

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 398 be amended to read as follows:

1           Page 10, between lines 12 and 13, begin a new paragraph and insert:  
2           "SECTION 24. IC 3-8-2-2.7 IS AMENDED TO READ AS  
3           FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.7. (a) A candidate  
4           may withdraw a declaration of intent to be a write-in candidate not later  
5           than noon ~~of the final date to file a declaration of intent to be a write-in~~  
6           ~~candidate under section 4 of this chapter.~~ **July 15 before a general or**  
7           **municipal election.**

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11          IC 3-8-7-30 as soon as practicable after a declaration is withdrawn  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

13          SECTION 25. IC 3-8-2-4 IS AMENDED TO READ AS FOLLOWS  
14          [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A declaration of candidacy  
15          for a primary election must be filed no later than noon seventy-four (74)  
16          days and no earlier than one hundred four (104) days before the  
17          primary election. The declaration must be subscribed and sworn to  
18          before a person authorized to administer oaths.

19          (b) A declaration of intent to be a write-in candidate must be filed  
20          not later than noon ~~five (5) days before the final date for the delivery of~~  
21          ~~absentee ballots under IC 3-11-4-15 and not earlier than ninety (90)~~  
22          ~~days before a general election.~~ **on the date specified by**  
23          **IC 3-13-1-15(c) for a major political party to file a certificate of**  
24          **candidate selection.** The declaration must be subscribed and sworn to

1 before a person authorized to administer oaths.

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

5 (1) candidacy may be filed for an office that will appear on the  
6 primary election ballot; or

7 (2) intent to be a write-in candidate for an office that will appear  
8 on the general, municipal, or school board election ballot;

9 that year as a result of the new tabulation of population or corrected  
10 population count.

11 SECTION 26. IC 3-8-2-14, AS AMENDED BY P.L.58-2001,  
12 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 UPON PASSAGE]: Sec. 14. (a) All questions concerning the validity of  
14 a declaration filed with the secretary of state shall be referred to and  
15 determined by the commission in accordance with section 18 of this  
16 chapter. A statement questioning the validity of a declaration must be  
17 filed with the election division under IC 3-8-1-2(c) not later than noon  
18 sixty-seven (67) days before the date of the primary election.

19 (b) All questions concerning the validity of a declaration of  
20 candidacy filed with a circuit court clerk shall be referred to and  
21 determined by the county election board not later than noon fifty-four  
22 (54) days before the date of the primary election. A statement  
23 questioning the validity of a declaration must be filed with the county  
24 election board under IC 3-8-1-2(c) not later than noon sixty-seven (67)  
25 days before the date of the primary election.

26 (c) A question concerning the validity of a declaration of intent to be  
27 a write-in candidate shall be determined by the commission or the  
28 county election board not later than noon ~~seven (7) days~~ **sixty-seven**  
29 **(67) days** before election day. A statement questioning the validity of a  
30 declaration of intent to be a write-in candidate must be filed with the  
31 election division or county election board under IC 3-8-1-2(c) not later  
32 than noon ~~fourteen (14) days~~ **seventy-four (74) days** before election day.

33 SECTION 27. IC 3-8-7-30 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. (a) Not later  
35 than noon ~~of the day before the final date for the delivery of absentee~~  
36 ~~ballots under IC 3-11-4-15, August 1,~~ the election division shall certify  
37 to each county election board:

38 (1) the name of each individual who filed a declaration of intent to  
39 be a write-in candidate with the election division; and

40 (2) any political party that the individual is affiliated with, or  
41 whether the individual is an independent candidate.

42 (b) This subsection applies to a county that does not use a central  
43 location to tally ballot card votes. The circuit court clerk shall provide  
44 a copy of the certification under this section to the inspector of each  
45 precinct, with instructions concerning the counting of write-in votes for

1 declared write-in candidates.".

2 Page 10, between lines 32 and 33, begin a new paragraph and insert:

3 "SECTION 30. IC 3-11-2-6 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The device  
5 named and list of nominees shall be placed on the ballots as follows:

6 (1) The major political party whose candidate received the highest  
7 number of votes in the county for secretary of state at the last  
8 election in the first column or row on the left side of all ballots.

9 (2) The major political party whose candidate received the second  
10 highest number of votes in the county for secretary of state at the  
11 last election in the second column or row.

12 (3) Any other political party in the same order.

13 (b) If a political party did not have a candidate for secretary of state  
14 in the last election or a nominee is an independent candidate or ticket,  
15 the party or independent candidate or ticket shall be placed on the ballot  
16 after the parties described in subsection (a). If more than one (1)  
17 political party or independent candidate or ticket that has qualified to be  
18 on the ballot did not have a candidate for secretary of state in the last  
19 election, those parties, candidates, or tickets shall be listed on the ballot  
20 in the order in which the party filed its petition of nomination under  
21 IC 3-8-6-12.

22 (c) **Subject to subsection (e)**, a column or row for write-in voting  
23 shall be placed to the right of all party and independent columns on the  
24 ballot.

