later than December 20 after the election.

(b) The state recount commission may adopt orders extending the deadline for completion of a recount or contest to a date specified in the order if the commission finds that there is good cause to do so.

(c) Not later than seven (7) days after the state recount commission completes a recount, the election division shall prepare two (2) certified statements showing the total number of votes that each candidate received. The election division shall transmit one (1) statement to the candidate receiving the highest number of votes for the office. After the statements have been prepared, the secretary of state shall deliver the other statement to the presiding officer of the house in which the successful candidate is to be seated.

(d) The statement shall be referred by the presiding officer for such action as that house considers appropriate.

As added by P.L.7-1986, SEC.19. Amended by P.L.10-1988, SEC.177; P.L.3-1993, SEC.218; P.L.3-1997, SEC.375; P.L.103-2005, SEC.20; P.L.225-2011, SEC.77.

IC 3-12-11-22

Effect of certified statement on candidate's eligibility for office

Sec. 22. A statement prepared under section 20 or 21 of this chapter does not determine the eligibility of a candidate for office but is prepared only for the purpose of referring the information to the proper authorities. *As added by P.L.7-1986, SEC.19. Amended by P.L.3-1997, SEC.376.*

IC 3-12-11-23

Recount for federal office or certain state offices; correction of tabulation

Sec. 23. (a) If a recount is made:

(1) in a presidential primary election;

(2) for nomination to a federal, state, or legislative office in a primary election;

(3) in an election to a federal office; or

(4) in an election to a state office other than governor and lieutenant governor;

the election division shall determine whether the votes in the precincts shown by the recount certificate differ from the votes that were tabulated by any county election board. If the election division previously included in a tabulation the votes cast for the office as returned by the county election board, the election division shall correct the tabulation in accordance with the certificate.

(b) The election division shall provide a copy of the corrected tabulation for each precinct to the office. *As added by P.L.7-1986, SEC.19. Amended by P.L.10-1988, SEC.178; P.L.3-1993, SEC.219; P.L.3-1997, SEC.377; P.L.212-2001, SEC.31.*

IC 3-12-11-24

Certificate of nomination or election or commission for office

Sec. 24. The candidate shown by a corrected vote tabulation under section 23 of this chapter to have received the highest number of votes for nomination or election to an office is entitled to a

certificate of nomination, certificate of election, or commission for the office even though one may have been issued upon a previous tabulation. *As added by P.L.7-1986, SEC.19. Amended by P.L.10-1988, SEC.179.*

IC 3-12-11-25

Determination of candidate ineligibility; certification of runner-up; governor appointment; effect on votes cast

Sec. 25. (a) Except as provided in subsection (b), whenever the commission makes a final determination under section 18 of this chapter that the candidate who is subject to a contest proceeding is not eligible to serve in the office to which the candidate is nominated or elected, the candidate who received the second highest number of votes for the office is entitled to a certificate of nomination or certificate of election even though a certificate may have been issued to another candidate upon the tabulation of the votes.

(b) This subsection applies to a contest proceeding for a state office other than the offices of governor, lieutenant governor, justice of the supreme court, judge of the court of appeals, and judge of the tax court. Whenever the commission makes a final determination under section 18(b) of this chapter that the candidate who is subject to a contest proceeding is not eligible to serve in the office to which the candidate is elected the following apply:

(1) This subdivision does not apply to the filling of a state office following a contest proceeding or court action that resulted from an election held before January 1, 2011. The office is considered vacant, and the governor shall fill the vacancy as provided in IC 3-13-4-3(e) by the appointment of a person of the same political party as the candidate who is not eligible to serve.

(2) The commission's determination that the candidate is not eligible to serve in the office does not affect the votes cast for the candidate for purposes of determining the number or percentage of votes cast for purposes of other statutes, including IC 3-5-2-30, IC 3-6-2-1, IC 3-6-4.1-6, IC 3-6-5.2-7, IC 3-6-6-8, IC 3-6-7-1, IC 3-6-8-1, IC 3-8-4, IC 3-8-6, IC 3-10-1-2, IC 3-10-2-15, IC 3-10-4-2, IC 3-10-6, IC 3-10-7-26, IC 3-11-2-6, IC 3-11-13-11, IC 3-11-14-3.5, IC 3-13-9-4.5, IC 6-9-2-3, IC 20-23-7-12, and IC 36-4-1.5-2. *As added by P.L.3-1987, SEC.412. Amended by P.L.10-1988, SEC.180; P.L.225-2011, SEC.78.*