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

31 **(e) A column or row for write-in voting for an office is not**  
32 **required if there are no declared write-in candidates for that**  
33 **office. However, procedures must be implemented to permit**  
34 **write-in voting for candidates for federal offices.**

35 SECTION 31. IC 3-11-4-12, AS AMENDED BY P.L.38-1999,  
36 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
37 UPON PASSAGE]: Sec. 12. (a) The absentee ballots for:

38 (1) President and Vice President of the United States;

39 (2) United States Senator;

40 (3) all state offices; and

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

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

45 (b) The election division shall have the ballots printed upon

- 1 certification of the political party tickets and independent candidates.
- 2 (c) **Except as provided in subsection (f)**, ballots prepared under
- 3 this section must provide space for the voter to cast a write-in ballot.
- 4 (d) The election division shall prepare a special absentee ballot for
- 5 use by:
- 6 (1) absent uniformed services voters; and
- 7 (2) overseas voters;
- 8 who will be outside of the United States on general election day.
- 9 (e) The ballot described by subsection (d):
- 10 (1) must indicate each state office to be elected by the voters at
- 11 the general election;
- 12 (2) must set forth each public question to be voted for at the
- 13 general election by the electorate of the entire state;
- 14 (3) may not state the name of any political party or candidate for
- 15 election;
- 16 (4) must permit the voter to write in the name of a political party
- 17 or a candidate for election to each office; and
- 18 (5) must include a notice stating that regular absentee ballots will
- 19 be mailed to the voter by the county election board as soon as the
- 20 ballots are available.

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

25 SECTION 32. IC 3-11-4-14, AS AMENDED BY P.L.66-2003,  
 26 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27 UPON PASSAGE]: Sec. 14. (a) All absentee ballots other than those  
 28 specified in section 12 of this chapter shall be prepared and printed  
 29 under the direction of each county election board. After completing the  
 30 estimate required by section 10 of this chapter and receiving all  
 31 certifications from the election division required under IC 3-8 or  
 32 IC 3-10, the county election board shall immediately proceed to prepare  
 33 and have printed the ballots.

34 **(b) Except as provided in subsection (c)**, ballots prepared by the  
 35 county election board under this section must provide space for the  
 36 voter to cast a write-in ballot.

37 **(c) Space for write-in voting for an office is not required if**  
 38 **there are no declared write-in candidates for that office. However,**  
 39 **procedures must be implemented to permit write-in voting for**  
 40 **candidates for federal offices."**

41 Page 12, between lines 12 and 13, begin a new paragraph and insert:  
 42 SECTION 34. IC 3-11-5-10 IS AMENDED TO READ AS  
 43 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A voting  
 44 machine must permit a voter to vote:

- 45 (1) except at a primary election, for:

- 1 (A) all the candidates of one (1) political party;  
 2 (B) one (1) or more candidates of each political party;  
 3 (C) one (1) or more candidates nominated by petition under  
 4 IC 3-8-6; or  
 5 (D) a write-in candidate, unless the procedures in subsection  
 6 (b) are followed;  
 7 (2) for as many candidates for an office as the voter may vote for,  
 8 but no more;  
 9 (3) for or against a public question on which the voter may vote,  
 10 but no other; and  
 11 (4) for all the candidates for presidential electors of a political  
 12 party or an independent ticket at one (1) time.

13 (b) **Except as provided in subsection (c)**, in a precinct using voting  
 14 machines that do not permit write-in votes, the precinct election board  
 15 shall provide a paper ballot to a voter who requests to cast a write-in  
 16 vote. After such a request, a poll clerk, an assistant poll clerk, or a  
 17 member of the precinct election board shall:

- 18 (1) require the voter to sign the poll list; and  
 19 (2) inform the voter of the procedure that must be followed to  
 20 cast a write-in vote.

21 (c) **Paper ballots for write-in voting for an office are not**  
 22 **required if there are no declared write-in candidates for that**  
 23 **office. However, procedures must be implemented to permit**  
 24 **write-in voting for candidates for federal offices."**

25 Page 14, between lines 12 and 13, begin a new paragraph and insert:  
 26 "SECTION 40. IC 3-11-13-18, AS AMENDED BY P.L.209-2003,  
 27 SECTION 156, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 UPON PASSAGE]: Sec. 18. (a) This subsection does not apply to an  
 29 optical scan voting system and expires January 1, 2006. Each ballot  
 30 card provided under section 17 of this chapter must have two (2)  
 31 attached perforated stubs on which is printed the same serial number.  
 32 The top stub shall be bound or stapled in the package of ballot cards  
 33 retained by the precinct election officers. The following information  
 34 must be printed on the second stub:

- 35 (1) The name of the political subdivision holding the election.  
 36 (2) The designation of the election.  
 37 (3) The date of the election.  
 38 (4) The instructions to the voters.  
 39 (5) In a primary election, the name of the political party.

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

- 44 (c) The ballot cards provided under subsection (b) must be:  
 45 (1) designed to be folded; or

1 (2) accompanied by a secrecy envelope;  
2 to ensure the secrecy of each of the votes cast by a voter.

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

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

13 SECTION 41. IC 3-11.7-1-5, AS AMENDED BY P.L.209-2003,  
14 SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 UPON PASSAGE]: Sec. 5. (a) Provisional ballots for:

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

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

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

27 (c) **Except as provided in subsection (e)**, ballots prepared under  
28 this section must provide space for the provisional voter to cast a  
29 write-in ballot for each office.

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

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

40 Page 14, line 21, delete "Ballots" and insert "**Except as provided in**  
41 **subsection (e)**, ballots".

42 Page 14, between lines 27 and 28, begin a new paragraph and insert:

43 "**(e) Space for write-in voting for an office is not required if**  
44 **there are no declared write-in candidates for that office. However,**  
45 **procedures must be implemented to permit write-in voting for**

- 1 **candidates for federal offices."**
- 2 Renumber all SECTIONS consecutively.  
(Reference is to ESB 398 as printed February 20, 2004.)

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Representative Mahern